

**DOMESTIC OPERATIONAL LAW  
(DOPLAW)  
HANDBOOK  
FOR  
JUDGE ADVOCATES**

**VOLUME II  
APPENDICES**

**2006**

**CENTER FOR LAW AND MILITARY OPERATIONS**

**18 July 2006**





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## APPENDIX 1 INTRODUCTION

### CLAMO's Mission

The Center for Law and Military Operations (CLAMO) is a resource organization for operational lawyers. It was created in 1988 at the direction of the Secretary of the Army, and is an integral component of The Judge Advocate General's Legal Center and School, U.S. Army, in Charlottesville, Virginia.

CLAMO's mission is to examine legal issues that arise during all phases of military operations and to devise training and resource strategies for addressing those issues. It seeks to fulfill this mission in five ways.

- **First**, it is the central *repository* within The Judge Advocate General's Corps for data, information, memoranda, after-action materials and lessons learned pertaining to legal support to operations, foreign and domestic.
- **Second**, it supports legal personnel by *analyzing* all data and information, *developing lessons learned* across all military legal disciplines, and by *disseminating* these lessons and other operational information to the Army, Marine Corps, and joint communities through publications, instruction, training, and databases accessible to operational forces worldwide.
- **Third**, it supports legal personnel in the field by responding to *requests for assistance*, by engaging in a continuous exchange of information with the Combat Training Centers and their judge advocate observer-controllers, and by creating operational law *training guides*.
- **Fourth**, it *integrates lessons learned* from operations and the Combat Training Centers into emerging *doctrine* and into the *curricula* of all relevant courses, workshops, orientations, and seminars conducted at The Judge Advocate General's Legal Center and School.
- **Fifth**, it sponsors *conferences and symposia* on topics of interest to operational lawyers.

In addition to publishing guides for the operational law practitioner, CLAMO creates and maintains both unclassified

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([www.jagcnet.army.mil/clamo](http://www.jagcnet.army.mil/clamo)) and classified ([www.us.army.smil.mil](http://www.us.army.smil.mil)) databases.

CLAMO also maintains an *Allied/Foreign Officers Database* (available to allied officers who register with the site) and a *Public Document Database* (no registration required).

CLAMO focuses on the practice of operational law—all domestic, foreign, and international law that directly affects the conduct of operations. All of CLAMO's initiatives enhance legal support to operations within the Army, the Marine Corps, and throughout the Department of Defense.

### **CLAMO's Organization**

The CLAMO Director heads the main office in Charlottesville on the grounds of the University of Virginia, where CLAMO enjoys first-class research facilities. CLAMO collects materials from attorneys and paralegals deployed in support of contingency operations around the globe. CLAMO also maintains formal links to the Army's four Combat Training Centers, where judge advocates and paralegals are assigned full-time to the Operations Groups that train Army, joint, and multinational forces.

The Commanding General, Judge Advocate General's Legal Center and School approves all CLAMO projects, preserves the independence of its analyses, and ensures that its work remains responsive to the needs of the Army and the joint service community of operational lawyers.

### **Contact CLAMO**

E-mail CLAMO at [CLAMO@hqda.army.mil](mailto:CLAMO@hqda.army.mil) or call (434) 971-3290/3210. Access the CLAMO web page at [www.jagcnet.army.mil/clamo](http://www.jagcnet.army.mil/clamo). E-mail, call, or write to request or submit materials. CLAMO encourages contributions of operational law materials, ideas from the field, and comments about its products.

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## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

### APPENDIX 2 MILITARY SUPPORT TO CIVILIAN AUTHORITIES

#### APPENDIX 2-1: 18 U.S.C. § 1385 - THE POSSE COMITATUS ACT (PCA)

##### 18 U.S.C. §1385 (2002)

##### Crimes and Criminal Procedure

##### *Sec. 1385 Use of Army and Air Force as Posse Comitatus*

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.

##### *Source*

(Added Aug. 10, 1956, ch. 1041, Sec. 18(a), 70A Stat. 626; amended Pub. L. 86-70, Sec. 17(d), June 25, 1959, 73 Stat. 144; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

##### *Historical and Revision Note*

<u>Revised Section</u>	<u>Source (U.S. Code)</u>	<u>Source (Statutes at Large)</u>
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1385	10:15.	June 18, 1878, ch. 263, Sec. 15, 20 Stat. 152; Mar. 3, 1899, ch. 429, Sec. 363 (proviso); added June 6, 1900, ch. 786, Sec. 29 (less last proviso), 31 Stat. 330.
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This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18.

##### *Amendments*

1994 - Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$10,000".

1959 - Pub. L. 86-70 struck out provisions which made section inapplicable in Alaska.

##### *Section Referred to in Other Sections*

This section is referred to in section 831 of this title.

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**UPDATE:** None

#### APPENDIX 2-2: 10 U.S.C. §§ 371-382 - STATUTORY IMPLEMENTATION OF THE PCA & MILITARY SUPPORT TO CIVILIAN LAW ENFORCEMENT AGENCIES

##### 10 U.S.C. § 371, *et seq.* (2002)

##### Military Support for Civilian Law Enforcement Agencies

##### *Section 371. Use of information collected during military operations*

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

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(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

## *Section 372. Use of military equipment and facilities*

(a) In General. - The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(b) Emergencies Involving Chemical and Biological Agents. - (1) In addition to equipment and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source. The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.

(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

- (A) Training facilities.
- (B) Sensors.
- (C) Protective clothing.
- (D) Antidotes.

## *Section 373. Training and advising civilian law enforcement officials*

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available -

- (1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and
- (2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

## *Section 374. Maintenance and operation of equipment*

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to -

- (A) a criminal violation of a provision of law specified in paragraph (4)(A);
- (B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;
- (C) a foreign or domestic counter-terrorism operation; or
- (D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

- (A) Detection, monitoring, and communication of the movement of air and sea traffic.
- (B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

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(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph

(4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States) -

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term "Federal law enforcement agency" means a Federal agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(v) Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term "land area of the United States" includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsection (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

### *Section 375. Restriction on direct participation by military personnel*

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

### *Section 376. Support not to affect adversely military preparedness*

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

### *Section 377. Reimbursement*

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(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the "Economy Act") or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support -

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

### *Section 378. Nonpreemption of other law*

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

### *Section 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes*

(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions) -

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term "drug-interdiction area" means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

### *Section 380. Enhancement of cooperation with civilian law enforcement officials*

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials -

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall -

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

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(2) make available to civilian law enforcement personnel nationwide, toll free telephone communication with such office or offices

### *Section 382. Emergency situations involving chemical or biological weapons of mass destruction*

(a) In General. - The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c (FOOTNOTE 1) of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if -

(FOOTNOTE 1) See References in Text note below.

(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(b) Emergency Situations Covered. - In this section, the term "emergency situation involving a biological or chemical weapon of mass destruction" means a circumstance involving a biological or chemical weapon of mass destruction -

(1) that poses a serious threat to the interests of the United States; and

(2) in which -

(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

(C) enforcement of section 175 or 2332c (FOOTNOTE 1) of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

(c) Forms of Assistance. - The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

(d) Regulations. - (1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c (FOOTNOTE 1) of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

(e) Reimbursements. - The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

(f) Delegations of Authority. - (1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate

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Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

(g) Relationship to Other Authority. - Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before September 23, 1996.

## UPDATES

Pub. L. 107-248

Section 374. New note added by Pub. L. 107-248, sec. 8058(a), 116 Stat. 1549.

Pub. L. 108-87

Section 374. New note added by Pub. L. 108-87, sec. 8057(a), 117 Stat. 1085.

Pub. L. 107-296

Section 379. Amended by Pub. L. 107-296, sec. 1704(b)(1), 116 Stat. 2314.

## APPENDIX 2-3: DODD 5525.5 - DOD COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS

### Department of Defense DIRECTIVE

NUMBER 5525.5  
January 15, 1986

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Incorporating Change 1, December 20, 1989  
ASD(FM&P)

SUBJECT: DoD Cooperation with Civilian Law Enforcement Officials

References: (a) through (II), see enclosure 1

### 1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update uniform DoD policies and procedures to be followed with respect to support provided to Federal, State, and local civilian law enforcement efforts; and assigns responsibilities.

### 2. APPLICABILITY AND SCOPE

2.1. This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as DoD Components). The term "Military Service," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

2.2. DoD policy on assistance to law enforcement officials in foreign governments is not governed by this Directive except as specified by other DoD issuances.

### 3. DEFINITIONS

3.1. Civilian Agency. An agency of one of the following jurisdictions:

3.1.1. The United States (other than the Department of Defense, but including the U.S. Coast Guard). This includes U.S. agencies in international areas dealing with U.S. flag vessels or aircraft in violation of U.S. law.

3.1.2. A State (or political subdivision of it) of the United States.

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3.1.3. Commonwealth, Territory, or Possession (or political subdivision of it) of the United States.

3.2. Civilian Law Enforcement Official. An officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of that agency.

3.3. DoD Intelligence Component. An organization listed in subsection 3.4. of DoD Directive 5240.1 (reference (b)).

### 4. POLICY

It is DoD policy to cooperate with civilian law enforcement officials to the extent practical. The implementation of this policy shall be consistent with the needs of national security and military preparedness, the historic tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law, as developed in enclosures E2. through E7.

### 5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall:

5.1.1. Coordinate with civilian law enforcement agencies on long range policies to further DoD cooperation with civilian law enforcement officials.

5.1.2. Provide information to civilian agencies and The National Narcotics Border Interdiction System (NNBIS) to facilitate access to DoD resources.

5.1.3. Coordinate with the Department of Justice, the Department of Transportation (U.S. Coast Guard), and the Department of the Treasury (U.S. Customs Service) and represent the Department of Defense on interagency organizations regarding matters involving the interdiction of the flow of illegal drugs into the United States. 2

5.1.4. Develop guidance and, as required, take other actions as specified in enclosures E2. through E7., taking into account the requirements of DoD intelligence components and the interests of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) and the Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)).

5.1.5. Inform the ASD(RA) of all requests for and taskings concerning National Guard and Reserve personnel and resources in support of civilian law enforcement.

5.1.6. Modify the sample report formats at enclosures E6. and E7.

5.2. The Inspector General of the Department of Defense (IG, DoD) shall issue guidance on cooperation with civilian law enforcement officials with respect to audits and investigations conducted, supervised, monitored, or initiated under DoD Directive 5106.1 (reference (c)), subject to coordination with the General Counsel.

5.3. The Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)) shall:

5.3.1. Assist the ASD(FM&P) in the development of guidance for use by approving authorities in evaluating the impact on military preparedness of any request for assistance from units of the National Guard and Reserve.

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5.3.2. At the request of the Secretary of Defense or the ASD(FM&P), determine the impact on military preparedness of any request for military assistance from units of the National Guard and Reserve.

5.4. The Secretaries of the Military Departments and the Directors of the Defense Agencies, as appropriate, shall:

5.4.1. Disseminate the guidance issued by the ASD(FM&P) under paragraph 5.1.4., above.

5.4.2. Review training and operational programs to determine how and where assistance can best be provided civilian law enforcement officials consistent with the policy in section 4, above. This review should identify those programs under which reimbursement would not be required under enclosure E5.

5.4.3. Issue implementing documents incorporating the guidelines and procedures of this Directive, including the following: 3

5.4.3.1. Procedures for prompt transfer of relevant information to law enforcement agencies.

5.4.3.2. Procedures for establishing local contact points in subordinate commands for purposes of coordination with Federal, State, and local civilian law enforcement officials.

5.4.3.3. Guidelines for evaluating requests for assistance in terms of impact on national security and military preparedness.

5.4.4. Inform the Joint Chiefs of Staff (JCS), through ASD(FM&P) of all requests for and taskings in support of civilian law enforcement that involve the resources of a Unified or Specified Command, which, if provided, could have significant impact on military preparedness or national security.

5.5. The Director, National Security Agency/Chief, Central Security Service (DIRNSA/CHCSS) shall establish appropriate guidance for the National Security Agency/Central Security Service (NSA/CSS).

5.6. The Joint Chiefs of Staff shall:

5.6.1. Assist the ASD(FM&P) in the development of guidance for use by approving authorities in evaluating the impact of requests for assistance on national security and military preparedness.

5.6.2. Provide advice on the impact on national security and military preparedness of any request for military assistance at the request of the Secretary of Defense, the ASD(FM&P), the Secretaries of the Military Departments, the Directors of Defense Agencies, or the Commanders of the Unified and Specified Commands.

## 6. INFORMATION REQUIREMENTS

A quarterly report of all requests for assistance (approved, denied, or pending) shall be submitted by the Secretaries of the Military Departments and the Directors of Defense Agencies to the ASD(FM&P), the General Counsel, the ASD(HA), and the ASD(RA), not later than 30 days after the end of each quarter. The report will show action taken (approval, denial, or pending) and other appropriate information. This information requirement has been assigned Report Control Symbol DD-FM&P(Q)1595. Actions involving the use of classified information or techniques may be exempted from such 4 report with the concurrence of the ASD(FM&P) if it is impractical to prepare an unclassified summary. The sample format at enclosure will be used to record all aviation assistance.



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### 7. RELEASE OF INFORMATION

7.1. Release of information to the public concerning law enforcement operations is the primary responsibility of the civilian agency that is performing the law enforcement function. The Military Departments and the Directors of the Defense Agencies may release such information, however, when approved under the procedures established by the Secretaries of the Military Departments and the Directors of the Defense Agencies concerned. To the extent possible, the affected civilian law enforcement agencies shall be consulted before releasing such information.

7.2. When assistance is provided under this Directive, such assistance may be conditioned upon control by the Secretaries of the Military Departments and Directors of the Defense Agencies before information is released to the public.

### 8. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 120 days. 5

#### 8.1. MISCELLANEOUS

*The provisions of paragraph E4.1.3. of enclosure E4. of Department of Defense Directive 5525.5, entitled "Restrictions on Direct Assistance," will continue to apply to all actions conducted by military personnel within the territorial boundaries of the United States. With regard to military actions conducted outside the territorial jurisdiction of the United States, however, the Secretary of Defense or the Deputy Secretary of Defense will consider for approval, on a case by case basis, requests for exceptions to the policy restrictions against direct assistance by military personnel to execute the laws. Such requests for exceptions to policy outside the territorial jurisdiction of the United States should be made only when there are compelling and extraordinary circumstances to justify them.*

Enclosures - 7

1. References
2. Use of Information Collected During Military Operations
3. Use of Military Equipment and Facilities
4. Restrictions on Participation of DoD Personnel in Civilian Law Enforcement Activities
5. Funding
6. Sample Format for Preparing, "Report on Support to Civilian Law Enforcement (RCS DD-FM&P(Q)1595)"
7. Aviation Assistance to Law Enforcement Agencies (Sample Format)

#### E1. ENCLOSURE 1 REFERENCES

- (a) DoD Directive 5525.5, subject as above, March 22, 1982 (hereby canceled)
- (b) DoD Directive 5240.1, "Activities of DoD Intelligence Components that Affect U.S. Persons," December 3, 1982
- (c) DoD Directive 5106.1, "Inspector General of the Department of Defense," March 14, 1983
- (d) Title 10, United States Code (10 U.S.C.), §§331-334, 337, 371-378, 2576, and 2667; and Chapter 47 (Uniform Code of Military Justice)
- (e) DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," January 7, 1980
- (f) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982, authorized by reference (b)
- (g) DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982
- (h) DoD 4515.13-R, "Air Transportation Eligibility," January 1980, authorized by DoD Directive 4515.13, June 26, 1979
- (i) Public Law, "The Economy Act, " (31 U.S.C. §1535)

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- (j) Public Law, "The Intergovernmental Cooperation Act of 1968," (40 U.S.C. §§531-535 and 42 U.S.C. §§4201, 4211-4124, 4221-4225, 4231-4233, 4241-4244)
- (k) Public Law, "Federal Property and Administrative Services Act of 1949," (40 U.S.C. §§471-476, 481, 483, 483c, 484-492, 512, 514, 531-535, 541-544, 751-759; 41 U.S.C. §§5, 251-255, 257-260; 44 U.S.C., Chapters 21, 25, 29, 31; and 50 U.S.C. Appendix 1622)
- (l) DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (m) DoD Instruction 4160.23, "Sale of Surplus Military Equipment to State and Local Law Enforcement and Firefighting Agencies," January 27, 1981
- (n) DoD Instruction 4160.24, "Disposal of Foreign Excess Personal Property for Substantial Benefits or the Discharge of Claims," July 24, 1981
- (o) DoD Directive 4165.6, "Real Property Acquisition, Management and Disposal," December 22, 1976
- (p) DoD Directive 4165.20, "Utilization and Retention of Real Property," January 31, 1985
- (q) DoD Directive 5410.12, "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973 7 ENCLOSURE 1
- (r) DoD Instruction 7230.7, "User Charges," January 29, 1985
- (s) DoD Instruction 7310.1, "Disposition of Proceeds from Sales of DoD Excess and Surplus Personal Property," November 15, 1984
- (t) DoD Instruction 7730.53, "Specialized or Technical Services Provided to State and Local Government," December 23, 1982
- (u) DoD Directive 5030.46, "Assistance to the District of Columbia Government in Combating Crime," March 26, 1971
- (v) Public Law, "Posse Comitatus Act," (18 U.S.C. §1385)
- (w) DoD Directive 5525.7, "Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," January 22, 1985
- (x) Title 5, United States Code, Appendix 3, Section 8(g)
- (y) Title 16, United States Code, §§23, 78, 593, and 1861(a)
- (z) Title 18, United States Code, §§112, 351, 831, 1116, 1751, and 3056; "Presidential Protection Assistance Act of 1976," Public Law 94-524, 90 Stat. 2475
- (aa) Title 22, United States Code, §§408 and 461-462
- (bb) Title 25, United States Code, §180
- (cc) Title 42, United States Code, §§97, 1989, and 3789
- (dd) Title 43, United States Code, §1065
- (ee) Title 48, United States Code, §§1418, 1422, and 1591
- (ff) Title 50, United States Code, §220
- (gg) Public Law, "The Controlled Substances Act," (21 U.S.C. §801 et seq.)
- (hh) Public Law, "The Controlled Substances Import and Export Act," (21 U.S.C. §951 et seq.)
- (ii) Public Law, "The Immigration and Nationality Act," (8 U.S.C. §§1324-1328)
- (jj) Title 19, United States Code §1401 (The Tariff Act of 1930) and §1202 (Tariff Schedules of the United States)
- (kk) Title 21, United States Code §873(b)
- (ll) DoD 7220.9-M, "Department of Defense Accounting Manual," October 1983, authorized by DoD Directive 7220.9

## E2. ENCLOSURE 2

### USE OF INFORMATION COLLECTED DURING MILITARY OPERATIONS

#### E2.1. ACQUISITION AND DISSEMINATION

Military Departments and Defense Agencies are encouraged to provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials. The Secretaries of the Military Departments and Directors of the Defense Agencies shall prescribe procedures for releasing information upon reasonable belief that there has been such a violation.

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E2.1.1. The assistance provided under this enclosure shall be in accordance with 10 U.S.C. §371 (reference (d)) and other applicable laws.

E2.1.2. The acquisition and dissemination of information under this enclosure shall be in accordance with DoD Directive 5200.27 (reference (e)), DoD Directive 5240.1 (reference (b)), and DoD 5240.1-R (reference (f)).

E2.1.3. Military Departments and Defense Agencies shall establish procedures for "routine use" disclosures of such information in accordance with DoD Directive 5400.11 (reference (g)).

E2.1.4. Under guidance established by the Secretaries of the Military Departments and the Directors of the Defense Agencies concerned, the planning and execution of compatible military training and operations may take into account the needs of civilian law enforcement officials for information when the collection of the information is an incidental aspect of training performed for a military purpose. In this regard, the needs of civilian law enforcement officials may be considered when scheduling routine training missions. This does not permit the planning or creation of missions or training for the primary purpose of aiding civilian law enforcement officials, and it does not permit conducting training or missions for the purpose of routinely collecting information about U.S. citizens. Local law enforcement agents may accompany routinely scheduled training flights as observers for the purpose of collecting law enforcement information. This provision does not authorize the use of DoD aircraft to provide point-to-point transportation and training flights for civilian law enforcement officials. Such assistance may be provided only in accordance with DoD 4515.13-R (reference (h)).

E2.1.5. Under procedures established by the Secretaries of Military Departments and the Directors of the Defense Agencies concerned, information concerning illegal drugs that is provided to civilian law enforcement officials under this provision (reference (f)) may be provided to the El Paso Intelligence Center.

E2.1.6. Nothing in this section modifies DoD policies or procedures concerning dissemination of information for foreign intelligence or counterintelligence purposes.

E2.1.7. The Military Departments and Defense Agencies are encouraged to participate in Department of Justice Law Enforcement Coordinating Committees situated in each Federal Judicial District.

E2.1.8. The assistance provided under this enclosure may not include or permit direct participation by a member of a Military Service in the interdiction of a vessel, aircraft, or a land vehicle, a search or seizure, arrest, or other similar activity unless participation in such activity by the member is otherwise authorized by law. See enclosure E4.

### E2.2. MILITARY PREPAREDNESS

Assistance may not be provided under this enclosure if it could adversely affect national security or military preparedness.

### E2.3. FUNDING

To the extent that assistance under this enclosure requires Military Departments and Defense Agencies to incur costs beyond those that are incurred in the normal course of military operations, the funding provisions of enclosure E5 apply.

## E3. ENCLOSURE 3 USE OF MILITARY EQUIPMENT AND FACILITIES

### E3.1. EQUIPMENT AND FACILITIES

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Military Departments and Defense Agencies may make equipment, base facilities, or research facilities available to Federal, State, or local civilian law enforcement officials for law enforcement purposes in accordance with this enclosure.

E3.1.1. The ASD(FM&P) shall issue guidance to ensure that the assistance provided under this enclosure is in accordance with applicable provisions of 10 U.S.C. §§372, 2576, and 2667 (reference (d)); the Economy Act (reference (i)); the Intergovernmental Cooperation Act of 1968 (reference (j)); the Federal Property and Administrative Services Act of 1949 (reference (k)); and other applicable laws.

E3.1.2. The guidance in subsection E3.1.1., above, shall ensure that the following Directives are complied with: DoD Directive 3025.12 (reference (l)); DoD Instruction 4160.23 (reference (m)); DoD Instruction 4160.24 (reference (n)); DoD Directive 4165.6 (reference (o)); DoD Directive 4165.20 (reference (p)); DoD Directive 5410.12 (reference (q)); DoD Instruction 7230.7 (reference (r)); DoD Instruction 7310.1 (reference (s)); DoD Instruction 7730.53 (reference (t)); and other guidance that may be issued by the ASD(FM&P) and the Assistant Secretary of Defense (Comptroller) (ASD(C)).

E3.1.3. The assistance provided by DoD Intelligence Components is subject to DoD Directive 5240.1 (reference (b)) and DoD 5240.1-R (reference (f)).

## E3.2. LIMITATIONS ON THE USE OF PERSONNEL

E3.2.1. A request for DoD personnel to operate or maintain or to assist in operating or maintaining equipment made available under section E3.1., above, shall be considered under the guidance in subsection E4.1.6. (enclosure E4.).

E3.2.2. Personnel in DoD intelligence components also are subject to the limitations in DoD Directive 5240.1 (reference (b)) and DoD 5240.1-R (reference (f)).

## E3.3. MILITARY PREPAREDNESS

Assistance may not be provided under this enclosure if such assistance could adversely affect national security or military preparedness. The implementing documents issued by the Secretaries of the Military Departments and the Directors of the Defense Agencies shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security and military preparedness.

## E3.4. APPROVAL AUTHORITY

Requests by civilian law enforcement officials for DoD assistance in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this section.

E3.4.1. Approval authority for military assistance if there is a civil disturbance or related matters requiring immediate action is governed by DoD Directive 3025.12 (reference (l)).

E3.4.2. Approval authority for assistance to the government of the District of Columbia is governed by DoD Directive 5030.46 (reference (u)).

E3.4.3. The following governs approval for assistance to civilian law enforcement officials in other circumstances:

E3.4.3.1. Requests for training, expert advice, or use of personnel to operate or maintain equipment shall be forwarded for consideration under section E4.5. of enclosure E4.

E3.4.3.2. Requests for DoD intelligence components to provide assistance shall be forwarded for consideration under DoD Directive 5240.1 (reference (b)) and DoD 5240.1-R (reference (f)).

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

E3.4.3.3. Loans under the Economy Act (reference (i)) are limited to agencies of the Federal Government. Leases under 10 U.S.C. 2667 (reference (d)) may be made to entities outside the Federal Government.

E3.4.3.3.1. Requests for arms, ammunition, combat vehicles, vessels, and aircraft are subject to approval by the Secretaries of the Military Departments and the Directors of Defense Agencies. A notice of approval or denial shall be reported to the ASD(FM&P) within 48 hours after such action.

E3.4.3.3.2. Requests for loan or lease or other use of equipment or facilities are subject to approval by the Secretaries of the Military Departments and the Directors of the Defense Agencies, unless approval by a higher official is required by statute or DoD Directive applicable to the particular disposition. This authority may be delegated. The Secretaries of the Military Departments and the Directors of the Defense Agencies shall issue rules for taking action on requests for loan, lease, or other use of equipment or facilities that are not governed by paragraphs E3.4.3.1. through E3.4.3.3., above, subject to the following:

E3.4.3.3.2.1. Such rules shall ensure compliance with applicable statutes and DoD Directives requiring specific levels of approval with respect to particular dispositions.

E3.4.3.3.2.2. The ASD(FM&P) shall be notified within 48 hours after action is taken approving or denying a request for a loan, lease, or other use of equipment or facilities for more than 60 days.

E3.4.3.4. Requests for the use of equipment or facilities outside the Continental United States (CONUS) other than arms, ammunition, combat vehicles, vessels, and aircraft shall be approved in accordance with procedures established by the applicable Military Department or Defense Agency.

E3.4.3.5. Requests from Federal agencies for purchase of equipment (permanent retention) that are accompanied by appropriate funding documents may be submitted directly to the Military Departments or Defense Agencies. Requests for transferring equipment to non-Federal agencies must be processed under DoD Instruction 4160.23 (reference (m)) or DoD Directive 4165.20 (reference (p)).

E3.4.3.6. All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD(FM&P). Requests will be forwarded and processed according to the urgency of the situation.

### E3.5. FUNDING

Funding requirements for assistance under this enclosure shall be established under the guidance in enclosure E5.

## E4. ENCLOSURE 4 RESTRICTIONS ON PARTICIPATION OF DoD PERSONNEL IN CIVILIAN LAW ENFORCEMENT ACTIVITIES

### E4.1. STATUTORY REQUIREMENTS

#### E4.1.1. Posse Comitatus Act.

The primary restriction on military participation in civilian law enforcement activities is the Posse Comitatus Act (reference (v)), which provides: "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 not more than \$10,000 or imprisoned not more than two years or both."

E4.1.2. Permissible direct assistance. The following activities are not restricted by reference (v).

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E4.1.2.1. Actions that are taken for the primary purpose of furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities. This provision must be used with caution, and does not include actions taken for the primary purpose of aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of reference (v). Actions under this provision may include the following, depending on the nature of the DoD interest and the authority governing the specific action in question:

E4.1.2.1.1. Investigations and other actions related to enforcement of the Uniform Code of Military Justice (UCMJ) (reference (d)).

E4.1.2.1.2. Investigations and other actions that are likely to result in administrative proceedings by the Department of Defense, regardless of whether there is a related civil or criminal proceeding. See DoD Directive 5525.7 (reference (w)) with respect to matters in which the Departments of Defense and Justice both have an interest.

E4.1.2.1.3. Investigations and other actions related to the commander's inherent authority to maintain law and order on a military installation or facility.

E4.1.2.1.4. Protection of classified military information or equipment.

E4.1.2.1.5. Protection of DoD personnel, DoD equipment, and official guests of the Department of Defense.

E4.1.2.1.6. Such other actions that are undertaken primarily for a military or foreign affair's purpose.

E4.1.2.2. Audits and investigations conducted by, under the direction of, or at the request of IG, DoD, 5 U.S.C., Appendix 3, §8(g) (reference (x)), subject to applicable limitations on direct participation in law enforcement activities.

E4.1.2.3. Actions that are taken under the inherent right of the U.S. Government, a sovereign national entity under the U.S. Constitution, to ensure the preservation of public order and to carry out governmental operations within its territorial limits, or otherwise in accordance with applicable law, by force, if necessary. This authority is reserved for unusual circumstances, and will be used only under DoD Directive 3025.12 (reference (l)), which permits use of this power in two circumstances:

E4.1.2.3.1. The emergency authority authorizes prompt and vigorous Federal action, including use of military forces, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disaster, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation.

E4.1.2.3.2. Protection of Federal property and functions authorizes Federal action, including the use of military forces, to protect Federal property and Federal Government functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

E4.1.2.4. Actions taken pursuant to DoD responsibilities under 10 U.S.C. §§331-334 (reference (d)), relating to the use of the military forces with respect to insurgency or domestic violence or conspiracy that hinders the execution of State or Federal law in specified circumstances. Actions under this authority are governed by DoD Directive 3025.12 (reference (l)).

E4.1.2.5. Actions taken under express statutory authority to assist officials in executing the laws, subject to applicable limitations. The laws that permit direct military participation in civilian law enforcement, include the following:

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

E4.1.2.5.1. Protection of national parks and certain other Federal lands. See 16 U.S.C. §§23, 78, and 593 (reference (y)).

E4.1.2.5.2. Enforcement of the Fishery Conservation and Management Act of 1976. See 16 U.S.C. §1861(a) (reference (y)).

E4.1.2.5.3. Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons. See 18 U.S.C. §§112 and 1116 (reference (z)).

E4.1.2.5.4. Assistance in the case of crimes against members of Congress. See 18 U.S.C. §351 (reference (z)).

E4.1.2.5.5. Assistance in the case of crimes involving nuclear materials. See 18 U.S.C. §831 (reference (z)).

E4.1.2.5.6. Protection of the President, Vice President, and other designated dignitaries. See 18 U.S.C. §§1751 and the Presidential Protection Assistance Act of 1976 (reference (z)).

E4.1.2.5.7. Actions taken in support of the neutrality laws. See 22 U.S.C. §§408 and 461-462 (reference (aa)).

E4.1.2.5.8. Removal of persons unlawfully present on Indian lands. See 25 U.S.C. §180 (reference (bb)).

E4.1.2.5.9. Execution of quarantine and certain health laws. See 42 U.S.C. §97 (reference (cc)).

E4.1.2.5.10. Execution of certain warrants relating to enforcement of specified civil rights laws. See 42 U.S.C. §1989 (reference (cc)).

E4.1.2.5.11. Removal of unlawful inclosures from public lands. See 43 U.S.C. §1065 (reference (dd)).

E4.1.2.5.12. Protection of the rights of a discoverer of a guano island. See 48 U.S.C. §1418 (reference (ee)).

E4.1.2.5.13. Support of territorial governors if a civil disorder occurs. See 48 U.S.C. §§1422 and 1591 (reference (ee)).

E4.1.2.5.14. Actions in support of certain customs laws. See 50 U.S.C. §220 (reference (ff)).

E4.1.3. Restrictions on Direct Assistance. Except as otherwise provided in this enclosure, the prohibition on the use of military personnel "as a posse comitatus or otherwise to execute the laws" prohibits the following forms of direct assistance:

E4.1.3.1. Interdiction of a vehicle, vessel, aircraft, or other similar activity.

E4.1.3.2. A search or seizure.

E4.1.3.3. An arrest, apprehension, stop and frisk, or similar activity.

E4.1.3.4. Use of military personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators.

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## E4.1.4. Training

E4.1.4.1. The Military Departments and Defense Agencies may provide training to Federal, State, and local civilian law enforcement officials. Such assistance may include training in the operation and maintenance of equipment made available under section E3.1. of enclosure E3. This does not permit large scale or elaborate training, and does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this enclosure.

E4.1.4.2. Training of Federal, State, and local civilian law enforcement officials shall be provided under the following guidance:

E4.1.4.2.1. This assistance shall be limited to situations when the use of non-DoD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns.

E4.1.4.2.2. Such assistance may not involve DoD personnel in a direct role in a law enforcement operation, except as otherwise authorized by law.

E4.1.4.2.3. Except as otherwise authorized by law, the performance of such assistance by DoD personnel shall be at a location where there is not a reasonable likelihood of a law enforcement confrontation.

E4.1.5. Expert Advice. Military Departments and Defense Agencies may provide expert advice to Federal, State, or local law enforcement officials in accordance with 10 U.S.C. §§371-378 (reference (d)). This does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this enclosure.

E4.1.6. Use of DoD Personnel to Operate or Maintain Equipment. The use of DoD personnel to operate or maintain or to assist in operating or maintaining equipment shall be limited to situations when the training of non-DoD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns.

E4.1.6.1. In general, the head of the civilian law enforcement agency may request a Military Department or Defense Agency to provide DoD personnel to operate or maintain or assist in operating or maintaining equipment for the civilian agency. This assistance shall be subject to the following guidance:

E4.1.6.1.1. Such assistance may not involve DoD personnel in a direct role in a law enforcement operation (see subsection E4.1.3., above), except as provided in paragraph E4.1.6.3., below, or as otherwise authorized by law.

E4.1.6.1.2. Except as otherwise authorized by law, the performance of such assistance by DoD personnel shall be at a location where there is not a reasonable likelihood of a law enforcement confrontation.

E4.1.6.1.3. The use of military aircraft to provide point-to-point transportation and training flights for civilian law enforcement officials may be provided only in accordance with DoD 4515.13-R (reference (h)).

E4.1.6.2. Additional provisions concerning drug, customs, immigration, and certain other laws: a request under this provision for DoD personnel to operate or maintain or to assist in operating or maintaining equipment made available under section E3.1. of enclosure E3. may be made by the head of a civilian agency empowered to enforce the following laws:



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E4.1.6.2.1. The Controlled Substances Act (reference (gg)) or the Controlled Substances Import and Export Act (reference (hh)).

E4.1.6.2.2. Any of Sections 274 through 278 of the Immigration and Nationality Act (reference (ii)).

E4.1.6.2.3. A law relating to the arrival or departure of merchandise, as defined in Section 1401 of the Tariff Act of 1930 (reference (jj)), into or out of the Customs territory of the United States, as defined in the Tariff Schedules of the United States, (reference (jj)) or any other territory or possession of the United States; or

E4.1.6.2.4. Any other law that establishes authority for DoD personnel to provide direct assistance to civilian law enforcement officials. In addition to the assistance authorized under this paragraph, the following assistance may be provided:

E4.1.6.2.4.1. DoD personnel may be assigned to operate or assist in operating equipment to the extent the equipment is used for monitoring and communicating to civilian law enforcement officials the movement of air and sea traffic with respect to any criminal violation of the laws specified in paragraph E4.1.2.5., above. This includes communicating information concerning the relative position of civilian law enforcement officials and other air and sea traffic.

E4.1.6.2.4.2. In an emergency circumstance, equipment operated by or with the assistance of DoD personnel may be used outside the land area of the United States (or any Commonwealth, territory, or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law in subparagraph E4.1.2.3.1., above, and to transport such law enforcement officials in connection with such operations, subject to the following limitations:

E4.1.6.2.4.2.1. Equipment operated by or with the assistance of DoD personnel may not be used to interdict or interrupt the passage of vessels or aircraft, except when DoD personnel are otherwise authorized to take such action with respect to a civilian law enforcement operation.

E4.1.6.2.4.2.2. There must be a joint determination by the Secretary of Defense and the Attorney General that an emergency circumstance exists under 10 U.S.C. §374(c) (2) (reference (d)). An emergency circumstance may be determined to exist for purposes of this subparagraph only when the size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and enforcement of laws in paragraph E4.1.2.5., above, would be impaired seriously if the assistance described in this subparagraph were not provided.

E4.1.6.2.4.3. The emergency authority in this subparagraph may be used only with respect to large scale criminal activity at a particular point in time or over a fixed period. It does not permit use of this authority on a routine or extended 19 ENCLOSURE 4 basis.

E4.1.6.2.4.4. Nothing in this subparagraph restricts the authority of military personnel to take immediate action to save life or property or to protect a Federal function as provided in paragraph E4.1.2.2., above.

E4.1.6.3. When DoD personnel are otherwise assigned to provide assistance with respect to the laws specified in paragraph E4.1.2.5., above, the participation of such personnel shall be consistent with the limitations in such laws, if any, and such restrictions as may be established by the Secretary of Defense, the ASD(FM&P), or the Secretaries of the Military Departments and the Directors of the Defense Agencies concerned.

E4.1.7. Other Permissible Assistance. The following forms of indirect assistance are not restricted by the Posse Comitatus Act (reference (d)) (see enclosure E3.):

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E4.1.7.1. Transfer of information acquired in the normal course of military operations. See enclosure E2.

E4.1.7.2. Such other actions, approved in accordance with procedures established by the Secretaries of the Military Departments and the directors of the Defense Agencies concerned, that do not subject civilians to use military power that is regulatory, prescriptive, or compulsory.

## E4.2. EXCEPTIONS BASED ON STATUS

The restrictions in section E4.1., above, do not apply to the following persons:

E4.2.1. A member of a Reserve component when not on active duty, active duty for training, or inactive duty for training.

E4.2.2. A member of the National Guard when not in the Federal Service.

E4.2.3. A civilian employee of the Department of Defense. If the civilian employee is under the direct command and control of a military officer, assistance will not be provided unless it would be permitted under section E4.3., below.

E4.2.4. A member of a Military Service when off duty, and in a private capacity. A member is not acting in a private capacity when assistance to law enforcement officials is rendered under the direction or control of DoD authorities.

## E4.3. EXCEPTIONS BASED ON MILITARY SERVICE

DoD guidance on the Posse Comitatus Act (reference (v)), as stated in enclosure E3., is applicable to the Department of the Navy and the Marine Corps as a matter of DoD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis. E4.3.1. Such exceptions shall include requests from the Attorney General for assistance under 21 U.S.C. §873(b) (reference (kk)).

E4.3.2. Prior approval from the Secretary of Defense shall be obtained for exceptions that are likely to involve participation by members of the Navy or Marine Corps in an interdiction of a vessel or aircraft, a law enforcement search or seizure, an arrest, apprehension, or other activity that is likely to subject civilians to use military power that is regulatory, prescriptive, or compulsory. Such approval may be granted only when the head of the civilian agency concerned verifies that:

E4.3.2.1. The size or scope of the suspected criminal activity poses a serious threat to the interests of the United States and enforcement of a law within the jurisdiction of the civilian agency would be impaired seriously if the assistance were not provided because civilian assets are not available to perform the missions; or

E4.3.2.2. Civilian law enforcement assets are not available to perform the mission and temporary assistance is required on an emergency basis to prevent loss of life or wanton destruction of property.

## E4.4. MILITARY PREPAREDNESS

Assistance may not be provided under this enclosure if such assistance could adversely affect national security or military preparedness. The implementing documents issued by the Secretaries of the Military Departments and the Directors of the Defense Agencies shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security and military preparedness.

## E4.5. APPROVAL AUTHORITY

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

Requests by civilian law enforcement officials for use of DoD personnel in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this section.

E4.5.1. The use of DoD personnel in civil disturbances and related matters is governed by DoD Directive 3025.12 (reference (l)), which includes the approval authorities.

E4.5.2. Approval authority for assistance to the government of the District of Columbia is governed by DoD Directive 5030.46 (reference (u)).

E4.5.3. The following governs approval for assistance to civilian law enforcement officials in other circumstances.

E4.5.3.1. The Secretary of Defense is the approval authority for requests that involve assignment of 50 or more DoD personnel or a period of assignment of more than 30 days.

E4.5.3.2. The Secretaries of the Military Departments and Directors of Defense Agencies may approve the following types of assistance, except as provided in E4.5.3.1., above:

E4.5.3.2.1. Use of DoD personnel to provide training or expert advice in accordance with subsections E4.1.4. and E4.1.5., above.

E4.5.3.2.2. Use of DoD personnel for equipment maintenance in accordance with subparagraph E4.1.6.2.1., above.

E4.5.3.2.3. Use of DoD personnel to monitor and communicate the movement of air and sea traffic in accordance with subparagraph E4.1.6.2.1., above.

E4.5.3.3. The ASD(FM&P) is the approval authority for other requests for assignment of personnel. This authority may be delegated to the Secretaries of the Military Departments and the Directors of the Defense Agencies with respect to specific categories of assistance.

E4.5.3.4. Requests that involve DoD intelligence components are subject to the limitations in DoD Directive 5240.1 (reference (b)) and DoD 5240.1-R (reference (f)), and are subject to approval by the Secretary of Defense.

E4.5.3.5. The views of JCS shall be obtained on all requests that are considered by the Secretary of Defense or the ASD(FM&P) or that otherwise involve personnel assigned to a Unified or Specified Command.

E4.5.3.6. The view of the ASD(RA) shall be obtained on all requests that are to be considered by the Secretary of Defense or the ASD(FM&P) that involve Reserve component personnel or equipment.

E4.5.3.7. All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD(FM&P). Requests will be forwarded and processed according to priority.

### E4.6. FUNDING

Funding requirements for assistance under this enclosure shall be established by the ASD(FM&P) under the guidance in enclosure E5.

## E5. ENCLOSURE 5 FUNDING

### E5.1. ESTABLISHMENT OF GUIDANCE

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Funding requirements and related reporting procedures shall be established by the ASD(FM&P), after consultation with the Assistant Secretary of Defense (Comptroller) (ASD(C)), subject to the guidance of this enclosure.

## E5.2. PROCEDURAL REQUIREMENTS

E5.2.1. As a general matter, reimbursement is required when equipment or services are provided to agencies outside the Department of Defense. The primary sources of law for reimbursement requirements are the Economy Act (reference (i)) for Federal agencies and the Leasing Statute, 10 U.S.C. §2667 (reference (d)). Other statutes may apply to particular types of assistance. (See section E3.1. of enclosure E3.)

E5.2.2. If reimbursement is not required by law for a particular form of assistance, the authority to waive reimbursement is delegated to the ASD(FM&P). The ASD(FM&P) may delegate to the Secretaries of the Military Departments and the Directors of the Defense Agencies (or designees) the authority to waive reimbursement on matters within their approval authority. See 10 U.S.C. §377 (reference (d)). The dollar value of a waiver shall be determined in accordance with Chapter 26 of DoD 7220.9-M (reference (II)). A request for waiver may be granted if reimbursement is not otherwise required by law and: E5.2.2.1. Is provided as an incidental aspect of the activity that is conducted for military purposes. E5.2.2.2. Involves the use of DoD personnel in an activity that provides DoD training operational benefits that are substantially equivalent to the benefit of DoD training or operations.

E5.2.3. The Secretary of the Military Department or the Director of the Defense Agency (or his or her designees) may request the views of the Joint Chiefs of Staff when acting on a request for waiver of reimbursement when such waiver may adversely affect military preparedness.

E5.2.4. In evaluating requests for waiver of reimbursement, consideration shall be given to the budgetary resources available to civilian law enforcement agencies.

## E5.3. MILITARY PREPAREDNESS

Reimbursement may not be waived if deletion of such funds from a DoD account could adversely affect the national security or military preparedness of the United States.

### E6. ENCLOSURE 6

#### SAMPLE FORMAT FOR PREPARING, "REPORT ON SUPPORT TO CIVILIAN LAW ENFORCEMENT (RCS DD-FM&P(Q)1595)"

The quarterly report shall contain the following information for each request considered:

1. Number and type of assistance requested.
  - a. Facilities.
  - b. Information.
  - c. Equipment.
    - (1) Aircraft
    - (2) Vehicles
    - (3) Vessels
    - (4) Special (night vision goggles, weapons, etc.)
    - (5) Miscellaneous
  - d. Aviation Mission Support.
    - (1) Surveillance
    - (2) Identification aircraft support
    - (3) Logistics
    - (4) Miscellaneous
  - e. Surface Mission Support.
    - (1) Surveillance
    - (2) Ship services (towing, tactical law enforcement teams TACLETs, etc.)

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

- (3) Logistics
  - (4) Miscellaneous
  - f. Ground-based Mission Support.
    - (1) Radar/Sensor Surveillance
    - (2) Aerostats
    - (3) Transportation of law enforcement personnel
    - (4) Border air and ground surveillance
    - (5) Logistics
    - (6) Miscellaneous
  - g. Explosive Ordnance Disposal.
  - h. Training provided to law enforcement agencies.
  - i. Personnel.
  - j. Other support not specifically addressed.
  - 2. The length of time for which assistance is requested, if appropriate (if the request is for information or support for a brief time, enter "NA").
  - 3. Status of the requests:
    - a. Number approved.
    - b. Number denied.
    - c. Number pending.
  - 4. A brief discussion of the reason for any denial.
  - 5. Manhours/mandays expended to support law enforcement agencies.
- DODD 5525.5, January 15, 1986*

### E7. ENCLOSURE 7 AVIATION ASSISTANCE TO LAW ENFORCEMENT AGENCIES (Sample Format) Surveillance

<u>Aircraft</u>	<u>Region</u> <u>State</u>	<u>Sorties</u>	<u>Flight</u> <u>Hours</u>	<u>Gained</u>	<u>Passed to</u> <u>LEA's</u>	<u>Remarks</u>
E-2C	Pacific	18	76	10A	9	No CS support available
E-2C	Atlantic	23	88	13A	10	CHET successful intercept of one acft. Flown by Reserves.
P-3C	Atlantic	103	712	32S	28S	CG seized 3 vessels.

#### Identification

<u>Aircraft</u>	<u>Region</u> <u>State</u>	<u>Sorties</u>	<u>Flight</u> <u>Hours</u>	<u>Visual/IRDS</u> <u>Attempts</u>	<u>Detections</u> <u>Successful</u>	<u>Remarks</u>
OV-10	New Mexico	17	35	3A	1	Handover to USCS, 1200# Marijuana seized.

#### Logistics/Miscellaneous Support

<u>Aircraft</u>	<u>Region</u> <u>State</u>	<u>Sorties</u>	<u>Flight</u> <u>Hours</u>	<u>Remarks</u>
UH-IN	Bahamas	332	299	Bahamas police seized 12,200# marijuana, 2000# cocaine.
RF-4C	Texas	4	7	Reconnaissance of remote airfields

#### Abbreviation Key:

A – Airborne	SS - Secret Service
Acft- Aircraft	Res - Reserve
S - Surface	ANG - Air Nat'l Guard
L - Land	ARNG - Army Nat'l Guard
C S - U.S. Customs Service	LEA - Law Enforcement Agency
CG - U.S. Coast Guard	CHET - Customs High Endurance Tracker (aircraft)
D - DEA	IRDS - Infrared Detection System

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Attachments - 1

E7.A1. Aid for Completing Aviation Assistance Portion of Quarterly Report

## E7.A1. ENCLOSURE 7, ATTACHMENT 1 AID FOR COMPLETING AVIATION ASSISTANCE PORTION OF QUARTERLY REPORT

Aviation assistance is the largest area of DoD support to law enforcement agencies. This section is used to report to DoD the Services' aviation assistance. The following is an aid to complete this section.

Acft	- Aircraft," if flown by other than active duty units, indicate in the "Remarks" column (e.g., Res, ANG, ARNG).
Region State	- Where sorties were flown (e.g., Pacific, Caribbean, GA, TX, Bahamas, etc.).
Sorties	- Number of flights flown by the platform aircraft during the quarter.
Flt Hrs.	- Number of flight hours flown by the aircraft during the quarter.
Detections	- Number of "raw data" detections against suspect air Gained or surface vessels.
Detections Gained	- The number of detections passed to law enforcement agency for possible investigation.
Remarks	- Used for comments to specify sorties flown by Reserve, ARG, ARNG units; amplify support contributing to known law enforcement success or failure, etc.
Visual/IRDS	- Applies to visual or infrared detection to identify suspect vessel.
Identification	- Aircraft (e.g., OV-10, OV-1) used to identify suspect aircraft prior to handover to the U.S. Customs Service tracker/interceptor aircraft.

## **APPENDIX 2-4: DODD 3025.12 - MILITARY ASSISTANCE FOR CIVIL DISTURBANCES**

### **Department of Defense DIRECTIVE**

NUMBER 3025.12  
February 4, 1994

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USD(P)

SUBJECT: Military Assistance for Civil Disturbances (MACDIS)

#### References:

- (a) DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971 (hereby canceled)
- (b) Executive Order, 12656 "Assignment of Emergency Preparedness Responsibilities," November 18, 1988
- (c) [DoD Directive 5160.54](#), "DoD Key Asset Protection Program (KAPP)," June 26, 1989
- (d) [DoD Directive 3025.1](#), "Military Support to Civil Authorities (MSCA)," January 15, 1993
- (e) through (r), see enclosure 1

#### 1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to:

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

1.1. Update policy and responsibilities governing planning and response by the DoD Components for military assistance to Federal, State, and local government (including government of U.S. territories) and their law enforcement agencies for civil disturbances and civil disturbance operations, including response to terrorist incidents, which hereafter are referred to cumulatively as "Military Assistance for Civil Disturbances (MACDIS)."

1.2. Designate the Secretary of the Army as the "DoD Executive Agent for MACDIS."

1.3. Ensure continuous planning by the DoD Components, both in the Department of Defense and in cooperation with civil government agencies for MACDIS operations that may be required during any time or condition of peace, war, or transition to war, including any national security emergency, as defined in reference (b).

1.4. Provide for the inclusion in MACDIS of appropriate measures to support civil law enforcement in providing for the physical security of Federal property and DoD key assets (as defined by reference (c)) when they are threatened by a civil disturbance or terrorist incident.

1.5. Facilitate the coordination of MACDIS with Military Support to Civil Authorities (MSCA) under reference (d), when required in civil emergencies, particularly those following any attack on the United States.

1.6. Authorize the publication of DoD 3025.12-R, "Military Assistance for Civil Disturbances (MACDIS) Regulation," consistent with DoD 5025.1-M (reference (e)), at the election of the DoD Executive Agent. Alternatively, the DoD Executive Agent is authorized to include in the DoD Civil Disturbance Plan (GARDEN PLOT) all material that might otherwise be publishable by a DoD Regulation, to provide administrative and logistics procedures and operational guidance for implementation of this Directive by all the DoD Components.

### 2. APPLICABILITY AND SCOPE

This Directive:

2.1. Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the U.S. Coast Guard (USCG) (when it is operating, or planning for operations, as a Service of the Navy).

2.2. Shall govern MACDIS activities of all the DoD Components in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions.

2.3. Normally, shall be applied separately from DoD Directives 5525.5 and 5030.46 (references (f) and (g)). It may be applied with either or both references (f) and (g) under certain circumstances, as determined by the DoD Executive Agent.

2.4. Governs all planning and response by the DoD Components for MACDIS. Where applicable in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions, contingency war plans also shall provide for use of the DoD Executive Agency established in subparagraph 4.3.1., this Directive, until otherwise directed by the Secretary of Defense.

2.5. Shall not include responsibility for response to aircraft piracy or counterdrug operations that are governed by other legal authorities and DoD Directives. Responsibilities of the DoD Components for aircraft piracy and counterdrug operations shall be communicated by the Chairman of the Joint Chiefs of Staff for the Secretary of Defense under authorities other than this Directive.

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## 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

## 4. POLICY

### 4.1. National Policy

4.1.1. The President is authorized by the Constitution and laws of the United States to employ the Armed Forces of the United States to suppress insurrections, rebellions, and domestic violence under various conditions and circumstances. Planning and preparedness by the Federal Government and the Department of Defense for civil disturbances are important due to the potential severity of the consequences of such events for the Nation and the population.

4.1.2. Military resources may be employed in support of civilian law enforcement operations in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions only in the parameters of the Constitution and laws of the United States and the authority of the President and the Secretary of Defense, including delegations of that authority through this Directive or other means.

4.1.3. The primary responsibility for protecting life and property and maintaining law and order in the civilian community is vested in the State and local governments. Supplementary responsibility is vested by statute in specific Agencies of the Federal Government other than the Department of Defense. The President has additional powers and responsibilities under the Constitution of the United States to ensure that law and order are maintained.

4.1.4. Responsibility for the management of the Federal response to civil disturbances rests with the Attorney General of the United States.

4.1.5. Any employment of Military Forces in support of law enforcement operations shall maintain the primacy of civilian authority. Requests from the Attorney General to the Department of Defense shall be provided in response to an official request by State or Federal civil law enforcement or Executive authorities.

4.1.6. The employment of U.S. Military Forces to control civil disturbances shall be authorized by the President through an Executive order directing the Secretary of Defense to act in a specified civil jurisdiction under specific circumstances.

4.1.7. Planning by the DoD Components for MACDIS shall be compatible with contingency plans for national security emergencies, and with planning for MSCA under DoD Directive 3025.1 (reference (d)). For example:

4.1.7.1. Under E.O. 12656 (reference (b)), it is the policy of the Federal Government to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. That policy directs the Heads of the Federal Departments and Agencies to identify facilities and resources, both Government and private, essential to the national defense and national welfare, and to develop strategies, plans, and programs to provide for the security of such facilities and resources, and avoid or minimize disruptions during any national security emergency. In some circumstances, risks to such facilities and resources may coincide with or constitute civil disturbances.

4.1.7.2. Under the national civil defense policy, the Department of Defense shall support civil authorities in civil defense, to include facilitating the use of the National Guard in each State for response in both peacetime disasters and national security emergencies. In some circumstances, an attack may coincide with or encompass civil disturbances.



## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

### 4.2. Department of Defense Policy

4.2.1. The DoD Executive Agent under this Directive shall be the principal point of contact between the Department of Defense and the Department of Justice (DoJ) for planning and executing MACDIS.

4.2.2. Military Forces shall not be used for MACDIS unless specifically authorized by the President, except in the following emergency circumstances. In these circumstances, responsible DoD officials and commanders will use all available means to seek Presidential authorization through the chain of command while applying their emergency authority under this Directive.

4.2.2.1. When the use of Military Forces is necessary to prevent loss of life or wanton destruction of property, or to restore governmental functioning and public order. That "emergency authority" applies when sudden and unexpected civil disturbances (including civil disturbances incident to earthquake, fire, flood, or other such calamity endangering life) occur, if duly constituted local authorities are unable to control the situation and circumstances preclude obtaining prior authorization by the President.

4.2.2.2. When duly constituted State or local authorities are unable or decline to provide adequate protection for Federal property or Federal governmental functions, Federal action (including the use of Military Forces) is authorized, as necessary, to protect the Federal property or functions.

4.2.3. Military Forces shall be made available for MACDIS, consistent with DoD priorities, which shall be coordinated by the DoD Executive Agent, as required by this Directive.

4.2.4. The DoD Components shall strictly comply with planning and operational guidance from the DoD Executive Agent.

4.2.5. The Military Forces employed in MACDIS operations shall remain under military command and control at all times.

4.2.6. The pre-positioning of Military Forces for MACDIS operations shall not exceed a battalion-sized unit unless a larger force is authorized by the President.

4.2.7. The DoD Components shall not take charge of any function of civil government unless absolutely necessary under conditions of extreme emergency. Any commander who is directed, or undertakes, to control such functions shall strictly limit military actions to the emergency needs, and shall facilitate the reestablishment of civil responsibility at the earliest time possible.

4.3. Delegations of Authority. The Secretary of Defense shall be assisted in executing his responsibility for MACDIS by the following:

4.3.1. The Secretary of the Army shall be the DoD Executive Agent and shall act for the Secretary of Defense in accordance with this Directive and any supplemental direction or guidance received from the Secretary of Defense. In that capacity, the DoD Executive Agent shall develop planning guidance, plans, and procedures for MACDIS, in accordance with this Directive. The DoD Executive Agent has the authority of the Secretary of Defense to task the DoD Components to plan for and to commit DoD resources, in response to requests from civil authorities under MACDIS. The DoD Executive Agent shall coordinate with the Chairman of the Joint Chiefs of Staff any commitment of Military Forces assigned to the Combatant Commands.

4.3.2. The Chairman of the Joint Chiefs of Staff shall communicate to the Commanders of the Combatant Commands appropriate guidance issued by the DoD Executive Agent for their compliance with this Directive, and also shall assist the DoD Executive Agent in developing MACDIS planning guidance for all conditions of war or attacks on the United States or its territories.

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4.3.3. The Commander in Chief, U.S. Atlantic Command (USCINACOM); the Commander in Chief, U.S. Pacific Command (USCINCPAC); and the Commander in Chief, U.S. Special Operations Command (USCINCSOC), shall serve as DoD Planning Agents for MACDIS. Under guidance issued by the DoD Executive Agent, after coordination with the Chairman of the Joint Chiefs of Staff, the DoD Planning Agents shall conduct MACDIS planning, execute MACDIS as directed by the DoD Executive Agent, and lead MACDIS planning activities of the DoD Components in the following areas:

4.3.3.1. The USCINACOM (48 contiguous States, the District of Columbia, the Commonwealth of Puerto Rico, and the territory of the U.S. Virgin Islands).

4.3.3.2. USCINCPAC (Alaska, Hawaii, and the U.S. possessions, and territories in the Pacific area).

4.3.3.3. USCINCSOC (For DoD response to a terrorist incident).

4.3.4. For response to domestic terrorist incidents and other purposes, the DoD Executive Agent shall obtain authority from the Secretary of Defense for any employment of U.S. counterterrorism forces. The DoD Executive Agent shall coordinate with the Chairman of the Joint Chiefs of Staff any request, contingency plan, directive, or order affecting the employment of such forces and, simultaneously, shall provide all applicable information to the Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict), who provides policy oversight for the Secretary of Defense, in accordance with DoD Directive 5138.3 (reference (h)).

4.3.5. The Secretary of Defense reserves the authority to modify or terminate the Executive Agency established by this Directive if operational needs so require in a particular situation.

## 4.4. MACDIS Policy

4.4.1. The DoD Components shall respond to requirements of the DoD Executive Agent and DoD Planning Agents for MACDIS planning and operations, in accordance with any of the following:

4.4.1.1. This Directive;

4.4.1.2. DoD 3025.12-R, if published;

4.4.1.3. The DoD Civil Disturbance Plan ("GARDEN PLOT"); or

4.4.1.4. Any other plans or orders published by the DoD Executive Agent.

4.4.2. To ensure essential control and sound management of all Military Forces employed in MACDIS operations, centralized direction from the DoD Executive Agent shall guide planning by the DoD Components, whether alone or with civil authorities; and execution of MACDIS missions shall be decentralized through the DoD Planning Agents or other Joint Task Force Commanders only when specifically directed by the DoD Executive Agent.

4.4.3. MACDIS operations are unprogrammed emergency requirements for the Department of Defense. DoD Instruction 7200.9 (reference (i)) prescribes procedures for financing and reporting costs associated with civil disturbance operations. The DoD Components shall comply with the procedures in that Instruction to determine whether financing is to be accomplished on a reimbursable or non-reimbursable basis.

4.4.4. MACDIS plans and preparedness measures must foster efficient employment of Federal resources controlled by the National Guard (whether employed under State or Federal authority), as well as resources of the DoD Components.

## 4.5. Role of the National Guard

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

4.5.1. Army and Air National Guard Forces have primary responsibility for providing military assistance to State and local government agencies in civil disturbances, normally serving on State active duty status under the command of the State's governor, in accordance with State law.

4.5.2. Federal Forces shall not be placed under the command of National Guard authorities who are not on Federal active duty. Federal Military Forces may conduct MACDIS operations with National Guard Forces, or otherwise support National Guard Forces that are operating under State orders.

4.5.3. National Guard Forces may be ordered into Federal service to ensure unified command and control of all Military Forces for MACDIS operations, if the President determines that action to be necessary in extreme circumstances.

4.5.4. The Army National Guard State Area Commands (STARCs) shall plan for contingency use of non-Federalized National Guard Forces for civil disturbance operations, and to facilitate MACDIS operations within its State, if federalized.

### 4.6. Cooperation With Civil Agencies

4.6.1. The Attorney General of the United States is designated to receive and coordinate preliminary requests for MACDIS from civil agencies.

4.6.1.1. Formal requests shall be addressed to the President, who shall determine the Federal action to be taken.

4.6.1.2. In the DoJ, the Federal Bureau of Investigation (FBI) leads the operational response to a civil disturbance incident.

4.6.1.3. The President may provide, through the Attorney General or other source, a personal representative to communicate the President's policy guidance to the military commander for MACDIS operations. That representative may augment, but shall not replace, the military chain of command. In addition, an individual may be designated by the Attorney General as the Senior Civilian Representative of the Attorney General.

4.6.2. The DoD Executive Agent shall represent the Department of Defense in coordinating with the DoJ on MACDIS planning and execution.

4.6.3. The DoD Executive Agent also shall represent the Department of Defense in coordinating MACDIS planning and execution with other Federal and State law enforcement agencies, and shall delegate authority for such coordination to others, as appropriate.

### 4.7. DoD Key Asset Protection Program (KAPP)

4.7.1. DoD Directive 5160.54 (reference (c)) directs compliance by the Department of Defense with E.O. 12656 (reference (b)), in part, through establishing the DoD KAPP to ensure the identification, planning, and protection of key industrial and infrastructure assets not owned by the Department of Defense, but of critical importance to the Department of Defense

4.7.2. MACDIS shall not include any responsibility to develop plans to protect specific DoD key assets. The DoD Executive Agent and the DoD Planning Agents established by this Directive shall be cognizant of the KAPP, and shall do the following:

4.7.2.1. Plan to provide assistance to civil law enforcement, if required, to ensure the physical security of DoD key assets, if necessary, as a primary or secondary mission with MACDIS operations.

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4.7.2.2. Prepare to use existing plans for the protection of DoD key assets to help MACDIS operations, where such plans can increase effectiveness and efficiency of Military Forces under conditions short of mobilization or attack.

## 4.8. Domestic Terrorist Incidents

4.8.1. Responsibility for managing the Federal response to acts of terrorism in the United States rests with the Attorney General of the United States.

4.8.1.1. The Attorney General coordinates all Federal Government activities during a major terrorist incident and advises the President as to whether and when to commit Military Forces in response to such a situation.

4.8.1.2. In the DoJ, the lead Agency for the operational response to a terrorist incident is the FBI. The initial tactical response to such incidents is made by the FBI Special Agent in Charge at the scene, under the supervision of the Director of the FBI, who has overall responsibility for ongoing operations to contain and resolve the incident.

4.8.2. All military preparations and operations, including the employment of Military Forces at the scene, for any terrorist incident in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions, shall be the primary responsibility of the DoD Executive Agent under this Directive.

4.8.2.1. In discharging those functions, the DoD Executive Agent shall observe such law enforcement policies as the Attorney General may determine.

4.8.2.2. When a terrorist incident develops, having a potential for military involvement, the DoD Executive Agent may dispatch military observers to the incident site, on mutual agreement between Department of Defense and the FBI, to appraise the situation before any decision is made to commit Federal Military Forces. Any dispatch of U.S. counterterrorism forces as observers shall be specifically authorized by the Secretary of Defense through the Chairman of the Joint Chiefs of Staff.

4.8.3. When U.S. counterterrorism forces are authorized to assist with the resolution of a domestic terrorist incident, the Chairman of the Joint Chiefs of Staff shall issue the appropriate order for the Secretary of Defense. That order shall designate the command relationships for the deploying forces.

## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Exercise policy oversight of MACDIS for the Secretary of Defense, and ensure compatibility of MACDIS with National Security Emergency Preparedness, in accordance with DoD Directive 3020.36 and E.O. 12656 (references (j) and (b)).

5.1.2. Assist the DoD Executive Agent in coordinating DoD policy governing MACDIS with the DoJ and other Federal and State agencies, and with the DoD Components, as required.

5.2. The Comptroller of the Department of Defense shall facilitate accounting procedures that shall enable the Department of Defense to respond expeditiously to all emergency requirements for MACDIS.

5.3. The Assistant to the Secretary of Defense for Public Affairs shall:

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

5.3.1. Advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, the Under Secretary of Defense for Policy, the DoD Planning Agents, and others, as required, on public affairs matters impacting on MACDIS.

5.3.2. Provide assistance and guidance to the DoD Executive Agent, and provide personnel to serve as DoD points of contact with other Federal and State or local civil agencies on public affairs matters, as required, for MACDIS operations.

5.4. The Assistant Secretary of Defense (Legislative Affairs) shall:

5.4.1. Advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, the Under Secretary of Defense for Policy, the DoD Planning Agents, and others, as required, on legislative affairs impacting on MACDIS.

5.4.2. Provide legislative liaison on all matters involving MACDIS, including guidance to the DoD Executive Agent (and to others as appropriate) on the release of information to the Congress related to assistance given to civil authorities during MACDIS operations.

5.5. The Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict) shall:

5.5.1. Facilitate and support planning by the DoD Executive Agent under this Directive for the contingent use of U.S. counterterrorism forces in response to domestic terrorist incidents.

5.5.2. Provide civilian policy oversight for the Secretary of Defense, and provide policy recommendations on the use of U.S. counterterrorism forces.

5.6. The Assistant Secretary of Defense (Reserve Affairs) shall provide advice to the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, the Under Secretary of Defense for Policy, and others, as required on Reserve component matters impacting on MACDIS, particularly any consideration of the activation of Reserve component forces or the federalization of the National Guard for MACDIS operations.

5.7. The General Counsel of the Department of Defense shall advise the Secretary of Defense and the Under Secretary of Defense for Policy, as required, on legal matters impacting on MACDIS, and assist the DoD Executive Agent, as required.

5.8. The Chairman of the Joint Chiefs of Staff shall:

5.8.1. Advise the Secretary of Defense and the DoD Executive Agent on policies, responsibilities, and programs bearing on MACDIS.

5.8.2. In coordination with the DoD Executive Agent, facilitate communications by the DoD Executive Agent with Commanders of Combatant Commands, as appropriate.

5.8.3. Ensure the compatibility of MACDIS plans with other military plans.

5.8.4. Assist in the DoD Executive Agent's determination of military units and capabilities sufficient for all contingencies of the GARDEN PLOT plan.

5.8.5. Support training for and coordinated evaluation of MACDIS plans and capabilities by the Commanders of the Combatant Commands through exercises or other means, as appropriate.

5.9. The Secretary of the Army, as the DoD Executive Agent, shall:

5.9.1. Provide for participation by all the components of the Army in MACDIS planning, in accordance with this Directive; and ensure readiness of Active and Reserve components of the Army to execute plans for MACDIS.

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5.9.2. Represent the Secretary of Defense in communications and negotiations on MACDIS with the DoJ or other Agencies of Federal, State, or local government.

5.9.3. Coordinate with the Chairman of the Joint Chiefs of Staff, in advance, for the employment of forces assigned to the Combatant Commands in MACDIS missions.

5.9.4. Use the "Directorate of Military Support (DOMS)" established by the Secretary of the Army, as the DoD Executive Agent under DoD Directive 3025.1 (reference (d)), to also serve as the principal coordinator of duties of the DoD Executive Agent under this Directive.

5.9.5. Establish guidance, through the National Guard Bureau, for the Adjutants General of the 50 States, the District of Columbia, the territory of Guam, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands to ensure compliance by the National Guard with this Directive. Such guidance shall provide for the following:

5.9.5.1. Resourcing the National Guard for MACDIS planning and response tasks. This shall include nonstandard equipment and materiel items required for MACDIS (e.g., body and face shields, and riot batons, etc.).

5.9.5.2. National Guard interfaces with commands and installations of all the Services, including the DoD Planning Agents, and with State civil agencies. 5.9.5.3. National Guard acceptance, support, and utilization of liaison and augmentation from all Military Services, as appropriate.

5.9.5.4. Continuous evaluation of the capabilities of the Army National Guard to deal with civil disturbances when operating under either State or Federal authority, and facilitate training for the enhancement of those capabilities.

5.9.6. With the Secretaries of the Military Departments and the Assistant Secretary of Defense (Reserve Affairs), establish DoD policies and procedures for timely action to:

5.9.6.1. Call the Army and Air National Guard to active Federal service;

5.9.6.2. Order the National Guard or other Reserve components to active duty;

and

5.9.6.3. Employ such forces, when any of such actions are authorized by law, to carry out this Directive under specific conditions and circumstances. (See 10 U.S.C. 331-335 and 672 (d) (reference (k)).)

5.9.7. Direct the DoD Planning Agents designated in subparagraph 4.3.3., above, to develop generic and incident-specific plans for MACDIS. 5.9.8. Promulgate orders, rules, and regulations, as appropriate, to govern all MACDIS operations in which the use of force or deadly force is or can be authorized, and all essential guidance on applicability of the the Insurrection Act and the Posse Comitatus Act (references (k) and (l)). Also ensure that all Joint Task Force or other commanders who are authorized to execute MACDIS missions promulgate supplemental rules of engagement and rules for the use of force, to cover the current circumstances of each MACDIS operation.

5.9.10. Maintain liaison with the DoJ and other Federal law enforcement agencies for MACDIS.

5.9.11. In accordance with the DoD Directives 5200.27 and 5240.1 (references (m) and (n)), and all governing regulations promulgated thereunder, the DoD Executive Agent shall promulgate policy guidelines and operational procedures that shall restrict, to the maximum extent consistent with effective conduct of MACDIS missions, the collection, retention, and dissemination of information on persons not affiliated with Department of Defense in support of MACDIS planning and operations.

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

5.9.12. Develop or select, and recommend to the DoD Components, MACDIS training programs, courses, and materials. Include specialized training for liaison officers and elements who will provide DoD interface with the National Guard, or with Federal and State law enforcement agencies when authorized, for MACDIS operations.

5.9.13. Publish planning guidance, administrative and logistics procedures, rules and regulations, and orders, to be followed by the DoD Components in providing resources for MACDIS. Such essential guidance and direction may be published in DoD 3025.12-R, or covered under the GARDEN PLOT Plan, at the election of the DoD Executive Agent.

5.9.14. Delegate authority under this Directive, as appropriate, except that any authority delegated to the DoD Executive Agent by the Secretary of Defense for the use of U.S. counterterrorism forces may be redelegated in each instance only as specifically approved by the Secretary of Defense.

5.10. The Secretary of the Navy shall:

5.10.1. Provide for participation by all the components of the Navy and the Marine Corps in MACDIS planning, to include assigning planning agents as directed by the DoD Executive Agent.

5.10.2. Ensure the readiness of Active and Reserve components to execute plans for MACDIS.

5.10.3. Maintain liaison and coordinate planning with the Department of Transportation for participation by USCG forces in MACDIS.

5.10.4. Furnish technical advice and support for MACDIS planning and implementation in areas that are unique to the Navy, the Marine Corps, and the USCG.

5.11. The Secretary of the Air Force shall:

5.11.1. Provide for participation by all the components of the Air Force in MACDIS planning, to include assigning planning agents as directed by the DoD Executive Agent.

5.11.2. Ensure readiness of Active and Reserve components to execute plans for MACDIS.

5.11.3. Facilitate planning by the Civil Air Patrol for participation in MACDIS.

5.11.4. Furnish technical advice and support for MACDIS planning and implementation in areas that are unique to the Air Force and its wartime augmentation elements.

5.12. The Commander in Chief, U.S. Atlantic Command; the Commander in Chief, U.S. Pacific Command; and the Commander in Chief, U.S. Special Operations Command shall:

5.12.1. In accordance with guidance from the DoD Executive Agent, as communicated through the Chairman of the Joint Chiefs of Staff:

5.12.1.1. Serve as DoD Planning Agents for MACDIS for the areas specified in subparagraph 4.3.3., above, and develop MACDIS plans and preparedness measures for their MACDIS areas of responsibility.

5.12.1.2. Ensure cooperative planning of operations for MACDIS between the DoD Components and other Federal or State civil agencies, as required.

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5.12.1.3. Coordinate with the State Adjutants General through channels established by the Secretary of the Army.

5.12.1.4. Plan to perform any designated function of the DoD Executive Agent under this Directive, if ordered by the Secretary of Defense.

5.12.1.5. Evaluate MACDIS plans, preparedness measures, and training in joint civil military exercises.

5.12.2. Prepare and execute MACDIS as directed by the DoD Executive Agent. Employ liaison officers to coordinate emergency response operations with civil agencies, the National Guard, the Military Departments, and the other commanders in chief.

5.13. The Directors of the Defense Agencies shall:

5.13.1. Designate a "principal planning agent" and "regional planning agents" for MACDIS, and advise the DoD Executive Agent of such designated agents.

5.13.2. Ensure effective and efficient coordination of planning by subordinate elements with the STARCs, and State and local civil authorities, through the DoD Planning Agents, as directed by the DoD Executive Agent.

5.13.3. Furnish technical advice and support for MACDIS planning and implementation in areas that are uniquely within the competence of the Defense Agency.

## 6. INFORMATION REQUIREMENTS

The reporting requirements in section 5., above, are exempt from licensing in accordance with DoD 8910.1-M (formerly DoD 7750.5-M) (reference (o)).

## 7. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. The Secretary of the Army, as DoD Executive Agent, shall provide guidance to the other DoD Components, through DoD 3025.12-R, the DoD Civil Disturbance Plan (GARDEN PLOT), or both, in accordance with this Directive within 120 days; and the DoD Components shall revise existing documents or develop implementing documents, as necessary, to comply with that guidance and this Directive. Forward one copy of implementing documents to the Secretary of the Army within 120 days of receipt of that guidance.

/S/  
William J. Perry  
Secretary of Defense

Enclosures - 2  
E1. References, continued  
E2. Definitions

### E1. ENCLOSURE 1 REFERENCES, continued

- (e) DoD 5025.1-M, "DoD Directives System Procedures," December 1990
- (f) DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (g) DoD Directive 5030.46, "Assistance to the District of Columbia Government in Combating Crime," March 26, 1971



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- (h) DoD Directive 5138.3, "Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict)," January 4, 1988
- (i) DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances," January 26, 1970
- (j) [DoD Directive 3020.36](#), "Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components," November 2, 1988
- (k) Sections 331-335 and 672 of title 10, United States Code, "The Insurrection Act"
- (l) Section 1385 of title 18, United States Code, "The Posse Comitatus Act"
- (m) [DoD Directive 5200.27](#), "Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense," January 7, 1980
- (n) [DoD Directive 5240.1](#), "DoD Intelligence Activities," April 25, 1988
- (o) [DoD 8910.1-M](#), "DoD Procedures for Management of Information Requirements," November 1986
- (p) Section 1472i of title 49, United States Code, "The Federal Aviation Act of 1958"
- (q) Section 2251 of title 50, United States Code, "The Federal Civil Defense Act of 1950"
- (r) Section 5121 of title 42, United States Code, "The Robert T. Stafford Disaster Relief and Emergency Assistance Act"

### E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Air Piracy. Any seizure or exercise of control, by force or violence, or threat of force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft. See 49 U.S.C. 1472i (reference (p)).

E2.1.2. Attack. Any attack or series of attacks by an enemy of the United States causing, or that may cause, substantial damage or injury to civilian property or persons in the United States (or its territories) in any manner, by sabotage or by the use of bombs, shellfire, or nuclear, radiological chemical, bacteriological, or biological means, or other weapons or processes. See 50 U.S.C. 2251 (reference (q)).

E2.1.3. Civil Defense. All those activities and measures designed or undertaken to do the following:

E2.1.3.1. Minimize the effects on the civilian population caused, or that would be caused, by an attack on the United States or by a natural or technological disaster.

E2.1.3.2. Deal with the immediate emergency conditions that would be created by any such attack or natural or technological disaster.

E2.1.3.3. Effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack or natural or technological disaster.

E2.1.4. Civil Disturbances. Group acts of violence and disorders prejudicial to public law and order in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. possessions and territories, or any political subdivision thereof. The term "civil disturbance" includes all domestic conditions requiring the use of Federal Armed Forces under this Directive. (Also see definition E2.1.12., below.)

E2.1.5. Civil Emergency. Any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure. That term can include a "major disaster" or "emergency," as those terms are defined in the Stafford Act, as amended (reference (r)), as well as consequences of an attack or a national security emergency. Under reference (r), the terms "major disaster" and "emergency" are defined substantially by action of the President in declaring that extant circumstances and risks justify Presidential implementation of the legal powers in those statutes.

E2.1.6. Civil Emergency Preparedness. The nonmilitary actions taken by Federal Agencies, the private sector, and individual citizens to meet essential human needs, to support the military effort, to ensure continuity of Federal authority at national and regional levels, and to ensure survival as a free and

# DOPLAW HANDBOOK

independent nation under all emergency conditions, including a national emergency caused by threatened or actual attack on the United States.

E2.1.7. Civil Government Resources. Civil resources owned by, controlled by, or under the jurisdiction of civilian Agencies of the U.S. Government, or of State and local government agencies.

E2.1.8. Civil Resources. Resources that normally are not controlled by the Government, including workforce, food and water, health resources, industrial production, housing and construction, telecommunications, energy, transportation, minerals, materials, supplies, and other essential resources and services. Such resources cannot be ordered to support needs of the public except by competent civil government authority.

E2.1.9. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in this Directive.

E2.1.10. DoD Planning Agent. An individual designated by position to facilitate and coordinate MACDIS contingency planning (and MACDIS operations when ordered) by all the DoD Components in an assigned geographic area in accordance with this Directive.

E2.1.11. DoD Resources. Military and civilian personnel, including Selected and Ready Reservists of the Military Services, and facilities, equipment, supplies, and services owned by, controlled by, or under the jurisdiction of a DoD Component.

E2.1.12. Domestic Terrorist Incident. A form of civil disturbance, that is a distinct criminal act that is committed or threatened to be committed by a group or single individual to advance a political objective, and which endangers safety of people, property, or a Federal function in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions. Domestic terrorist incidents do not include "air piracy," as defined above.

E2.1.13. Federal Function. Any function, operation, or action carried out under the laws of the United States by any Department, Agency, or instrumentality of the United States, or by an officer or employee thereof.

E2.1.14. Federal Property. Property that is owned, leased, possessed, or occupied by the Federal Government.

E2.1.15. Military Resources. Military and civilian personnel, facilities, equipment, and supplies under the control of a DoD Component.

E2.1.16. Military Support to Civil Authorities (MSCA). Those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

E2.1.17. National Security Emergency. Any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. (See E.O. 12656 (reference (b)).)

E2.1.18. Planning Agent. A military or civilian official of any DoD Component, who has been designated by the Head of that Component to exercise delegated authority for MACDIS planning for the entire DoD Component (i.e., "principal planning agent") or for certain subordinate elements or a specified geographic area (e.g., "regional planning agents"). Authority and responsibilities of each planning agent shall be defined by the DoD Component, and may include MACDIS response as well as planning at the election of any DoD Component. The actual authority of planning agents shall be communicated to others, as determined by the DoD Component, or when requested by the DoD Executive Agent.

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

E2.1.19. State Area Commands (STARCs). Specific headquarters units of the Army National Guard for each State, the District of Columbia, the territory of Guam, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands.

E2.1.20. U.S. Counterterrorism Forces. Those Military Forces that are specifically organized, trained, and equipped to conduct counterterrorist operations.

### **APPENDIX 2-5: DODD 5240.1 - ACTIVITIES OF DOD INTELLIGENCE COMPONENTS THAT AFFECT U.S. PERSONS**

#### **DoDD 5240.1, DoD Intelligence Activities, April 25, 1988**

##### References:

- (a) DoD Directive 5240.1, "Activities of DoD Intelligence Components that Affect U.S. Persons," December 3, 1982 (hereby canceled)
- (b) Executive Order 12333, "United States Intelligence Activities," December 4, 1981
- (c) Executive Order 12334, "President's Intelligence Oversight Board," December 4, 1981
- (d) Public Law No. 95-511, "Foreign Intelligence Surveillance Act of 1978," October 25, 1978
- (e) through (i), see enclosure E1.

#### **1. REISSUANCE AND PURPOSE**

##### This Directive:

- 1.1. Reissues reference (a); implements references (b) through (d); updates policies; and shall be the only authority used as guidance by DoD intelligence components to collect, retain, or disseminate information concerning U.S. persons.
- 1.2. Continues in effect procedures previously approved by the U.S. Attorney General for use by DoD intelligence components under Presidential Directive NSC-9 (reference (e)).
- 1.3. Authorizes the publication of DoD 5240.1-R (reference (f)), consistent with DoD 5025.1-M (reference (g)) and this Directive.

#### **2. APPLICABILITY AND SCOPE**

##### This Directive:

- 2.1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").
- 2.2. Applies to all intelligence activities of DoD Components.
- 2.3. Does not apply to authorized law enforcement activities carried out by DoD intelligence components having a law enforcement mission.

#### **3. DEFINITIONS**

- 3.1. Intelligence activities. The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b).

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3.2. Foreign intelligence. Information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

3.3. Counterintelligence. Information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or international terrorist activities, but not including personnel, physical, document, or communications security programs.

3.4. DoD intelligence components. All DoD Components conducting intelligence activities, including the following:

3.4.1. The National Security Agency Central Security Service (NSACSS).

3.4.2. The Defense Intelligence Agency (DIA).

3.4.3. The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs.

3.4.4. The Office of the Deputy Chief of Staff for Intelligence (ODCSINT), U.S. Army.

3.4.5. The Office of Naval Intelligence (ONI).

3.4.6. The Office of the Assistant Chief of Staff, Intelligence (OACSI), U.S. Air Force.

3.4.7. Intelligence Division, U.S. Marine Corps.

3.4.8. The Army Intelligence and Security Command (USAINSCOM).

3.4.9. The Naval Intelligence Command (NIC).

3.4.10. The Naval Security Group Command (NSGC).

3.4.11. The Air Force Intelligence Agency (AFIA).

3.4.12. The Electronic Security Command (ESC), U.S. Air Force.

3.4.13. The counterintelligence elements of the Naval Security and Investigative Command (NSIC).

3.4.14. The counterintelligence elements of the Air Force Office of Special Investigations (AFOSI).

3.4.15. The 650th Military Intelligence Group, Supreme Headquarters Allied Powers Europe (SHAPE).

3.4.16. Other intelligence and counterintelligence organizations, staffs, and offices, or elements thereof, when used for foreign intelligence or counterintelligence purposes. The heads of such organizations, staffs, and offices, or elements thereof, shall, however, not be considered as heads of DoD intelligence components for purposes of this Directive.

3.5. Special activities. Activities conducted in support of national foreign policy objectives abroad, which are planned and executed so that the role of the U.S. Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence U.S. political processes, public opinion, policies, or media, and do not include diplomatic activities or the collection and production of intelligence or related support functions.

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

3.6. United States person. A citizen of the United States; an alien known by the intelligence agency concerned to be a permanent resident alien; an unincorporated association organized in the United States or substantially composed of U.S. citizens or permanent resident aliens; or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

### 4. POLICY

4.1. All DoD intelligence activities shall be carried out in strict conformity with the U.S. Constitution, applicable law, E.O. 12333 (reference (b)), the policies and procedures authorized herein, and by other relevant DoD Directives, with special emphasis given to the protection of the constitutional rights and privacy of U.S. persons.

4.2. Reference (b) requires that the Department of Defense promulgate procedures to govern the collection, retention, and dissemination of information about U.S. persons, and to govern the use of certain information-gathering techniques. These procedures, approved by the Attorney General of the United States, are contained in DoD 5240.1-R (reference (f)). No DoD intelligence component shall request any person or entity to undertake unauthorized activities.

4.2.1. Authority to employ the collection techniques prescribed by DoD 5240.1-R (reference (f)) shall be limited to that necessary to perform functions assigned to the DoD intelligence component concerned. Use of such techniques to collect information about U.S. persons shall be limited to the least intrusive means feasible.

4.2.2. DoD intelligence component employees shall report all intelligence activities that may violate a law, an Executive order, a Presidential Directive, or applicable DoD policy to the Inspector General or General Counsel responsible for the DoD intelligence component concerned, or to the Assistant to the Secretary of Defense (Intelligence Oversight) (ATSD(IO)).

4.3. DoD Components shall not conduct, or provide support for the conduct of, special activities except in times of war declared by the Congress or during a period covered by a report from the President to the Congress under the War Powers Resolution (50 U.S.C. 1541-1548, reference (h)), unless such actions have been approved by the President and directed by the Secretary of Defense.

4.4. Under no circumstances shall any DoD employee engage in, or conspire to engage in, assassination.

### 5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD(C3I)) shall provide overall policy guidance for the conduct of DoD intelligence activities.

5.2. The Deputy Under Secretary of Defense (Policy) (DUSD(P)) shall provide overall policy guidance for the conduct of DoD counterintelligence activities.

5.3. The General Counsel, Department of Defense (GC, DoD), shall:

5.3.1. Serve as the central focal point for contact with, and reporting to, the Attorney General regarding the legal matters arising under this Directive.

5.3.2. Interpret this Directive and DoD 5240.1-R (reference (f)), as may be required.

5.4. The Assistant to the Secretary of Defense (Intelligence Oversight) (ATSD(IO)) shall serve as the central focal point for all contacts with the President's Intelligence Oversight Board (E.O. 12334, reference (c)) and shall perform the responsibilities assigned in DoD Directive 5148.11 (reference (i)).

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5.5. The Heads of DoD Components shall ensure that their intelligence components implement this Directive and reference (f), as appropriate.

## 6. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) and the General Counsel, Department of Defense, within 90 days.

Enclosures - 1

1. References, continued

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Presidential Directive NSC-9, March 30, 1977
- (f) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 11, 1982, authorized by this Directive
- (g) DoD 5025.1-M, "Directives System Procedures," April 1981, authorized by DoD Directive 5025.1, October 16, 1980
- (h) Title 50, United States Code, Sections 1541-1548, "The War Powers Resolution" (87 Stat. 555), P.L. 93-148
- (i) DoD Directive 5148.11, "Assistant to the Secretary of Defense (Intelligence Oversight)," December 1, 1982

## **APPENDIX 2-6: DODD 5200.27 - ACQUISITION OF INFORMATION CONCERNING PERSONS AND ORGANIZATIONS NOT AFFILIATED WITH THE DEPARTMENT OF DEFENSE**

### **Department of Defense DIRECTIVE**

NUMBER 5200.27  
January 7, 1980

USD(P)

SUBJECT: Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense

References:

- (a) DoD Directive 5200.27, subject as above, December 8, 1975 (hereby canceled)
- (b) [DoD Directive 5240.1](#), "Activities of DoD Intelligence Components that Affect U.S. Persons," November 30, 1979

### **1. REISSUANCE AND PURPOSE**

This Directive reissues reference (a) to establish for the Defense Investigative Program general policy, limitations, procedures, and operational guidance pertaining to the collecting, processing, storing, and disseminating of information concerning persons and organizations not affiliated with the Department of Defense.

### **2. APPLICABILITY AND SCOPE**

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

2.1. Except as provided by paragraph 2.3., below, this Directive is applicable to the Office of the Secretary of Defense, Military Departments, Office of the Joint Chiefs of Staff, Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

2.2. The provisions of this Directive encompass the acquisition of information concerning the activities of:

2.2.1. Persons and organizations, not affiliated with the Department of Defense, within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions; and

2.2.2. Non-DoD-affiliated U.S. citizens anywhere in the world.

2.3. This Directive is not applicable to DoD intelligence components as defined by DoD Directive 5240.1 (reference (b)).

2.4. Authority to act for the Secretary of Defense in matters in this Directive that require specific approval are delineated in enclosure 1.

### 3. POLICY

3.1. DoD policy prohibits collecting, reporting, processing, or storing information on individuals or organizations not affiliated with the Department of Defense, except in those limited circumstances where such information is essential to the accomplishment of the DoD missions outlined below.

3.2. Information-gathering activities shall be subject to overall civilian control, a high level of general supervision and frequent inspections at the field level.

3.3. Where collection activities are authorized to meet an essential requirement for information, maximum reliance shall be placed upon domestic civilian investigative agencies, Federal, State, and local.

3.4. In applying the criteria for the acquisition and retention of information established pursuant to this Directive, due consideration shall be given to the need to protect DoD functions and property in the different circumstances existing in geographic areas outside the United States. Relevant factors include:

3.4.1. The level of disruptive activity against U.S. Forces;

3.4.2. The competence of host-country investigative agencies;

3.4.3. The degree to which U.S. Military and host-country agencies exchange investigative information;

3.4.4. The absence of other U.S. investigative capabilities; and

3.4.5. The unique and vulnerable position of U.S. Forces abroad.

### 4. AUTHORIZED ACTIVITIES

The DoD Components are authorized to gather information essential to the accomplishment of the following defense missions:

4.1. Protection of DoD Functions and Property. Information may be acquired about activities threatening defense military and civilian personnel and defense activities and installations, including vessels, aircraft, communications equipment, and supplies. Only the following types of activities justify acquisition of information under the authority of this paragraph:

# DOPLAW HANDBOOK

4.1.1. Subversion of loyalty, discipline, or morale of DoD military or civilian personnel by actively encouraging violation of law, disobedience of lawful order or regulation, or disruption of military activities.

4.1.2. Theft of arms, ammunition, or equipment, or destruction or sabotage of facilities, equipment, or records belonging to DoD units or installations.

4.1.3. Acts jeopardizing the security of DoD elements or operations or compromising classified defense information by unauthorized disclosure or by espionage.

4.1.4. Unauthorized demonstrations on Active or Reserve DoD installations.

4.1.5. Direct threats to DoD military or civilian personnel in connection with their official duties or to other persons who have been authorized protection by DoD resources.

4.1.6. Activities endangering facilities that have classified defense contracts or that have been officially designated as key defense facilities.

4.1.7. Crimes for which the Department of Defense has responsibility for investigating or prosecuting.

4.2. Personnel Security. Investigations may be conducted in relation to the following categories of persons:

4.2.1. Members of the Armed Forces, including retired personnel, members of the Reserve components, and applicants for commission or enlistment.

4.2.2. DoD civilian personnel and applicants for such status.

4.2.3. Persons having need for access to official information requiring protection in the interest of national defense under the DoD Industrial Security Program or being considered for participation in other authorized DoD programs.

4.3. Operations Related to Civil Disturbance. The Attorney General is the chief civilian officer in charge of coordinating all Federal Government activities relating to civil disturbances. Upon specific prior authorization of the Secretary of Defense or his designee, information may be acquired that is essential to meet operational requirements flowing from the mission assigned to the Department of Defense to assist civil authorities in dealing with civil disturbances. Such authorization will only be granted when there is a distinct threat of a civil disturbance exceeding the law enforcement capabilities of State and local authorities.

## 5. PROHIBITED ACTIVITIES

5.1. The acquisition of information on individuals or organizations not affiliated with the DoD will be restricted to that which is essential to the accomplishment of assigned DoD missions under this Directive.

5.2. No information shall be acquired about a person or organization solely because of lawful advocacy of measures in opposition to Government policy.

5.3. There shall be no physical or electronic surveillance of Federal, State, or local officials or of candidates for such offices.

5.4. There shall be no electronic surveillance of any individual or organization, except as authorized by law.



## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

5.5. There shall be no covert or otherwise deceptive surveillance or penetration of civilian organizations unless specifically authorized by the Secretary of Defense, or his designee.

5.6. No DoD personnel will be assigned to attend public or private meetings, demonstrations, or other similar activities for the purpose of acquiring information, the collection of which is authorized by this Directive without specific prior approval by the Secretary of Defense, or his designee. An exception to this policy may be made by the local commander concerned, or higher authority, when, in his judgment, the threat is direct and immediate and time precludes obtaining prior approval. In each such case a report will be made immediately to the Secretary of Defense, or his designee.

5.7. No computerized data banks shall be maintained relating to individuals or organizations not affiliated with the Department of Defense, unless authorized by the Secretary of Defense, or his designee.

### 6. OPERATIONAL GUIDANCE

6.1. Nothing in this Directive shall be construed to prohibit the prompt reporting to law enforcement agencies of any information indicating the existence of a threat to life or property, or the violation of law, nor to prohibit keeping a record of such a report.

6.2. Nothing in this Directive shall be construed to restrict the direct acquisition by overt means of the following information:

6.2.1. Listings of Federal, State, and local officials who have official responsibilities related to the control of civil disturbances. Such listings may be maintained currently.

6.2.2. Physical data on vital public or private installations, facilities, highways, and utilities, as appropriate, to carry out a mission assigned by this Directive.

6.3. Access to information obtained under the provisions of this Directive shall be restricted to Governmental Agencies that require such information in the execution of their duties.

6.4. Information within the purview of this Directive, regardless of when acquired, shall be destroyed within 90 days unless its retention is required by law or unless its retention is specifically authorized under criteria established by the Secretary of Defense, or his designee.

6.5. This Directive does not abrogate any provision of the Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation, April 5, 1979, nor preclude the collection of information required by Federal statute or Executive order.

### 7. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing regulations to the Deputy Under Secretary of Defense (Policy Review) within 120 days.

/S/  
W. Graham Claytor, Jr.  
Deputy Secretary of Defense

Enclosures - 1

E1. Delegation of Authority

E1. ENCLOSURE 1  
DELEGATION OF AUTHORITY

## DOPLAW HANDBOOK

E1.1.1. The Secretary of the Army is designated to authorize those activities delineated in paragraph 4.3., basic Directive. This authority may not be further delegated to other than the Under Secretary of the Army.

E1.1.2. The Deputy Under Secretary of Defense (Policy Review) (DUSD(PR)) is designated to authorize those activities delineated in paragraph 5.5., basic Directive, within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions. This authority may not be delegated. The investigating DoD Component, prior to requesting approval for authorizations under this provision, shall coordinate prospective activities with the Federal Bureau of Investigation.

E1.1.3. The DUSD(PR) and the Secretaries of the Military Departments are designated to authorize those activities (delineated in paragraph 5.5., basic Directive) abroad <sup>1</sup> when membership of the civilian organization is reasonably expected to include a significant number of non-DoD-affiliated U.S. citizens. This authority may not be further delegated to other than the Under Secretaries of the Military Departments. When the Military Department Secretary or Under Secretary exercises this delegation of authority, the DUSD(PR) shall be advised promptly.

E1.1.4. The Secretaries of the Military Departments are designated to authorize in their Departments those activities delineated in paragraph 5.6., basic Directive, within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions. This authority may not be further delegated to other than the Under Secretaries of the Military Departments.

E1.1.5. The Secretaries of the Military Departments are designated to authorize in their Departments those activities (delineated in paragraph 5.6., basic Directive) abroad <sup>1</sup> when a significant number of non-DoD-affiliated U.S. citizens are expected to be present. This authority may be further delegated, in writing, as circumstances warrant, to an authorized designee. The DUSD(PR) will be notified immediately of such further delegations of authority. When the Secretary or Under Secretary of a Military Department or his designee exercises this delegated authority, the DUSD(PR) shall be advised promptly.

E1.1.6. The DUSD(PR) is designated to authorize those activities delineated in paragraphs 5.7. and 6.4., basic Directive. These authorities may not be further delegated.

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<sup>1</sup> "Abroad" means "outside the United States, its territories, and possessions."

## **APPENDIX 2-7: DOD 5240.1-R - PROCEDURES GOVERNING THE ACTIVITIES OF DOD INTELLIGENCE COMPONENTS THAT AFFECT U.S. PERSONS**

**TITLE:** DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons", 12/1982

**SUMMARY:** This DoD regulation sets forth procedures governing the activities of DoD intelligence components that affect United States persons. It implements DoD Directives 5260.1, and replaces the November 30, 1979 version of DoD Regulation 5240.1-R. It is applicable to all DoD intelligence components. Executive Order 12333, "United States Intelligence Activities," stipulates that certain activities of intelligence components that affect U.S. persons be governed by procedures issued by the agency head and approved by the Attorney General.

Source: [http://www.dtic.mil/whs/directives/corres/pdf/52401r\\_1282/p52401r.pdf](http://www.dtic.mil/whs/directives/corres/pdf/52401r_1282/p52401r.pdf)

APPENDIX 2: MILITARY SUPPORT  
TO CIVILIAN AUTHORITIES

DoD 5240 1-R



**DEPARTMENT OF DEFENSE**

**PROCEDURES GOVERNING THE  
ACTIVITIES OF  
DOD INTELLIGENCE COMPONENTS  
THAT AFFECT UNITED STATES PERSONS**

**DECEMBER 1982**

**UNDER SECRETARY OF DEFENSE FOR POLICY**

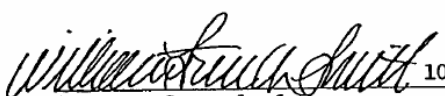
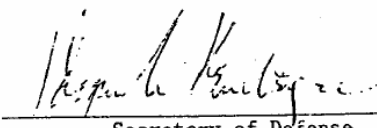
## FOREWORD

This DoD regulation sets forth procedures governing the activities of DoD intelligence components that affect United States persons. It implements DoD Directive 5240.1, and replaces the November 30, 1979 version of DoD Regulation 5240.1-R. It is applicable to all DoD intelligence components.

Executive Order 12333, "United States Intelligence Activities," stipulates that certain activities of intelligence components that affect U.S. persons be governed by procedures issued by the agency head and approved by the Attorney General. Specifically, procedures 1 through 10, as well as Appendix A, herein, require approval by the Attorney General. Procedures 11 through 15, while not requiring approval by the Attorney General, contain further guidance to DoD Components in implementing Executive Order 12333 as well as Executive Order 12334, "President's Intelligence Oversight Board".

Accordingly, by this memorandum, these procedures are approved for use within the Department of Defense. Heads of DoD components shall issue such implementing instructions as may be necessary for the conduct of authorized functions in a manner consistent with the procedures set forth herein.

This regulation is effective immediately.

	10/4/82		12/7/82
Attorney General of the United States		Secretary of Defense	

# APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

*DoD 5240.1-R, December 1982*

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## REFERENCES

- (a) Executive Order 12333, "United States Intelligence Activities," December 4, 1981
- (b) Public Law 95-511, "Foreign Intelligence Surveillance Act of 1978"
- (c) DoD Directive 5200.29, "DoD Technical Surveillance Countermeasures (TSCM) Survey Program," February 12, 1975
- (d) Chapters 105 and 119 of title 18, United States Code
- (e) Public Law 73-416, "Communications Act of 1934," Section 605
- (f) Sections 801-840 of title 10, United States Code, "Uniform Code of Military Justice"
- (g) Agreement Between the Deputy Secretary of Defense and Attorney General, April 5, 1979
- (h) Executive Order 12198, "Prescribing Amendments to the Manual for Courts-Martial, United States, 1969," March 12, 1980
- (i) [DoD Directive 5525.5](#), "DoD Cooperation with Civilian Law Enforcement Officials," March 22, 1982
- (j) DoD Directive 5000.11, "Data Elements and Data Codes Standardization Program," December 7, 1964
- (k) DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976



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### DL1. DEFINITIONS

DL1.1.1. Administrative Purposes. Information is collected for "administrative purposes" when it is necessary for the administration of the component concerned, but is not collected directly in performance of the intelligence activities assigned such component. Examples include information relating to the past performance of potential contractors; information to enable such components to discharge their public affairs and legislative duties, including the maintenance of correspondence files; the maintenance of employee personnel and training records; and training materials or documents produced at training facilities.

DL1.1.2. Available Publicly. Information that has been published or broadcast for general public consumption, is available on request to a member of the general public, could lawfully be seen or heard by any casual observer, or is made available at a meeting open to the general public. In this context, the "general public" also means general availability to persons in a military community even though the military community is not open to the civilian general public.

DL1.1.3. Communications Security. Protective measures taken to deny unauthorized persons information derived from telecommunications of the U.S. Government related to national security and to ensure the authenticity of such telecommunications.

DL1.1.4. Consent. The agreement by a person or organization to permit DoD intelligence components to take particular actions that affect the person or organization. Consent may be oral or written unless a specific form of consent is required by a particular procedure. Consent may be implied if adequate notice is provided that a particular action (such as entering a building) carries with it the presumption of consent to an accompanying action (such as search of briefcases). (Questions regarding what is adequate notice in particular circumstances should be referred to the legal office responsible for advising the DoD intelligence component concerned.)

DL1.1.5. Counterintelligence. Information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or international terrorist activities, but not including personnel, physical, document, or communications security programs.

DL1.1.6. Counterintelligence Investigation. Includes inquiries and other activities undertaken to determine whether a particular United States person is acting for, or on behalf of, a foreign power for purposes of conducting espionage and other intelligence activities, sabotage, assassinations, international terrorist activities, and actions to neutralize such acts.

DL1.1.7. DoD Component. Includes the Office of the Secretary of Defense, each of the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies.

DL1.1.8. DoD Intelligence Components. Include the following organizations:

DL1.1.8.1. The National Security Agency/Central Security Service.

DL1.1.8.2. The Defense Intelligence Agency.

DL1.1.8.3. The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs.

DL1.1.8.4. The Assistant Chief of Staff for Intelligence, Army General Staff.

DL1.1.8.5. The Office of Naval Intelligence.

DL1.1.8.6. The Assistant Chief of Staff, Intelligence, U. S. Air Force.

DL1.1.8.7. The Army Intelligence and Security Command.

DL1.1.8.8. The Naval Intelligence Command.

DL1.1.8.9. The Naval Security Group Command.

DL1.1.8.10. The Director of Intelligence, U.S. Marine Corps.

DL1.1.8.11. The Air Force Intelligence Service.

DL1.1.8.12. The Electronic Security Command, U.S. Air Force.

DL1.1.8.13. The counterintelligence elements of the Naval Investigative Service.

DL1.1.8.14. The counterintelligence elements of the Air Force Office of Special Investigations.

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DL1.1.8.15. The 650th Military Intelligence Group, SHAPE.

DL1.1.8.16. Other organizations, staffs, and offices, when used for foreign intelligence or counterintelligence activities to which part 2 of E.O. 12333 (reference (a)), applies, provided that the heads of such organizations, staffs, and offices shall not be considered as heads of DoD intelligence components for purposes of this Regulation.

DL1.1.9. Electronic Surveillance. Acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a non-electronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction finding equipment solely to determine the location of a transmitter. (Electronic surveillance within the United States is subject to the definitions in the Foreign Intelligence Surveillance Act of 1978 (reference (b)).)

DL1.1.10. Employee. A person employed by, assigned to, or acting for an agency within the intelligence community, including contractors and persons otherwise acting at the direction of such an agency.

DL1.1.11. Foreign Intelligence. Information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

DL1.1.12. Foreign Power. Any foreign government (regardless of whether recognized by the United States), foreign-based political party (or faction thereof), foreign military force, foreign-based terrorist group, or any organization composed, in major part, of any such entity or entities.

DL1.1.13. Intelligence Activities. Refers to all activities that DoD intelligence components are authorized to undertake pursuant to Executive Order 12333 (reference (a)).

DL1.1.14. Intelligence Community and an Agency of Or Within the Intelligence Community. Refers to the following organizations:

DL1.1.14.1. The Central Intelligence Agency (CIA).

DL1.1.14.2. The National Security Agency (NSA).

DL1.1.14.3. The Defense Intelligence Agency (DIA).

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DL1.1.14.4. The Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs.

DL1.1.14.5. The Bureau of Intelligence and Research of the Department of State.

DL1.1.14.6. The intelligence elements of the Army, the Navy, the Air Force and the Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy.

DL1.1.14.7. The staff elements of the Office of the Director of Central Intelligence.

DL1.1.15. International Narcotics Activities. Refers to activities outside the United States to produce, transfer or sell narcotics or other substances controlled in accordance with Sections 811 and 812 of title 21, United States Code.

DL1.1.16. International Terrorist Activities. Activities undertaken by or in support of terrorists or terrorist organizations that occur totally outside the United States, or that transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which the perpetrators operate or seek asylum.

DL1.1.17. Lawful Investigation. An investigation qualifies as a lawful investigation if the subject of the investigation is within DoD investigative jurisdiction; if it is conducted by a DoD Component that has authorization to conduct the particular type of investigation concerned (for example, counterintelligence, personnel security, physical security, communications security); and if the investigation is conducted in accordance with applicable law and policy, including E.O. 12333 and this Regulation.

DL1.1.18. Personnel Security. Measures designed to insure that persons employed, or being considered for employment, in sensitive positions of trust are suitable for such employment with respect to loyalty, character, emotional stability, and reliability and that such employment is clearly consistent with the interests of the national security. It includes measures designed to ensure that persons granted access to classified information remain suitable for such access and that access is consistent with the interests of national security.

DL1.1.19. Personnel Security Investigation:

DL1.1.19.1. An inquiry into the activities of a person granted access to intelligence or other classified information; or a person who is being considered for access to intelligence or other classified information, including persons who are granted or may be granted access to facilities of DoD intelligence components; or a person to be assigned or retained in a position with sensitive duties. The investigation is designed to develop information pertaining to the suitability, eligibility, and trustworthiness of the individual with respect to loyalty, character, emotional stability and reliability.

DL1.1.19.2. Inquiries and other activities directed against DoD employees or members of a Military Service to determine the facts of possible voluntary or involuntary compromise of classified information by them.

DL1.1.19.3. The collection of information about or from military personnel in the course of tactical training exercises for security training purposes.

DL1.1.20. Physical Security. The physical measures taken to prevent unauthorized access to, and prevent the damage or loss of, equipment, facilities, materiel and documents; and measures undertaken to protect DoD personnel from physical threats to their safety.

DL1.1.21. Physical Security Investigation. All inquiries, inspections, or surveys of the effectiveness of controls and procedures designed to provide physical security; and all inquiries and other actions undertaken to obtain information pertaining to physical threats to DoD personnel or property.

DL1.1.22. Reasonable Belief. A reasonable belief arises when the facts and circumstances are such that a reasonable person would hold the belief. Reasonable belief must rest on facts and circumstances that can be articulated; "hunches" or intuitions are not sufficient. Reasonable belief can be based on experience, training, and knowledge in foreign intelligence or counterintelligence work applied to facts and circumstances at hand, so that a trained and experienced "reasonable person" might hold a reasonable belief sufficient to satisfy this criterion when someone unfamiliar with foreign intelligence or counterintelligence work might not.

DL1.1.23. Signals Intelligence. A category of intelligence including communications intelligence, electronic intelligence, and foreign instrumentation signals intelligence, either individually or in combination.

DL1.1.24. United States. When used to describe a place, the term shall include the territories under the sovereignty of the United States.

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### DL1.1.25. United States Person

DL1.1.25.1. The term "United States person" means:

DL1.1.25.1.1. A United States citizen;

DL1.1.25.1.2. An alien known by the DoD intelligence component concerned to be a permanent resident alien;

DL1.1.25.1.3. An unincorporated association substantially composed of United States citizens or permanent resident aliens;

DL1.1.25.1.4. A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments. A corporation or corporate subsidiary incorporated abroad, even if partially or wholly owned by a corporation incorporated in the United States, is not a United States person.

DL1.1.25.2. A person or organization outside the United States shall be presumed not to be a United States person unless specific information to the contrary is obtained. An alien in the United States shall be presumed not to be a United States person unless specific information to the contrary is obtained.

DL1.1.25.3. A permanent resident alien is a foreign national lawfully admitted into the United States for permanent residence.





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### C1. CHAPTER 1

#### PROCEDURE 1. GENERAL PROVISIONS

##### C1.1. APPLICABILITY AND SCOPE

C1.1.1. These procedures apply only to "DoD intelligence components," as defined in the Definitions Section. Procedures 2 through 4 provide the sole authority by which such components may collect, retain and disseminate information concerning United States persons. Procedures 5 through 10 set forth applicable guidance with respect to the use of certain collection techniques to obtain information for foreign intelligence and counterintelligence purposes. Authority to employ such techniques shall be limited to that necessary to perform functions assigned the DoD intelligence component concerned. Procedures 11 through 15 govern other aspects of DoD intelligence activities, including the oversight of such activities.

C1.1.2. The functions of DoD intelligence components not specifically addressed herein shall be carried out in accordance with applicable policy and procedure.

C1.1.3. These procedures do not apply to law enforcement activities, including civil disturbance activities, that may be undertaken by DoD intelligence components. When an investigation or inquiry undertaken pursuant to these procedures establishes reasonable belief that a crime has been committed, the DoD intelligence component concerned shall refer the matter to the appropriate law enforcement agency in accordance with procedures 12 and 15 or, if the DoD intelligence component is otherwise authorized to conduct law enforcement activities, shall continue such investigation under appropriate law enforcement procedures.

C1.1.4. DoD intelligence components shall not request any person or entity to undertake any activity forbidden by Executive Order 12333 (reference (a)).

##### C1.2. PURPOSE

The purpose of these procedures is to enable DoD intelligence components to carry out effectively their authorized functions while ensuring their activities that affect U.S. persons are carried out in a manner that protects the constitutional rights and privacy of such persons.

## C1.3. INTERPRETATION

C1.3.1. These procedures shall be interpreted in accordance with their stated purpose.

C1.3.2. All defined terms appear in the Definitions Section. Additional terms, not otherwise defined, are explained in the text of each procedure, as appropriate.

C1.3.3. All questions of interpretation shall be referred to the legal office responsible for advising the DoD intelligence component concerned. Questions that cannot be resolved in this manner shall be referred to the General Counsel of the Military Department concerned, or, as appropriate, the General Counsel of the Department of Defense for resolution.

## C1.4. EXCEPTIONS TO POLICY

Requests for exception to the policies and procedures established herein shall be made in writing to the Deputy Under Secretary of Defense (Policy), who shall obtain the written approval of the Secretary of Defense and, if required, the Attorney General for any such exception.

## C1.5. AMENDMENT

Requests for amendment of these procedures shall be made to the Deputy Under Secretary of Defense (Policy), who shall obtain the written approval of the Secretary of Defense, and, if required, the Attorney General, for any such amendment.

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### C2. CHAPTER 2

#### PROCEDURE 2. COLLECTION OF INFORMATION ABOUT UNITED STATES PERSONS

##### C2.1. APPLICABILITY AND SCOPE

This procedure specifies the kinds of information about United States persons that may be collected by DoD intelligence components and sets forth general criteria governing the means used to collect such information. Additional limitations are imposed in Procedures 5 through 10 on the use of specific collection techniques.

##### C2.2. EXPLANATION OF UNDEFINED TERMS

C2.2.1. Collection. Information shall be considered as "collected" only when it has been received for use by an employee of a DoD intelligence component in the course of his official duties. Thus, information volunteered to a DoD intelligence component by a cooperating source would be "collected" under this procedure when an employee of such component officially accepts, in some manner, such information for use within that component. Data acquired by electronic means is "collected" only when it has been processed into intelligible form.

C2.2.2. Cooperating sources means persons or organizations that knowingly and voluntarily provide information to DoD intelligence components, or access to information, at the request of such components or on their own initiative. These include Government Agencies, law enforcement authorities, credit agencies, academic institutions, employers, and foreign governments.

C2.2.3. Domestic activities refers to activities that take place within the United States that do not involve a significant connection with a foreign power, organization, or person.

C2.2.4. Overt means refers to methods of collection whereby the source of the information being collected is advised, or is otherwise aware, that he is providing such information to the Department of Defense or a component thereof.

## C2.3. TYPES OF INFORMATION THAT MAY BE COLLECTED ABOUT UNITED STATES PERSONS

Information that identifies a United States person may be collected by a DoD intelligence component only if it is necessary to the conduct of a function assigned the collecting component, and only if it falls within one of the following categories:

C2.3.1. Information Obtained With Consent. Information may be collected about a United States person who consents to such collection.

C2.3.2. Publicly Available Information. Information may be collected about a United States person if it is publicly available.

C2.3.3. Foreign Intelligence. Subject to the special limitation contained in section C2.5., below, information may be collected about a United States person if the information constitutes foreign intelligence, provided the intentional collection of foreign intelligence about United States persons shall be limited to persons who are:

C2.3.3.1. Individuals reasonably believed to be officers or employees, or otherwise acting for or on behalf, of a foreign power;

C2.3.3.2. An organization reasonably believed to be owned or controlled, directly or indirectly, by a foreign power;

C2.3.3.3. Persons or organizations reasonably believed to be engaged or about to engage, in international terrorist or international narcotics activities;

C2.3.3.4. Persons who are reasonably believed to be prisoners of war; missing in action; or are the targets, the hostages, or victims of international terrorist organizations; or

C2.3.3.5. Corporations or other commercial organizations believed to have some relationship with foreign powers, organizations, or persons.

C2.3.4. Counterintelligence. Information may be collected about a United States person if the information constitutes counterintelligence, provided the intentional collection of counterintelligence about United States persons must be limited to:

C2.3.4.1. Persons who are reasonably believed to be engaged in, or about to engage in, intelligence activities on behalf of a foreign power, or international terrorist activities.

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C2.3.4.2. Persons in contact with persons described in subparagraph C2.3.4.1., above, for the purpose of identifying such person and assessing their relationship with persons described in subparagraph C2.3.4.1., above.

C2.3.5. Potential Sources of Assistance to Intelligence Activities. Information may be collected about United States persons reasonably believed to be potential sources of intelligence, or potential sources of assistance to intelligence activities, for the purpose of assessing their suitability or credibility. This category does not include investigations undertaken for personnel security purposes.

C2.3.6. Protection of Intelligence Sources and Methods. Information may be collected about a United States person who has access to, had access to, or is otherwise in possession of, information that reveals foreign intelligence and counterintelligence sources or methods, when collection is reasonably believed necessary to protect against the unauthorized disclosure of such information; provided that within the United States, intentional collection of such information shall be limited to persons who are:

C2.3.6.1. Present and former DoD employees;

C2.3.6.2. Present or former employees of a present or former DoD contractor; and

C2.3.6.3. Applicants for employment at the Department of Defense or at a contractor of the Department of Defense.

C2.3.7. Physical Security. Information may be collected about a United States person who is reasonably believed to threaten the physical security of DoD employees, installations, operations, or official visitors. Information may also be collected in the course of a lawful physical security investigation.

C2.3.8. Personnel Security. Information may be collected about a United States person that arises out of a lawful personnel security investigation.

C2.3.9. Communications Security. Information may be collected about a United States person that arises out of a lawful communications security investigation.

C2.3.10. Narcotics. Information may be collected about a United States person who is reasonably believed to be engaged in international narcotics activities.

C2.3.11. Threats to Safety. Information may be collected about a United States person when the information is needed to protect the safety of any person or

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organization, including those who are targets, victims, or hostages of international terrorist organizations.

C2.3.12. Overhead Reconnaissance. Information may be collected from overhead reconnaissance not directed at specific United States persons.

C2.3.13. Administrative Purposes. Information may be collected about a United States person that is necessary for administrative purposes.

### C2.4. GENERAL CRITERIA GOVERNING THE MEANS USED TO COLLECT INFORMATION ABOUT UNITED STATES PERSONS

C2.4.1. Means of Collection. DoD intelligence components are authorized to collect information about United States persons by any lawful means, provided that all such collection activities shall be carried out in accordance with E.O. 12333 (reference (a)), and this Regulation, as appropriate.

C2.4.2. Least Intrusive Means. The collection of information about United States persons shall be accomplished by the least intrusive means. In general, this means the following:

C2.4.2.1. To the extent feasible, such information shall be collected from publicly available information or with the consent of the person concerned;

C2.4.2.2. If collection from these sources is not feasible or sufficient, such information may be collected from cooperating sources;

C2.4.2.3. If collection from cooperating sources is not feasible or sufficient, such information may be collected, as appropriate, using other lawful investigative techniques that do not require a judicial warrant or the approval of the Attorney General; then

C2.4.2.4. If collection through use of these techniques is not feasible or sufficient, approval for use of investigative techniques that do require a judicial warrant or the approval of the Attorney General may be sought.

### C2.5. SPECIAL LIMITATION ON THE COLLECTION OF FOREIGN INTELLIGENCE WITHIN THE UNITED STATES

Within the United States, foreign intelligence concerning United States persons may be collected only by overt means unless all the following conditions are met:

C2.5.1. The foreign intelligence sought is significant and collection is not undertaken for the purpose of acquiring information concerning the domestic activities of any United States person;

C2.5.2. Such foreign intelligence cannot be reasonably obtained by overt means;

C2.5.3. The collection of such foreign intelligence has been coordinated with the Federal Bureau of Investigation (FBI); and

C2.5.4. The use of other than overt means has been approved in writing by the head of the DoD intelligence component concerned, or his single designee, as being consistent with these procedures. A copy of any approval made pursuant to this section shall be provided the Deputy Under Secretary of Defense (Policy).



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### C3. CHAPTER 3

#### PROCEDURE 3. RETENTION OF INFORMATION ABOUT UNITED STATES PERSONS

##### C3.1. APPLICABILITY

This procedure governs the kinds of information about United States persons that may knowingly be retained by a DoD intelligence component without the consent of the person whom the information concerns. It does not apply when the information in question is retained solely for administrative purposes or is required by law to be maintained.

##### C3.2. EXPLANATION OF UNDEFINED TERMS

The term "retention," as used in this procedure, refers only to the maintenance of information about United States persons that can be retrieved by reference to the person's name or other identifying data.

##### C3.3. CRITERIA FOR RETENTION

C3.3.1. Retention of Information Collected Under Procedure 2. Information about United States persons may be retained if it was collected pursuant to Procedure 2.

C3.3.2. Retention of Information Acquired Incidentally. Information about United States persons collected incidentally to authorized collection may be retained if:

C3.3.2.1. Such information could have been collected intentionally under Procedure 2;

C3.3.2.2. Such information is necessary to understand or assess foreign intelligence or counterintelligence;

C3.3.2.3. The information is foreign intelligence or counterintelligence collected from electronic surveillance conducted in compliance with this Regulation; or

C3.3.2.4. Such information is incidental to authorized collection and may indicate involvement in activities that may violate Federal, State, local, or foreign law.



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C3.3.3. Retention of Information Relating to Functions of Other DoD Components or non-DoD Agencies. Information about United States persons that pertains solely to the functions of other DoD Components or Agencies outside the Department of Defense shall be retained only as necessary to transmit or deliver such information to the appropriate recipients.

C3.3.4. Temporary Retention. Information about United States persons may be retained temporarily, for a period not to exceed 90 days, solely for the purpose of determining whether that information may be permanently retained under these procedures.

C3.3.5. Retention of Other Information. Information about United States persons other than that covered by paragraphs C3.3.1. through C3.3.4., above, shall be retained only for purposes of reporting such collection for oversight purposes and for any subsequent proceedings that may be necessary.

### C3.4. ACCESS AND RETENTION

C3.4.1. Controls On Access to Retained Information. Access within a DoD intelligence component to information about United States persons retained pursuant to this procedure shall be limited to those with a need to know.

C3.4.2. Duration of Retention. Disposition of information about United States Persons retained in the files of DoD intelligence components will comply with the disposition schedules approved by the Archivist of the United States for the files or records in which the information is retained.

C3.4.3. Information Acquired Prior to Effective Date. Information acquired prior to the effective date of this procedure may be retained by DoD intelligence components without being screened for compliance with this procedure or Executive Order 12333 (reference (a)), so long as retention was in compliance with applicable law and previous Executive orders.

## C4. CHAPTER 4

### PROCEDURE 4. DISSEMINATION OF INFORMATION ABOUT UNITED STATES PERSONS

#### C4.1. APPLICABILITY AND SCOPE

This procedure governs the kinds of information about United States persons that may be disseminated, without their consent, outside the DoD intelligence component that collected and retained the information. It does not apply to information collected solely for administrative purposes; or disseminated pursuant to law; or pursuant to a court order that otherwise imposes controls upon such dissemination.

#### C4.2. CRITERIA FOR DISSEMINATION

Except as provided in section C4.3., below, information about United States persons that identifies those persons may be disseminated without the consent of those persons only under the following conditions:

C4.2.1. The information was collected or retained or both under Procedures 2 and 3;

C4.2.2. The recipient is reasonably believed to have a need to receive such information for the performance of a lawful governmental function, and is one of the following:

C4.2.2.1. An employee of the Department of Defense, or an employee of a contractor of the Department of Defense, and has a need for such information in the course of his or her official duties;

C4.2.2.2. A law enforcement entity of Federal, State, or local government, and the information may indicate involvement in activities that may violate laws that the recipient is responsible to enforce;

C4.2.2.3. An Agency within the intelligence community; provided that within the intelligence community, information other than information derived from signals intelligence, may be disseminated to each appropriate Agency for the purpose of allowing the recipient Agency to determine whether the information is relevant to its responsibilities without such a determination being required of the disseminating DoD intelligence component;

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C4.2.2.4. An Agency of the Federal Government authorized to receive such information in the performance of a lawful governmental function; or

C4.2.2.5. A foreign government, and dissemination is undertaken pursuant to an agreement or other understanding with such government.

### C4.3. OTHER DISSEMINATION

Any dissemination that does not conform to the conditions set forth in section C4.2., above, must be approved by the legal office responsible for advising the DoD Component concerned after consultation with the Department of Justice and General Counsel of the Department of Defense. Such approval shall be based on determination that the proposed dissemination complies with applicable laws, Executive orders, and regulations.

## C5. CHAPTER 5

### PROCEDURE 5. ELECTRONIC SURVEILLANCE

#### C5.1. PART 1: ELECTRONIC SURVEILLANCE IN THE UNITED STATES FOR INTELLIGENCE PURPOSES

C5.1.1. Applicability. This part of Procedure 5 implements the Foreign Intelligence Surveillance Act of 1979 (reference (b)), and applies to electronic surveillance, as defined in that Act, conducted by DoD intelligence components within the United States to collect "foreign intelligence information," as defined in that Act.

#### C5.1.2. General Rules

C5.1.2.1. Electronic Surveillance Pursuant to the Foreign Intelligence Surveillance Act. A DoD intelligence component may conduct electronic surveillance within the United States for foreign intelligence and counterintelligence purposes only pursuant to an order issued by a judge of the court appointed pursuant to the Foreign Intelligence Surveillance Act of 1978 (reference (b)), or pursuant to a certification of the Attorney General issued under the authority of Section 102(a) of the Act.

C5.1.2.2. Authority to Request Electronic Surveillance. Authority to approve the submission of applications or requests for electronic surveillance under the Foreign Intelligence Surveillance Act of 1978 (reference (b)) shall be limited to the Secretary of Defense, the Deputy Secretary of Defense, the Secretary or Under Secretary of a Military Department, and the Director of the National Security Agency. Applications for court orders will be made through the Attorney General after prior clearance by the General Counsel, DoD. Requests for Attorney General certification shall be made only after prior clearance by the General Counsel, DoD.

#### C5.1.2.3. Electronic Surveillance In Emergency Situations

C5.1.2.3.1. A DoD intelligence component may conduct electronic surveillance within the United States in emergency situations under an approval from the Attorney General in accordance with Section 105(e) of reference (b).

C5.1.2.3.2. The head of a DoD intelligence component may request that the DoD General Counsel seek such authority directly from the Attorney General in an emergency, if it is not feasible to submit such request through an official designated in subparagraph C5.1.2.2., above, provided the appropriate official concerned shall be advised of such requests as soon as possible thereafter.

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## C5.2. PART 2: ELECTRONIC SURVEILLANCE OUTSIDE THE UNITED STATES FOR INTELLIGENCE PURPOSES

C5.2.1. Applicability. This part of Procedure 5 applies to electronic surveillance, as defined in the Definitions Section, for foreign intelligence and counterintelligence purposes directed against United States persons who are outside the United States, and who, under the circumstances, have a reasonable expectation of privacy. It is intended to be applied in conjunction with the regulation of electronic surveillance "within the United States" under Part 1 and the regulation of "signals intelligence activities" under Part 3 so that the intentional interception for foreign intelligence and counterintelligence purposes of all wire or radio communications of persons within the United States and against United States persons abroad where such persons enjoy a reasonable expectation of privacy is covered by one of the three parts. In addition, this part governs the use of electronic, mechanical, or other surveillance devices for foreign intelligence and counterintelligence purposes against a United States person abroad in circumstances where such person has a reasonable expectation of privacy. This part does not apply to the electronic surveillance of communications of other than United States persons abroad or the interception of the communications of United States persons abroad that do not constitute electronic surveillance.

### C5.2.2. Explanation of Undefined Terms

C5.2.2.1. Electronic surveillance is "directed against a United States person" when the surveillance is intentionally targeted against or designed to intercept the communications of that person. Electronic surveillance directed against persons who are not United States persons that results in the incidental acquisition of the communications of a United States person does not thereby become electronic surveillance directed against a United States person.

C5.2.2.2. Electronic surveillance is "outside the United States" if the person against whom the electronic surveillance is directed is physically outside the United States, regardless of the location at which surveillance is conducted. For example, the interception of communications that originate and terminate outside the United States can be conducted from within the United States and still fall under this part rather than Part 1.

C5.2.3. Procedures. Except as provided in paragraph C5.2.5., below, DoD intelligence components may conduct electronic surveillance against a United States person who is outside the United States for foreign intelligence and counterintelligence purposes only if the surveillance is approved by the Attorney General. Requests for



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approval will be forwarded to the Attorney General by an official designated in subparagraph C5.2.5.1., below. Each request shall include:

C5.2.3.1. An identification or description of the target.

C5.2.3.2. A statement of the facts supporting a finding that:

C5.2.3.2.1. There is probable cause to believe the target of the electronic surveillance is one of the following:

C5.2.3.2.1.1. A person who, for or on behalf of a foreign power is engaged in clandestine intelligence activities (including covert activities intended to affect the political or governmental process), sabotage, or international terrorist activities, or activities in preparation for international terrorist activities; or who conspires with, or knowingly aids and abets a person engaging in such activities;

C5.2.3.2.1.2. A person who is an officer or employee of a foreign power;

C5.2.3.2.1.3. A person unlawfully acting for, or pursuant to the direction of, a foreign power. The mere fact that a person's activities may benefit or further the aims of a foreign power is not enough to bring that person under this paragraph, absent evidence that the person is taking direction from, or acting in knowing concert with, the foreign power;

C5.2.3.2.1.4. A corporation or other entity that is owned or controlled directly or indirectly by a foreign power; or

C5.2.3.2.1.5. A person in contact with, or acting in collaboration with, an intelligence or security service of a foreign power for the purpose of providing access to information or material classified by the United States to which such person has access.

C5.2.3.2.2. The electronic surveillance is necessary to obtain significant foreign intelligence or counterintelligence.

C5.2.3.2.3. The significant foreign intelligence or counterintelligence expected to be obtained from the electronic surveillance could not reasonably be obtained by other less intrusive collection techniques.

C5.2.3.3. A description of the significant foreign intelligence or counterintelligence expected to be obtained from the electronic surveillance.

C5.2.3.4. A description of the means by which the electronic surveillance will be effected.

C5.2.3.5. If physical trespass is required to effect the surveillance, a statement of facts supporting a finding that the means involve the least amount of intrusion that will accomplish the objective.

C5.2.3.6. A statement of period of time, not to exceed 90 days, for which the electronic surveillance is required.

C5.2.3.7. A description of the expected dissemination of the product of the surveillance, including a description of the procedures that will govern the retention and dissemination of communications of or concerning United States persons other than those targeted, acquired incidental to such surveillance.

C5.2.4. Electronic Surveillance in Emergency Situations. Notwithstanding paragraph C5.2.3., above, a DoD intelligence component may conduct surveillance directed at a United States person who is outside the United States in emergency situations under the following limitations:

C5.2.4.1. Officials designated in paragraph C5.2.5., below, may authorize electronic surveillance directed at a United States person outside the United States in emergency situations, when securing the prior approval of the Attorney General is not practical because:

C5.2.4.1.1. The time required would cause failure or delay in obtaining significant foreign intelligence or counterintelligence and such failure or delay would result in substantial harm to the national security;

C5.2.4.1.2. A person's life or physical safety is reasonably believed to be in immediate danger; or

C5.2.4.1.3. The physical security of a defense installation or Government property is reasonably believed to be in immediate danger.

C5.2.4.2. Except for actions taken under subparagraph C5.2.4.1.2., above, any official authorizing such emergency surveillance shall find that one of the criteria contained in subparagraph C5.2.3.2.1., above, is met. Such officials shall notify the DoD General Counsel promptly of any such surveillance, the reason for authorizing such surveillance on an emergency basis, and the expected results.

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C5.2.4.3. The Attorney General shall be notified by the General Counsel, DoD, as soon as possible of the surveillance, the circumstances surrounding its authorization, and the results thereof, and such other information as may be required to authorize continuation of such surveillance.

C5.2.4.4. Electronic surveillance authorized pursuant to this section may not continue longer than the time required for a decision by the Attorney General and in no event longer than 72 hours.

### C5.2.5. Officials Authorized to Request and Approve Electronic Surveillance Outside the United States

C5.2.5.1. The following officials may request approval of electronic surveillance outside the United States under paragraph C5.2.3., above, and approve emergency surveillance under paragraph C5.2.4., above:

C5.2.5.1.1. The Secretary and Deputy Secretary of Defense.

C5.2.5.1.2. The Secretaries and Under Secretaries of the Military Departments.

C5.2.5.1.3. The Director and Deputy Director of the National Security Agency/Chief, Central Security Service.

C5.2.5.2. Authorization for emergency electronic surveillance under paragraph C5.2.4., may also be granted by:

C5.2.5.2.1. Any general or flag officer at the overseas location in question, having responsibility for either the subject of the surveillance, or responsibility for the protection of the persons, installations, or property that is endangered, or

C5.2.5.2.2. The Deputy Director for Operations, National Security Agency.

### C5.3. PART 3: SIGNALS INTELLIGENCE ACTIVITIES

#### C5.3.1. Applicability and Scope

C5.3.1.1. This procedure governs the conduct by the United States Signals Intelligence System of signals intelligence activities that involve the collection,

retention, and dissemination of foreign communications and military tactical communications. Such activities may incidentally involve the collection of information concerning United States persons without their consent, or may involve communications originated or intended for receipt in the United States, without the consent of a party thereto.

C5.3.1.2. This part of Procedure 5 shall be supplemented by a classified Annex promulgated by the Director, National Security Agency/Chief, Central Security Service, which shall also be approved by the Attorney General. That regulation shall provide that signals intelligence activities that constitute electronic surveillance, as defined in Parts 1, and 2 of this procedure, will be authorized in accordance with those parts. Any information collected incidentally about United States persons shall be subjected to minimization procedures approved by the Attorney General.

C5.3.2. Explanation of Undefined Terms

C5.3.2.1. Communications concerning a United States person are those in which the United States person is identified in the communication. A United States person is identified when the person's name, unique title, address or other personal identifier is revealed in the communication in the context of activities conducted by that person or activities conducted by others and related to that person. A reference to a product by brand name or manufacturer's name or the use of a name in a descriptive sense, as, for example, "Monroe Doctrine," is not an identification of a United States person.

C5.3.2.2. Interception means the acquisition by the United States Signals Intelligence system through electronic means of a nonpublic communication to which it is not an intended party, and the processing of the contents of that communication into an intelligible form, but not including the display of signals on visual display devices intended to permit the examination of the technical characteristics of the signals without reference to the information content carried by the signals.

C5.3.2.3. Military tactical communications means United States and allied military exercise communications within the United States and abroad necessary for the production of simulated foreign intelligence and counterintelligence or to permit an analysis of communications security.

C5.3.2.4. United States Person. For purposes of signals intelligence activities only, the following guidelines will apply in determining whether a person is a United States person:

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C5.3.2.4.1. A person known to be currently in the United States will be treated as a United States person unless the nature of the person's communications or other available information concerning the person gives rise to a reasonable belief that such person is not a United States citizen or permanent resident alien.

C5.3.2.4.2. A person known to be currently outside the United States, or whose location is not known, will not be treated as a United States person unless the nature of the person's communications or other available information concerning the person give rise to a reasonable belief that such person is a United States citizen or permanent resident alien.

C5.3.2.4.3. A person known to be an alien admitted for permanent residence may be assumed to have lost status as a United States person if the person leaves the United States and it is known that the person is not in compliance with the administrative formalities provided by law that enable such persons to reenter the United States without regard to the provisions of law that would otherwise restrict an alien's entry into the United States. The failure to follow the statutory procedures provides a reasonable basis to conclude that such alien has abandoned any intention of maintaining status as a permanent resident alien.

C5.3.2.4.4. An unincorporated association whose headquarters are located outside the United States may be presumed not to be a United States person unless the collecting agency has information indicating that a substantial number of members are citizens of the United States or aliens lawfully admitted for permanent residence.

C5.3.2.5. United States Signals Intelligence System means the unified organization for signals intelligence activities under the direction of the Director, National Security Agency/Chief, Central Security Service, comprised of the National Security Agency, the Central Security Service, the components of the Military Services authorized to conduct signals intelligence and such other entities (other than the Federal Bureau of Investigation) as are authorized by the National Security Council or the Secretary of Defense to conduct signals intelligence. FBI activities are governed by procedures promulgated by the Attorney General.

### C5.3.3. Procedures

C5.3.3.1. Foreign Communications. The United States Signals Intelligence System may collect, process, retain, and disseminate foreign communications that are also communications of or concerning United States persons, but only in accordance with the classified annex to this procedure.

C5.3.3.2. Military Tactical Communications. The United States Signals Intelligence System may collect, process, retain, and disseminate military tactical communications that are also communications of or concerning United States persons but only in accordance with the classified annex to this procedure.

C5.3.3.2.1. Collection. Collection efforts will be conducted in the same manner as in the case of signals intelligence for foreign intelligence purposes and must be designed in such a manner as to avoid to the extent feasible the intercept of communications not related to military exercises.

C5.3.3.2.2. Retention and Processing. Military tactical communications may be retained and processed without deletion of references to United States persons who are participants in, or are otherwise mentioned in exercise-related communications, provided that the communications of United States persons not participating in the exercise that are inadvertently intercepted during the exercise shall be destroyed as soon as feasible.

C5.3.3.2.3. Dissemination. Dissemination of military tactical communications and exercise reports or information files derived from such communications shall be limited to those authorities and persons participating in or conducting reviews and critiques of such exercise.

#### C5.4. PART 4: TECHNICAL SURVEILLANCE COUNTERMEASURES

C5.4.1. Applicability and Scope. This part of Procedure 5 applies to the use of electronic equipment to determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance. It implements Section 105(f)(2) of the Foreign Intelligence Surveillance Act (reference (b)).

C5.4.2. Explanation of Undefined Terms. The term technical surveillance countermeasures refers to activities authorized pursuant to DoD Directive 5200.29 (reference (c)), and, as used in this procedure, refers to the use of electronic surveillance equipment, or electronic or mechanical devices, solely for determining the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, or for determining the susceptibility of electronic equipment to unlawful electronic surveillance.

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C5.4.3. Procedures A DoD intelligence component may use technical surveillance countermeasures that involve the incidental acquisition of the nonpublic communications of United States persons without their consent, provided:

C5.4.3.1. The use of such countermeasures has been authorized or consented to by the official in charge of the facility, organization, or installation where the countermeasures are to be undertaken;

C5.4.3.2. The use of such countermeasures is limited in that necessary to determine the existence and capability of such equipment; and

C5.4.3.3. Access to the content of communications acquired during the use of countermeasures is limited to persons involved directly in conducting such measures, and any content acquired is destroyed as soon as practical or upon completion of the particular use. However, if the content is acquired within the United States, only information that is necessary to protect against unauthorized electronic surveillance, or to enforce Chapter 119 of title 18, United States Code (reference (d)) and Section 605 of the Communication Act of 1934 (reference (e)), may be retained and disseminated only for these purposes. If acquired outside the United States, information that indicates a violation of Federal law, including the Uniform Code of Military Justice (reference (f)), or a clear and imminent threat to life or property, may also be disseminated to appropriate law enforcement authorities. A record of the types of communications and information subject to acquisition by the illegal electronic surveillance equipment may be retained.

### C5.5. PART 5: DEVELOPING, TESTING, AND CALIBRATION OF ELECTRONIC EQUIPMENT

C5.5.1. Applicability This part of Procedure 5 applies to developing, testing, or calibrating electronic equipment that can intercept or process communications and non-communications signals. It also includes research and development that needs electronic communications as a signal source.

#### C5.5.2. Procedures

##### C5.5.2.1. Signals Authorized for Use

C5.5.2.1.1. The following may be used without restriction:

C5.5.2.1.1.1. Laboratory-generated signals.

C5.5.2.1.1.2. Communications signals with the consent of the communicator.

C5.5.2.1.1.3. Communications in the commercial or public service broadcast bands.

C5.5.2.1.1.4. Communications transmitted between terminals located outside of the United States not used by any known United States person.

C5.5.2.1.1.5. Non-communications signals (including telemetry, and radar).

C5.5.2.1.2. Communications subject to lawful electronic surveillance under the provisions of Parts 1, 2, or 3, of this procedure may be used subject to the minimization procedures applicable to such surveillance.

C5.5.2.1.3. Any of the following may be used subject to the restrictions of subparagraph C5.5.2.2., below.

C5.5.2.1.3.1. Communications over official Government communications circuits with consent from an appropriate official of the controlling agency.

C5.5.2.1.3.2. Communications in the citizens and amateur-radio bands.

C5.5.2.1.4. Other signals may be used only when it is determined that it is not practical to use the signals described above and it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance. The restrictions of subparagraph C5.5.2.2., below, will apply in such cases. The Attorney General must approve use of signals pursuant to this subsection for the purpose of development, testing, or calibration when the period of use exceeds 90 days. When Attorney General approval is required, the DoD intelligence component shall submit a test proposal to the General Counsel, DoD, or the NSA General Counsel for transmission to the Attorney General for approval. The test proposal shall state the requirement for a period beyond 90 days, the nature of the activity, the organization that will conduct the activity, and the proposed disposition of any signals or communications acquired during the activity.

C5.5.2.2. Restrictions. For signals described in subparagraphs C5.5.2.1.3. and C5.5.2.1.4., above, the following restrictions apply:



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C5.5.2.2.1. The surveillance shall be limited in scope and duration to that necessary for the purposes referred to in paragraph C5.5.1., above.

C5.5.2.2.2. No particular United States person shall be targeted intentionally without consent.

C5.5.2.2.3. The content of any communication shall:

C5.5.2.2.3.1. Be retained only when actually needed for the purposes referred to in paragraph C5.5.1., above;

C5.5.2.2.3.2. Be disseminated only to persons conducting the activity; and

C5.5.2.2.3.3. Be destroyed immediately upon completion of the activity.

C5.5.2.2.4. The technical parameters of a communication (such as frequency, modulation, bearing, signal strength, and time of activity) may be retained and used for the purposes outlined in paragraph C5.5.1., above, or for collection avoidance purposes. Such parameters may be disseminated to other DoD intelligence components and other entities authorized to conduct electronic surveillance or related development, testing, and calibration of electronic equipment provided such dissemination and use are limited to the purposes outlined in paragraph C5.5.1., or collection avoidance purposes. No content of any communication may be retained or used other than as provided in subparagraph C5.5.2.2.3., above.

### C5.6. PART 6: TRAINING OF PERSONNEL IN THE OPERATION AND USE OF ELECTRONIC COMMUNICATIONS AND SURVEILLANCE EQUIPMENT

C5.6.1. Applicability. This part of Procedure 5 applies to the training of personnel by DoD intelligence components in the operation and use of electronic communications and surveillance equipment. It does not apply to the interception of communications with the consent of one of the parties to the communication or to the training of intelligence personnel by non-intelligence components.

#### C5.6.2. Procedures

C5.6.2.1. Training Guidance. The training of personnel by DoD intelligence components in the operation and use of electronic communications and surveillance

equipment shall include guidance concerning the requirements and restrictions of the Foreign Intelligence Surveillance Act of 1978 (reference (b)), and E.O. 12333 (reference (a)), with respect to the unauthorized acquisition and use of the content of communications of United States persons.

C5.6.2.2. Training Limitations

C5.6.2.2.1. Except as permitted by paragraph C5.6.2.2.2. and C5.6.2.2.3., below, the use of electronic communications and surveillance equipment for training purposes is permitted, subject to the following limitations:

C5.6.2.2.1.1. To the maximum extent practical, use of such equipment for training purposes shall be directed against communications that are subject to lawful electronic surveillance for foreign intelligence and counterintelligence purposes under Parts 1, 2, and 3 of this procedure.

C5.6.2.2.1.2. The contents of private communications of non-consenting United States persons may not be acquired aurally unless the person is an authorized target of electronic surveillance.

C5.6.2.2.1.3. The electronic surveillance will be limited in extent and duration to that necessary to train personnel in the use of the equipment.

C5.6.2.2.2. Public broadcasts, distress signals, or official U.S. Government communications may be monitored, provided that when Government Agency communications are monitored, the consent of an appropriate official is obtained.

C5.6.2.2.3. Minimal acquisition of information is permitted as required for calibration purposes.

C5.6.2.3. Retention and Dissemination. Information collected during training that involves communications described in subparagraph C5.6.2.2.1.1., above, shall be retained and disseminated in accordance with minimization procedures applicable to that electronic surveillance. Information collected during training that does not involve communications described in subparagraph C5.6.2.2.1.1., above, or that is acquired inadvertently, shall be destroyed as soon as practical or upon completion of the training and may not be disseminated for any purpose. This limitation does not apply to distress signals.

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### C5.7. PART 7: CONDUCT OF VULNERABILITY AND HEARABILITY SURVEYS

C5.7.1. Applicability and Scope This part of Procedure 5 applies to the conduct of vulnerability surveys and hearability surveys by DoD intelligence components.

#### C5.7.2. Explanation of Undefined Terms

C5.7.2.1. The term vulnerability survey refers to the acquisition of radio frequency propagation and its subsequent analysis to determine empirically the vulnerability of the transmission media to interception by foreign intelligence services.

C5.7.2.2. The term hearability survey refers to monitoring radio communications to determine whether a particular radio signal can be received at one or more locations and, if reception is possible, to determine the hearability of reception over time.

#### C5.7.3. Procedures

C5.7.3.1. Conduct of Vulnerability Surveys. Nonconsensual surveys may be conducted to determine the potential vulnerability to intelligence services of a foreign power of transmission facilities of communications common carriers, other private commercial entities, and entities of the federal government, subject of the following limitations:

C5.7.3.1.1. No vulnerability survey may be conducted without the prior written approval of the Director, National Security Agency, or his designee.

C5.7.3.1.2. No transmission may be acquired aurally.

C5.7.3.1.3. No content of any transmission may be acquired by any means.

C5.7.3.1.4. No transmissions may be recorded.

C5.7.3.1.5. No report or log may identify any United States person or entity except to the extent of identifying transmission facilities that are vulnerable to surveillance by foreign powers. If the identities of the users of such facilities are not identical with the identities of the owners of the facilities, the identity of such users may be obtained but not from the content of the transmissions themselves, and may be included in such report or log. Reports may be disseminated. Logs may be disseminated only if required to verify results contained in reports.

C5.7.3.2. Conduct of Hearability Surveys. The Director, National Security Agency, may conduct, or may authorize the conduct by other Agencies, of hearability surveys of telecommunications that are transmitted in the United States.

C5.7.3.2.1. Collection. When practicable, consent will be secured from the owner or user of the facility against which the hearability survey is to be conducted prior to the commencement of the survey.

C5.7.3.2.2. Processing and Storage. Information collected during a hearability survey must be processed and stored as follows:

C5.7.3.2.2.1. The content of communications may not be recorded or included in any report.

C5.7.3.2.2.2. No microwave transmission may be de-multiplexed or demodulated for any purpose.

C5.7.3.2.2.3. No report or log may identify any person or entity except to the extent of identifying the transmission facility that can be intercepted from the intercept site. If the identities of the users of such facilities are not identical with the identities of the owners of the facilities, and their identities are relevant to the purpose for which the hearability survey has been conducted, the identity of such users may be obtained provided such identities may not be obtained from the contents of the transmissions themselves.

C5.7.3.2.3. Dissemination. Reports may be disseminated only within the U.S. Government. Logs may not be disseminated unless required to verify results contained in reports.

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### C6. CHAPTER 6

#### PROCEDURE 6. CONCEALED MONITORING

##### C6.1. APPLICABILITY AND SCOPE

C6.1.1. This procedure applies to concealed monitoring only for foreign intelligence and counterintelligence purposes conducted by a DoD intelligence component within the United States or directed against a United States person who is outside the United States where the subject of such monitoring does not have a reasonable expectation of privacy, as explained in section 6.2., below, and no warrant would be required if undertaken for law enforcement purposes.

C6.1.2. Concealed monitoring in the United States for foreign intelligence and counterintelligence purposes where the subject of such monitoring has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes shall be treated as "electronic surveillance within the United States" under Part 1 of Procedure 5, and processed pursuant to that procedure.

C6.1.3. Concealed monitoring for foreign intelligence and counterintelligence purposes of a United States person abroad where the subject of such monitoring has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes shall be treated as "electronic surveillance outside the United States" under Part 2 of Procedure 5, and processed pursuant to that procedure.

C6.1.4. Concealed monitoring for foreign intelligence and counterintelligence purposes when the monitoring is a signals intelligence activity shall be conducted pursuant to Part 3 of Procedure 5.

##### C6.2. EXPLANATION OF UNDEFINED TERMS

C6.2.1. Concealed monitoring means targeting by electronic, optical, or mechanical devices a particular person or a group of persons without their consent in a surreptitious and continuous manner. Monitoring is surreptitious when it is targeted in a manner designed to keep the subject of the monitoring unaware of it. Monitoring is continuous if it is conducted without interruption for a substantial period of time.

C6.2.2. Monitoring is within the United States if the monitoring device, or the target of the monitoring, is located within the United States.

C6.2.3. Whether concealed monitoring is to occur where the subject has a reasonable expectation of privacy is a determination that depends upon the circumstances of a particular case, and shall be made only after consultation with the legal office responsible for advising the DoD intelligence component concerned. Reasonable expectation of privacy is the extent to which a reasonable person in the particular circumstances involved is entitled to believe his or her actions are not subject to monitoring by electronic, optical, or mechanical devices. For example, there are ordinarily reasonable expectations of privacy in work spaces if a person's actions and papers are not subject to ready observation by others under normal working conditions. Conversely, a person walking out of his or her residence into a public street ordinarily would not have a reasonable expectation that he or she is not being observed or even photographed; however, such a person ordinarily would have an expectation of privacy within his or her residence.

### C6.3. PROCEDURES

C6.3.1. Limitations On Use of Concealed Monitoring. Use of concealed monitoring under circumstances when the subject of such monitoring has no reasonable expectation of privacy is subject to the following limitations:

C6.3.1.1. Within the United States, a DoD intelligence component may conduct concealed monitoring only on an installation or facility owned or leased by the Department of Defense or otherwise in the course of an investigation conducted pursuant to the Agreement Between the Secretary of Defense and the Attorney General (reference (g)).

C6.3.1.2. Outside the United States, such monitoring may be conducted on installations and facilities owned or leased by the Department of Defense. Monitoring outside such facilities shall be conducted after coordination with appropriate host country officials, if such coordination is required by the governing Status of Forces Agreement, and with the Central Intelligence Agency.

C6.3.2. Required Determination. Concealed monitoring conducted under paragraph C6.3.1., requires approval by an official designated in paragraph C6.3.3., below, based on a determination that such monitoring is necessary to the conduct of assigned foreign intelligence or counterintelligence functions, and does not constitute electronic surveillance under Parts 1 or 2 of Procedure 5.

C6.3.3. Officials Authorized to Approve Concealed Monitoring. Officials authorized to approve concealed monitoring under this procedure include the Deputy

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Under Secretary of Defense (Policy); the Director, Defense Intelligence Agency; the Director, National Security Agency; the Assistant Chief of Staff for Intelligence, Department of Army; the Director, Naval Intelligence; the Director of Intelligence, U.S. Marine Corps; the Assistant Chief of Staff, Intelligence, U.S. Air Force; the Commanding General, Army Intelligence and Security Command; the Director, Naval Investigative Service; and the Commanding Officer, Air Force Office of Special Investigations.

## C7. CHAPTER 7

### PROCEDURE 7. PHYSICAL SEARCHES

#### C7.1. APPLICABILITY

This procedure applies to nonconsensual physical searches of any person or property within the United States and to physical searches of the person or property of a United States person outside the United States by DoD intelligence components for foreign intelligence or counterintelligence purposes. DoD intelligence components may provide assistance to the Federal Bureau of Investigation and other law enforcement authorities in accordance with Procedure 12.

#### C7.2. EXPLANATION OF UNDEFINED TERMS

Physical search means any intrusion upon a person or a person's property or possessions to obtain items of property or information. The term does not include examination of areas that are in plain view and visible to the unaided eye if no physical trespass is undertaken, and does not include examinations of abandoned property left in a public place. The term also does not include any intrusion authorized as necessary to accomplish lawful electronic surveillance conducted pursuant to Parts 1 and 2 of Procedure 5.

#### C7.3. PROCEDURES

##### C7.3.1. Nonconsensual Physical Searches Within the United States

C7.3.1.1. Searches of Active Duty Military Personnel for Counterintelligence Purposes. The counterintelligence elements of the Military Departments are authorized to conduct nonconsensual physical searches in the United States for counterintelligence purposes of the person or property of active duty military personnel, when authorized by a military commander empowered to approve physical searches for law enforcement purposes pursuant to rule 315(d) of the Manual for Courts Martial, Executive Order 12198 (reference (h)), based upon a finding of probable cause to believe such persons are acting as agents of foreign powers. For purposes of this section, the term "agent of a foreign power" refers to an individual who meets the criteria set forth in subparagraph C7.3.1.2., below.



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C7.3.1.2. Other Nonconsensual Physical Searches. Except as permitted by section C7.1., above, DoD intelligence components may not conduct nonconsensual physical searches of persons and property within the United States for foreign intelligence or counterintelligence purposes. DoD intelligence components may, however, request the FBI to conduct such searches. All such requests, shall be in writing; shall contain the information required in subparagraphs C7.3.2.2.1., through C7.3.2.2.2.6., below; and be approved by an official designated in subparagraph C7.3.2.2.2.3., below. A copy of each such request shall be furnished the General Counsel, DoD.

### C7.3.2. Nonconsensual Physical Searches Outside the United States

C7.3.2.1. Searches of Active Duty Military Personnel for Counterintelligence Purposes. The counterintelligence elements of the Military Departments may conduct nonconsensual physical searches of the person or property of active duty military personnel outside the United States for counterintelligence purposes when authorized by a military commander empowered to approve physical searches for law enforcement purposes pursuant to rule 315(d) of the Manual for Courts Martial, Executive Order 12198 (reference (h)), based upon a finding of probable cause to believe such persons are acting as agents of foreign powers. For purposes of this section, the term "agent of a foreign power" refers to an individual who meets the criteria set forth in subparagraph C7.3.2.2.2., below.

C7.3.2.2. Other Nonconsensual Physical Searches. DoD intelligence components may conduct other nonconsensual physical searches for foreign intelligence and counterintelligence purposes of the person or property of United States persons outside the United States only pursuant to the approval of the Attorney General. Requests for such approval will be forwarded by a senior official designated in subparagraph C7.3.2.3., below, to the Attorney General and shall include:

C7.3.2.2.1. An identification of the person or description of the property to be searched.

C7.3.2.2.2. A statement of facts supporting a finding that there is probable cause to believe the subject of the search is:

C7.3.2.2.2.1. A person who, for or on behalf of a foreign power, is engaged in clandestine intelligence activities (including covert activities intended to affect the political or governmental process), sabotage, or international terrorist activities, activities in preparation for international terrorist activities, or who conspires with, or knowingly aids and abets a person engaging in such activities;

C7.3.2.2.2.2. A person who is an officer or employee of a foreign power;

C7.3.2.2.2.3. A person unlawfully acting for, or pursuant to the direction of, a foreign power. The mere fact that a person's activities may benefit or further the aims of a foreign power does not justify a nonconsensual physical search without evidence that the person is taking direction from, or acting in knowing concert with, the foreign power;

C7.3.2.2.2.4. A corporation or other entity that is owned or controlled directly or indirectly by a foreign power; or

C7.3.2.2.2.5. A person in contact with, or acting in collaboration with, an intelligence or security service of a foreign power for the purpose of providing access to information or material classified by the United States to which such person has access.

C7.3.2.2.3. A statement of facts supporting a finding that the search is necessary to obtain significant foreign intelligence or counterintelligence.

C7.3.2.2.4. A statement of facts supporting a finding that the significant foreign intelligence or counterintelligence expected to be obtained could not be obtained by less intrusive means.

C7.3.2.2.5. A description of the significant foreign intelligence or counterintelligence expected to be obtained from the search.

C7.3.2.2.6. A description of the extent of the search and a statement of facts supporting a finding that the search will involve the least amount of physical intrusion that will accomplish the objective sought.

C7.3.2.2.7. A description of the expected dissemination of the product of the search, including a description of the procedures that will govern the retention and dissemination of information about United States persons acquired incidental to the search.

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C7.3.2.3. Requests for approval of nonconsensual physical searches under subparagraph C7.3.2.2., must be made by:

C7.3.2.3.1. The Secretary or the Deputy Secretary of Defense;

C7.3.2.3.2. The Secretary or the Under Secretary of a Military Department;

C7.3.2.3.3. The Director, National Security Agency; or

C7.3.2.3.4. The Director, Defense Intelligence Agency.

C8. CHAPTER 8PROCEDURE 8. SEARCHES AND EXAMINATION OF MAILC8.1. APPLICABILITY

This procedure applies to the opening of mail in United States postal channels, and the use of mail covers with respect to such mail, for foreign intelligence and counterintelligence purposes. It also applies to the opening of mail to or from United States persons where such activity is conducted outside the United States and such mail is not in United States postal channels.

C8.2. EXPLANATION OF UNDEFINED TERMSC8.2.1. Mail Within United States Postal Channels includes:

C8.2.1.1. Mail while in transit within, among, and between the United States, its territories and possessions (including mail of foreign origin that is passed by a foreign postal administration, to the United States Postal Service for forwarding to a foreign postal administration under a postal treaty or convention, and mail temporarily in the hands of the United States Customs Service or the Department of Agriculture), Army-Air Force (APO) and Navy (FPO) post offices, and mail for delivery to the United Nations, NY; and

C8.2.1.2. International mail enroute to an addressee in the United States or its possessions after passage to United States Postal Service from a foreign postal administration or enroute to an addressee abroad before passage to a foreign postal administration. As a rule, mail shall be considered in such postal channels until the moment it is delivered manually in the United States to the specific addressee named on the envelope, or his authorized agent.

C8.2.2. To examine mail means to employ a mail cover with respect to such mail.

C8.2.3. Mail cover means the process by which a record is made of any data appearing on the outside cover of any class of mail matter as permitted by law, other than that necessary for the delivery of mail or administration of the Postal Service.

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### C8.3. PROCEDURES

#### C8.3.1. Searches of Mail Within United States Postal Channels

C8.3.1.1. Applicable postal regulations do not permit DoD intelligence components to detain or open first-class mail within United States postal channels for foreign intelligence and counterintelligence purposes, or to request such action by the U.S. Postal Service.

C8.3.1.2. DoD intelligence components may request appropriate U.S. postal authorities to inspect, or authorize the inspection, of the contents of second-, third-, or fourth-class mail in United States postal channels, for such purposes, in accordance with applicable postal regulations. Such components may also request appropriate U.S. postal authorities to detain, or permit the detention of, mail that may become subject to search under this section, in accordance with applicable postal regulations.

#### C8.3.2. Searches of Mail Outside United States Postal Channels

C8.3.2.1. DoD intelligence components are authorized to open mail to or from a United States person that is found outside United States postal channels only pursuant to the approval of the Attorney General. Requests for such approval shall be treated as a request for a nonconsensual physical search under subparagraph C7.3.2.2., of Procedure 7.

C8.3.2.2. Heads of DoD intelligence components may authorize the opening of mail outside U.S. postal channels when both the sender and intended recipient are other than United States persons if such searches are otherwise lawful and consistent with any Status of Forces Agreement that may be in effect.

#### C8.3.3. Mail Covers

C8.3.3.1. DoD intelligence components may request U.S. postal authorities to examine mail in U.S. postal channels, for counterintelligence purposes, in accordance with applicable postal regulations.

C8.3.3.2. DoD intelligence components may also request mail covers with respect to mail to or from a United States person that is outside U.S. postal channels, in accordance with appropriate law and procedure of the host government, and any Status of Forces Agreement that may be effect.

C9. CHAPTER 9PROCEDURE 9. PHYSICAL SURVEILLANCEC9.1. APPLICABILITY

This procedure applies only to the physical surveillance of United States persons by DoD intelligence components for foreign intelligence and counterintelligence purposes. This procedure does not apply to physical surveillance conducted as part of a training exercise when the subjects are participants in the exercise.

C9.2. EXPLANATION OF UNDEFINED TERMS

The term physical surveillance means a systematic and deliberate observation of a person by any means on a continuing basis, or the acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance.

C9.3. PROCEDURES

C9.3.1. Criteria for Physical Surveillance In the United States. Within the United States, DoD Intelligence components may conduct nonconsensual physical surveillances for foreign intelligence and counterintelligence purposes against United States persons who are present or former employees of the intelligence component concerned; present or former contractors of such components or their present or former employees; applicants for such employment or contracting; or military persons employed by a non-intelligence element of a Military Service. Any physical surveillance within the United States that occurs outside a DoD installation shall be coordinated with the FBI and other law enforcement agencies, as may be appropriate.

C9.3.2. Criteria for Physical Surveillance Outside the United States. Outside the United States, DoD Intelligence components may conduct nonconsensual physical surveillance of United States persons in one of the categories identified in paragraph C9.3.1., above. In addition, such components may conduct physical surveillance of other United States persons in the course of a lawful foreign intelligence or counterintelligence investigation, provided:

C9.3.2.1. Such surveillance is consistent with the laws and policy of the host government and does not violate any Status of Forces Agreement that may be in effect;

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C9.3.2.2. That physical surveillance of a United States person abroad to collect foreign intelligence may be authorized only to obtain significant information that cannot be obtained by other means.

### C9.3.3. Required Approvals for Physical Surveillance

C9.3.3.1. Persons Within DoD Investigative Jurisdiction. Physical surveillances within the United States or that involve United States persons within DoD investigative jurisdiction overseas may be approved by the head of the DoD intelligence component concerned or by designated senior officials of such components in accordance with this procedure.

C9.3.3.2. Persons Outside DoD Investigative Jurisdiction. Outside the United States, physical surveillances of United States persons who are not within the investigative jurisdiction of the DoD intelligence component concerned will be forwarded through appropriate channels to the Deputy Under Secretary of Defense (Policy) for approval. Such requests shall indicate coordination with the Central Intelligence Agency.

## C10. CHAPTER 10

### PROCEDURE 10. UNDISCLOSED PARTICIPATION IN ORGANIZATIONS

#### C10.1. APPLICABILITY

This procedure applies to participation by employees of DoD intelligence components in any organization within the United States, or any organization outside the United States that constitutes a United States person, when such participation is on behalf of any entity of the intelligence community. These procedures do not apply to participation in organizations for solely personal purposes.

#### C10.2. EXPLANATION OF UNDEFINED TERMS

C10.2.1. Domestic activities refers to activities that take place within the United States that do not involve a significant connection with a foreign power, organization or person.

C10.2.2. The term organization includes corporations and other commercial organizations, academic institutions, clubs, professional societies, associations, and any other group whose existence is formalized in some manner or otherwise functions on a continuing basis.

C10.2.3. An organization within the United States means all organizations physically located within the geographical boundaries of the United States whether or not they constitute a United States persons. Thus, a branch, subsidiary, or office of an organization within the United States, which is physically located outside the United States, is not considered as an organization within the United States.

C10.2.4. Participation refers to any action undertaken within the structure or framework of the organization involved. Such actions include serving as a representative or agent of the organization; acquiring membership; attending meetings not open to the public, including social functions for the organization as a whole; carrying out the work or functions of the organization; and contributing funds to the organization other than in payment for goods or services. Actions taken outside the organizational framework, however, do not constitute participation. Thus, attendance at meetings or social gatherings that involve organization members, but are not functions or activities of the organization itself does not constitute participation.



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C10.2.5. Participation is on behalf of an agency within the intelligence community when an employee is tasked or requested to take action within an organization for the benefit of such agency. Such employee may already be a member of the organization or may be asked to join. Actions undertaken for the benefit of an intelligence agency include collecting information, identifying potential sources or contacts, or establishing and maintaining cover. If a cooperating source furnishes information to an intelligence agency that he or she obtained by participation within an organization, but was not given prior direction or tasking by the intelligence agency to collect such information, then such participation was not on behalf of such agency.

C10.2.6. Participation is solely for personal purposes, if undertaken at the initiative and expense of the employee for the employee's benefit.

### C10.3. PROCEDURES FOR UNDISCLOSED PARTICIPATION

Except as permitted herein, employees of DoD intelligence components may participate on behalf of such components in organizations within the United States, or in organizations outside the United States that constitute United States persons, only if their affiliation with the intelligence component concerned is disclosed to an appropriate official of the organization in accordance with section C10.4., below. Participation without such disclosure is permitted only if it is consistent with the limitations set forth in paragraph C10.3.1., below, and has been approved in accordance with paragraph C10.3.2., below.

#### C10.3.1. Limitations On Undisclosed Participation

C10.3.1.1. Lawful Purpose. No undisclosed participation shall be permitted under this procedure unless it is essential to achieving a lawful foreign intelligence or counterintelligence purpose within the assigned mission of the collecting DoD intelligence component.

C10.3.1.2. Limitations On Use of Undisclosed Participation for Foreign Intelligence Purposes Within the United States. Undisclosed participation may not be authorized within the United States for the purpose of collecting foreign intelligence from or about a United States person, nor to collect information necessary to assess United States persons as potential sources of assistance to foreign intelligence activities. This does not preclude the collection of information about such persons, volunteered by cooperating sources participating in organizations to which such persons belong, however, if otherwise permitted by Procedure 2.

C10.3.1.3. Duration of Participation. Authorization to participate under subparagraphs C10.3.2.1., and C10.3.2.2., shall be limited to the period covered by such participation, which shall be no longer than 12 months. Participation that lasts longer than 12 months shall be re-approved by the appropriate official on an annual basis in accordance with this procedure.

C10.3.1.4. Participation for the Purpose of Influencing the Activities of the Organization or Its Members. No participation under this procedure shall be authorized for the purpose of influencing the activities of the organization in question, or its members, unless such participation is undertaken on behalf of the FBI in the course of a lawful investigation, or the organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power. Any DoD intelligence component that desires to undertake participation for such purpose shall forward its request to the Deputy Under Secretary of Defense (Policy) setting forth the relevant facts justifying such participation and explaining the nature of its contemplated activity. Such participation may be approved by the DUSD(P) with the concurrence of the General Counsel, DoD.

## C10.3.2. Required Approvals

C10.3.2.1. Undisclosed Participation That May Be Approved Within the DoD Intelligence Component. Undisclosed participation on behalf of a DoD intelligence component may be authorized with such component under the following circumstances:

C10.3.2.1.1. Participation in meetings open to the public. For purposes of this section, a seminar or conference sponsored by a professional organization that is open to persons of a particular profession, whether or not they are members of the organization itself or have received a special invitation, shall be considered a meeting open to the public.

C10.3.2.1.2. Participation in organizations that permit other persons acknowledged to the organization to be employees of the U.S. Government to participate.

C10.3.2.1.3. Participation in educational or professional organizations for the purpose of enhancing the professional skills, knowledge, or capabilities of employees.

C10.3.2.1.4. Participation in seminars, forums, conferences, exhibitions, trade fairs, workshops, symposiums, and similar types of meetings, sponsored by organizations in which the employee is a member, has been invited to participate, or

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when the sponsoring organization does not require disclosure of the participants' employment affiliations, for the purpose of collecting significant foreign intelligence that is generally made available to participants at such meetings, and does not involve the domestic activities of the organization or its members.

C10.3.2.2. Participation That May Be Approved By Senior Intelligence Officials. Undisclosed participation may be authorized by the Deputy Under Secretary of Defense (Policy); the Director, Defense Intelligence Agency; the Assistant Chief of Staff for Intelligence, Department of Army; the Commanding General, U.S. Army Intelligence and Security Command; the Director of Naval Intelligence; the Director of Intelligence, U.S. Marine Corps; the Assistant Chief of Staff, Intelligence, United States Air Force; the Director, Naval Investigative Service; the Commanding Officer, Air Force Office of Special Investigations; or their single designees, for the following purposes:

C10.3.2.2.1. To collect significant foreign intelligence outside the United States, or from or about other than United States persons within the United States, provided no information involving the domestic activities of the organization or its members may be collected.

C10.3.2.2.2. For counterintelligence purposes, at the written request of the Federal Bureau of Investigation.

C10.3.2.2.3. To collect significant counterintelligence about other than United States persons, or about United States persons who are within the investigative jurisdiction of the Department of Defense, provided any such participation that occurs within the United States shall be coordinated with the Federal Bureau of Investigation.

C10.3.2.2.4. To collect information necessary to identify and assess other than United States persons as potential sources of assistance for foreign intelligence and counterintelligence activities.

C10.3.2.2.5. To collect information necessary to identify United States persons as potential sources of assistance to foreign intelligence and counterintelligence activities.

C10.3.2.2.6. To develop or maintain cover necessary for the security of foreign intelligence or counterintelligence activities.

C10.3.2.2.7. Outside the United States, to assess United States persons as potential sources of assistance to foreign intelligence and counterintelligence activities.

## C10.4. DISCLOSURE REQUIREMENT

C10.4.1. Disclosure of the intelligence affiliation of an employee of a DoD intelligence component shall be made to an executive officer of the organization in question, or to an official in charge of membership, attendance, or the records of the organization concerned.

C10.4.2. Disclosure may be made by the DoD intelligence component involved, an authorized DoD official, or by another component of the Intelligence Community that is otherwise authorized to take such action on behalf of the DoD intelligence component concerned.

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### C11. CHAPTER 11

#### PROCEDURE 11. CONTRACTING FOR GOODS AND SERVICES

##### C11.1. APPLICABILITY

This procedure applies to contracting or other arrangements with United States persons for the procurement of goods and services by DoD intelligence components within the United States. This procedure does not apply to contracting with government entities, or to the enrollment of individual students in academic institutions. The latter situation is governed by Procedure 10.

##### C11.2. PROCEDURES

C11.2.1. Contracts with Academic Institutions. DoD intelligence components may enter into a contract for goods or services with an academic institution only if prior to the making of the contract, the intelligence component has disclosed to appropriate officials of the academic institution the fact of sponsorship by a DoD intelligence component.

C11.2.2. Contracts with Commercial Organizations, Private Institutions, and Individuals. Contracting by or for a DoD intelligence component with commercial organizations, private institutions, or private individuals within the United States may be done without revealing the sponsorship of the intelligence component if:

C11.2.2.1. The contract is for published material available to the general public or for routine goods or services necessary for the support of approved activities, such as credit cards, car rentals, travel, lodging, meals, rental of office space or apartments, and other items incident to approved activities; or

C11.2.2.2. There is a written determination by the Secretary or the Under Secretary of a Military Department, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, or the Deputy Under Secretary of Defense (Policy) that the sponsorship of a DoD intelligence component must be concealed to protect the activities of the DoD intelligence component concerned.

## C11.3. EFFECT OF NONCOMPLIANCE

No contract shall be void or voidable for failure to comply with this procedure.

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### C12. CHAPTER 12

#### PROCEDURE 12. PROVISION OF ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

##### C12.1. APPLICABILITY

This procedure applies to the provision of assistance by DoD intelligence components to law enforcement authorities. It incorporates the specific limitations on such assistance contained in E.O. 12333 (reference (a)), together with the general limitations and approval requirements of DoD Directive 5525.5 (reference (i)).

##### C12.2. PROCEDURES

C12.2.1. Cooperation with Law Enforcement Authorities. Consistent with the limitations contained in DoD Directive 5525.5 (reference (i)), and paragraph C12.2.2., below, DoD intelligence components are authorized to cooperate with law enforcement authorities for the purpose of:

C12.2.1.1. Investigating or preventing clandestine intelligence activities by foreign powers, international narcotics activities, or international terrorist activities;

C12.2.1.2. Protecting DoD employees, information, property, and facilities;  
and

C12.2.1.3. Preventing, detecting, or investigating other violations of law.

C12.2.2. Types of Permissible Assistance. DoD intelligence components may provide the following types of assistance to law enforcement authorities:

C12.2.2.1. Incidentally acquired information reasonably believed to indicate a violation of Federal law shall be provided in accordance with the procedures adopted pursuant to section 1.7(a) of E.O. 12333 (reference (a));

C12.2.2.2. Incidentally acquired information reasonably believed to indicate a violation of State, local, or foreign law may be provided in accordance with procedures adopted by the Heads of DoD Components;

C12.2.2.3. Specialized equipment and facilities may be provided to Federal law enforcement authorities, and, when lives are endangered, to State and local law

enforcement authorities, provided such assistance is consistent with, and has been approved by an official authorized pursuant to, Enclosure 3 of DoD Directive 5525.5 (reference (i)); and

C12.2.2.4. Personnel who are employees of DoD intelligence components may be assigned to assist Federal law enforcement authorities, and, when lives are endangered, State and local law enforcement authorities, provided such use is consistent with, and has been approved by an official authorized pursuant to, Enclosure 4 of DoD Directive 5525.5 (reference (i)). Such official shall ensure that the General Counsel of the providing DoD Component concurs in such use.

C12.2.2.5. Assistance may be rendered to law enforcement agencies and security services of foreign governments or international organizations in accordance with established policy and applicable Status of Forces Agreements; provided, that DoD intelligence components may not request or participate in activities of such agencies undertaken against United States persons that would not be permitted such components under these procedures.



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### C13. CHAPTER 13

#### PROCEDURE 13. EXPERIMENTATION ON HUMAN SUBJECTS FOR INTELLIGENCE PURPOSES

##### C13.1. APPLICABILITY

This procedure applies to experimentation on human subjects if such experimentation is conducted by or on behalf of a DoD intelligence component. This procedure does not apply to experimentation on animal subjects.

##### C13.2. EXPLANATION OF UNDEFINED TERMS

C13.2.1. Experimentation in this context means any research or testing activity involving human subjects that may expose such subjects to the possibility of permanent or temporary injury (including physical or psychological damage and damage to the reputation of such persons) beyond the risks of injury to which such subjects are ordinarily exposed in their daily lives.

C13.2.2. Experimentation is conducted on behalf of a DoD intelligence component if it is conducted under contract to that component or to another DoD Component for the benefit of the intelligence component or at the request of such a component regardless of the existence of a contractual relationship.

C13.2.3. Human subjects in this context includes any person whether or not such person is a United States person.

##### C13.3. PROCEDURES

C13.3.1. Experimentation on human subjects conducted by or on behalf of a DoD intelligence component may be undertaken only with the informed consent of the subject, in accordance with guidelines issued by the Department of Health and Human Services, setting out conditions that safeguard the welfare of such subjects.

C13.3.2. DoD intelligence components may not engage in or contract for experimentation on human subjects without approval of the Secretary or Deputy Secretary of Defense, or the Secretary or Under Secretary of a Military Department, as appropriate.

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### C14. CHAPTER 14

#### PROCEDURE 14. EMPLOYEE CONDUCT

##### C14.1. APPLICABILITY

This procedure sets forth the responsibilities of employees of DoD intelligence components to conduct themselves in accordance with this Regulation and other applicable policy. It also provides that DoD intelligence components shall ensure, as appropriate, that these policies and guidelines are made known to their employees.

##### C14.2. PROCEDURES

C14.2.1. Employee Responsibilities. Employees shall conduct intelligence activities only pursuant to, and in accordance with, Executive Order 12333 (reference (a)) and this Regulation. In conducting such activities, employees shall not exceed the authorities granted the employing DoD intelligence component by law; Executive order, including E.O. 12333 (reference (a)), and applicable DoD Directives.

##### C14.2.2. Familiarity With Restrictions

C14.2.2.1. Each DoD intelligence component shall familiarize its personnel with the provisions of E.O. 12333 (reference (a)), this Regulation, and any instructions implementing this Regulation that apply to the operations and activities of such component. At a minimum, such familiarization shall contain:

C14.2.2.1.1. Applicable portions of Procedures 1 through 4;

C14.2.2.1.2. A summary of other procedures that pertains to collection techniques that are, or may be, employed by the DoD intelligence component concerned; and

C14.2.2.1.3. A statement of individual employee reporting responsibility under Procedure 15.

C14.2.2.2. The Assistant to the Secretary of Defense (Intelligence Oversight) (ATSD(IQ)) and each Inspector General responsible for a DoD intelligence component shall ensure, as part of their inspections, that procedures are in effect that will achieve the objectives set forth in subparagraph C14.2.2.1., above.

C14.2.3. Responsibilities of the Heads of DoD Components. The Heads of DoD Components that constitute, or contain, DoD intelligence components shall:

C14.2.3.1. Ensure that all proposals for intelligence activities that may be unlawful, in whole or in part, or may be contrary to applicable Executive Branch or DoD policy are referred to the General Counsel responsible for such component.

C14.2.3.2. Ensure that no adverse action is taken against any employee because the employee reports activities pursuant to Procedure 15.

C14.2.3.3. Impose such sanctions as may be appropriate upon any employee who violates the provisions of this Regulation or any instruction promulgated thereunder.

C14.2.3.4. In any case involving serious or continuing breaches of security by either DoD or non-DoD employees, recommend to the Secretary of Defense appropriate investigative actions.

C14.2.3.5. Ensure that the General Counsel and Inspector General with responsibility for the component, as well as the General Counsel, DoD, and the ATSD(IO), have access to all information concerning the intelligence activities of that component necessary to perform their oversight responsibilities.

C14.2.3.6. Ensure that employees cooperate fully with the Intelligence Oversight Board and its representatives.

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### C15. CHAPTER 15

#### PROCEDURE 15. IDENTIFYING, INVESTIGATING, AND REPORTING QUESTIONABLE ACTIVITIES

##### C15.1. APPLICABILITY

This procedure provides for the identification, investigation, and reporting of questionable intelligence activities.

##### C15.2. EXPLANATION OF UNDEFINED TERMS

C15.2.1. The term "questionable activity," as used herein, refers to any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any Executive order or Presidential directive, including E.O. 12333 (reference (a)), or applicable DoD policy, including this Regulation.

C15.2.2. The terms "General Counsel" and "Inspector General," as used herein, refer, unless otherwise specified, to any General Counsel or Inspector General with responsibility for one or more DoD intelligence components. Unless otherwise indicated, the term "Inspector General" shall also include the ATSD(IO).

##### C15.3. PROCEDURES

###### C15.3.1. Identification

C15.3.1.1. Each employee shall report any questionable activity to the General Counsel or Inspector General for the DoD intelligence component concerned, or to the General Counsel, DoD, or ATSD(IO).

C15.3.1.2. Inspectors General, as part of their inspection of DoD intelligence components, and General Counsels, as part of their oversight responsibilities shall seek to determine if such components are involved in any questionable activities. If such activities have been or are being undertaken, the matter shall be investigated under paragraph C15.3.2., below. If such activities have been undertaken, but were not reported, the Inspector General shall also ascertain the reason for such failure and recommend appropriate corrective action.

C15.3.1.3. Inspectors General, as part of their oversight responsibilities, shall, as appropriate, ascertain whether any organizations, staffs, or offices within their respective jurisdictions, but not otherwise specifically identified as DoD intelligence components, are being used for foreign intelligence or counterintelligence purposes to which Part 2 of E.O. 12333 (reference (a)), applies, and, if so, shall ensure the activities of such components are in compliance with this Regulation and applicable DoD policy.

C15.3.1.4. Inspectors General, as part of their inspection of DoD intelligence components, shall ensure that procedures exist within such components for the reporting of questionable activities, and that employees of such components are aware of their responsibilities to report such activities.

## C15.3.2. Investigation

C15.3.2.1. Each report of a questionable activity shall be investigated to the extent necessary to determine the facts and assess whether the activity is legal and is consistent with applicable policy.

C15.3.2.2. When appropriate, questionable activities reported to a General Counsel shall be referred to the corresponding Inspector General for investigation, and if reported to an Inspector General, shall be referred to the corresponding General Counsel to determine whether the activity is legal and consistent with applicable policy. Reports made to the DoD General Counsel or the ATSD(IO) may be referred, after consultation between these officials, to the appropriate Inspector General and General Counsel for investigation and evaluation.

C15.3.2.3. Investigations shall be conducted expeditiously. The officials responsible for these investigations may, in accordance with established procedures, obtain assistance from within the component concerned, or from other DoD Components, when necessary, to complete such investigations in a timely manner.

C15.3.2.4. To complete such investigations, General Counsels and Inspectors General shall have access to all relevant information regardless of classification or compartmentation.

## C15.3.3. Reports

C15.3.3.1. Each General Counsel and Inspector General shall report immediately to the General Counsel, DoD, and the ATSD(IO) questionable activities of a serious nature.

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*DoD 5240.1-R, December 1982*

C15.3.3.2. Each General Counsel and Inspector General shall submit to the ATSD(IO) a quarterly report describing those activities that come to their attention during the quarter reasonably believed to be illegal or contrary to Executive order or Presidential directive, or applicable DoD policy; and actions taken with respect to such activities. The reports shall also include significant oversight activities undertaken during the quarter and any suggestions for improvements in the oversight system. Separate, joint, or consolidated reports may be submitted. These reports should be prepared in accordance with DoD Directive 5000.11 (reference (j)).

C15.3.3.3. All reports made pursuant to subparagraphs C15.3.3.1., and C15.3.3.2., above, which involve a possible violation of Federal criminal law shall be considered by the General Counsel concerned in accordance with the procedures adopted pursuant to section 1.7(a) of E.O. 12333 (reference (a)).

C15.3.3.4. The General Counsel, DoD, and the ATSD(IO) may review the findings of other General Counsels and Inspectors General with respect to questionable activities.

C15.3.3.5. The ATSD(IO) and the General Counsel, DoD, shall report in a timely manner to the White House Intelligence Oversight Board all activities that come to their attention that are reasonably believed to be illegal or contrary to Executive order or Presidential directive. They will also advise appropriate officials of the Office of the Secretary of Defense of such activities.

C15.3.3.6. These reporting requirements are exempt from format approval and licensing in accordance with paragraph VII.G. of Enclosure 3 to DoD Directive 5000.19 (reference (k)).

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## APPENDIX 2-8: AR 500-51 - SUPPORT TO CIVILIAN LAW ENFORCEMENT

AR 500-51

### Support to Civilian Law Enforcement

Headquarters  
Department of the Army  
Washington, DC  
1 July 1983  
Emergency Employment of Army and Other Resources  
Support to Civilian Law Enforcement  
Army Regulation 500-51  
Effective 1 August 1983

By Order of Secretary of the Army  
John A. Wickham, Jr.  
*General, United States Army*  
*Chief of Staff*

Official:

Robert M. Joyce  
*Major General, United States Army*  
*The Adjutant General*

#### **History.**

**Summary .** This regulation implements DoD Directive 5525.5 . It also establishes uniform Department of the Army and procedures covering support provided to Federal, State, and local civilian law enforcement officials.

**Applicability.** This regulation applies to all Active Army, Army National Guard (in Federalized status), and US Army Reserve elements furnishing resources to assist civilian law enforcement officials in the performance of their duties.

**Proponent and exception authority .**

Not applicable.

**Impact on New Manning System.** This regulation does not contain information that affects the New Manning System.

**Army management control process .**

Not applicable.

**Supplementation.** Supplementation of this regulation is prohibited unless prior approval is obtained from HQDA (DAMO-ODS), WASH DC 20310.

**Interim changes.** Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

**Suggested Improvements.** The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Operations and Plans. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA(DAMO-ODS), WASH DC 20310.

**Distribution.** Active Army, C; ARNG, C; USAR, C.

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## **Chapter 1**

### **Introduction**

#### **Section I**

##### **General**

##### **1-1. Purpose**

This regulation prescribes Department of the Army (DA) policies and procedures for providing Army resources in support of Federal, State, and local civilian law enforcement agencies.

##### **1-2. References**

Required publications are listed in appendix A.

##### **1-3. Explanation of abbreviations and terms**

###### *a. Abbreviations.*

- (1) ACSI—Assistant Chief of Staff for Intelligence.
- (2) ASD (MRA&L)—Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).
- (3) COA—Comptroller of the Army.
- (4) CPA—Chief of Public Affairs.
- (5) DA—Department of the Army.
- (6) DCSLOG—Deputy Chief of Staff for Logistics.
- (7) DCSOPS—Deputy Chief of Staff for Operations and Plans.
- (8) DCSPER—Deputy Chief of Staff for Personnel.
- (9) DOD—Department of Defense.
- (10) HQDA—Headquarters, Department of the Army.
- (11) MACOM—major Army command.
- (12) POC—point of contact.
- (13) USSS—US Secret Service.

###### *b. Terms.*

(1) *Civilian agency.* Government agency (other than the DOD) in the following jurisdictions:

- (a) The United States.
- (b) A State (or political subdivision).
- (c) A territory or possession of the United States.

(2) *Civilian law enforcement official.* Officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of the agency.

##### **1-4. Policy**

*a.* DA policy is to cooperate with civilian law enforcement officials to the maximum extent possible consistent with the following:

- (1) The needs of national security and military preparedness.
- (2) The tradition of limiting direct military involvement in civilian law enforcement activities.
- (3) The requirements of applicable law.

*b.* The policies and procedures regarding equipment loans apply to all US military property, including property issued to the National Guard.

##### **1-5. Reporting requirements**

A three-part quarterly report (RCS DD-M (Q)1595) of all requests for assistance (approved, denied, or pending) will be submitted by commanders of major Army commands (MACOMs) to HQDA(DALO-SMS/DAMO-ODS), WASH DC 20310. The report will show action taken (approval, denial, or pending) and other appropriate information. (The format for this report is shown in app B.) The report is due the 15th of the month following the end of each quarter (15 April, 15 July, 15 October, and 15 January).

##### **1-6. Release of information**

*a.* The civilian agency with primary responsibility for law enforcement functions also is responsible for the release of information to the public about the function concerned. Release of information by the civilian

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

agency should be coordinated with Headquarters, Department of the Army (HQDA). The Army may release such information, however, under AR 360–5.

*b.* When assistance is provided under this regulation, the Army may require that it be the sole releasing authority of information concerning the Army assistance provided.

### **1–7. Military preparedness**

Assistance may not be provided under this regulation if the provision of the assistance could affect adversely the national security or military preparedness.

## **Section II**

### **Responsibilities**

#### **1–8. Deputy Chief of Staff for Operations and Plans(DCSOPS)**

The DCSOPS will—

*a.* Serve as Army Staff proponent for the Army’s program for cooperating with civilian law enforcement officials.

*b.* Provide a single Army Staff point of contact (POC) for processing requests for—

(1) Personnel to support civilian law enforcement officials.

(2) Loans of equipment of an operational immediate nature.

*c.* Submit for review by the Joint Chiefs of Staff those requests which a unified or specified commander has assessed as having an adverse impact on national security or military preparedness.

#### **1–9. Deputy Chief of Staff for Logistics (DCSLOG)**

The DCSLOG will provide a single Army Staff POC for coordinating routine requests for the loan of Army equipment to civilian law enforcement officials.

#### **1–10. Comptroller of the Army (COA)**

The COA will provide policy guidance on costing, reimbursement, and accounting for support provided to civilian agencies.

#### **1–11. Assistant Chief of Staff of Intelligence (ACSI)**

The ACSI will provide a POC for coordinating the release of military intelligence–related information to civilian agencies.

#### **1–12. Deputy Chief of Staff for Personnel (DCSPER)**

The DCSPER will provide a POC for coordinating the release of nonmilitary intelligence information to civilian agencies.

#### **1–13. Chief of Public Affairs (CPA)**

The CPA will provide a POC for coordination and release of information to the public regarding Army support provided to civilian law enforcement officials.

#### **1–14. Commanders of major Army commands (MACOMs)**

MACOM commanders will—

*a.* Insure that local POCs are established at all levels for coordination with civilian law enforcement officials.

*b.* Obtain an impact statement from the unified or specified commander concerned when requests for Army assistance involve resources in support of a unified or specified command.

*c.* Submit to HQDA(DAMO–ODS) requests that a unified or specified commander assesses as having an adverse impact on national security or military preparedness.

#### **1–15. Commanders of local installations and activities**

These commanders will—

*a.* Maintain liaison with local civilian law enforcement officials.

*b.* Approve, or forward with recommendation, loan requests from local civilian law enforcement officials.

## **Chapter 2**

### **Use of Collected Information, and Military**

### **Equipment and Facilities**

## **Section I**

### **Use of Collected Information**

#### **2–1. Concept**

*a.* Army organizations are encouraged to furnish information collected in the normal course of military operations to the civilian law enforcement agency having jurisdiction. This is true if the information is reasonably believed to be relevant to violations of Federal, State, or local law. Information from

noninvestigative agencies will be provided to the installation Provost Marshal for release. The installation Provost Marshal will coordinate with the local Staff Judge Advocate before releasing this information.

*b.* Procedures for disclosure of this information are set forth in AR 340–17, AR 340–21, and AR 381–45.

*c.* Nothing in this regulation modifies Army policies and procedures contained in AR 381–10. These policies and procedures concern collection or dissemination of information for intelligence or counterintelligence purposes.

*d.* Unless participation is authorized by law, or AR 381–10, provisions of assistance to civil law enforcement officials under this regulation may not include or permit the following by Army members:

(1) Interdiction of a vessel, aircraft, or land vehicle.

(2) Search or seizure, arrest, or other similar activity.

*e.* Planning and execution of compatible military training and operations may consider the needs of civilian law enforcement officials for information, when the collection of information is an incidental aspect of training performed for a military purpose. This does not permit the following:

(1) Planning or creating missions or training for the primary purpose of aiding civilian law enforcement officials.

(2) Conducting training or missions for the purpose of routinely collecting information about US citizens.

## **2–2. Acquisition and dissemination**

Acquisition and dissemination of information and assistance to civil law enforcement agencies will be in accordance with section 371, title 10, United States Code, and AR 340–17, AR 340–21, AR 380–13, AR 381–10, and AR 381–20.

## **Section II**

### **Use of Military Equipment and Facilities**

#### **2–3. Equipment and facilities**

*a.* Army installations may make the following available to Federal, State, or local civilian law enforcement officials for law enforcement purposes:

(1) Equipment.

(2) Installation facilities.

(3) Research facilities.

*b.* This assistance can be provided only if it does not adversely affect national security or military preparedness.

#### **2–4. Limitations on use of personnel**

*a.* A request for training, expert advice, or the use of DA personnel to operate or maintain, or to assist in operating or maintaining, equipment made available under paragraph 2–3 will be considered under the guidance in chapter 3.

*b.* Personnel in DA intelligence components also are subject to the limitations in AR 381–10.

#### **2–5. Approval authority**

*a.* Requests for the following will be processed under AR 500–50, AR 500–60, AR 75–15, or AR 1–4:

(1) Military assistance in the event of civil disturbance.

(2) Disaster relief.

(3) Explosive ordnance support.

(4) Support to the US Secret Service (USSS).

*b.* When requests for this equipment are not connected with civil disturbance, disaster relief, or support to the USSS, the requests should be processed as shown below.

(1) Requests for the following will be forwarded from the MACOM to HQDA(DALO–SMS):

(*a.*) Arms.

(*b.*) Ammunition.

(*c.*) Combat and tactical vehicles.

(*d.*) Combat and tactical vessels.

(*e.*) Aircraft.

(*f.*) Other equipment in excess of 60 days.

(*g.*) Special equipment requiring Department of Defense (DOD) approval.

(2) Requests for loans of all other equipment will be processed under AR 700–131.

*c.* Requests for the use of installation or research facilities will be forwarded from MACOM to HQDA(DAMO–ODS) for approval.

*d.* Requests for DA intelligence components to provide assistance will be forwarded from MACOM to HQDA(DAMI–CI) for consideration under AR 381–10.

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*e.* All requests will be submitted promptly to the approving authority, including those for which subordinate authorities recommend denial. Requests will be forwarded and processed in keeping with the appropriate degree of urgency dictated by the situation.

### **Chapter 3**

#### **Participation of Personnel in Civilian Law**

#### **Enforcement Activities**

#### **Section I**

#### **Approval Authority**

##### **3-1. Requests**

Requests by civilian law enforcement officials for use of Army personnel in civilian law enforcement functions will be forwarded through command channels to the appropriate approval authority. Guidance in this chapter will be used.

*a.* Use of Army personnel in civil disturbances and related matters is governed by AR 500-50; approval authorities are specified in AR 500-50.

*b.* Requests for assistance to the government of the District of Columbia should be forwarded to HQDA(DAMO-ODS), WASH DC 20310.

*c.* Requests for the assignment of personnel will be forwarded to HQDA(DAMO-ODS).

(1) Secretary of Defense approval is required for requests that involve—

*(a)* Assignment of 50 or more Army personnel.

*(b)* Period of assignment of more than 30 days.

(2) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) is the approval authority for other requests for personnel assignment.

*d.* Approval authority has been granted to HQDA(DAMO-ODS) for requests for assistance by Army personnel for a period of 6 months or less in the following categories:

(1) Use of Army personnel to provide training or expert advice, under paragraphs 3-6 and 3-7.

(2) Use of Army personnel for equipment maintenance, under paragraph 3-8.

(3) Use of Army personnel for monitoring and communicating the movement of air and sea traffic, under paragraph 3-3.

*e.* Requests that involve Army intelligence components are subject to the—

(1) Limitations in AR 381-10 and AR 381-20.

(2) Approval of the Secretary of Defense.

*f.* All requests will be submitted promptly to the approving authority; these requests will include those in which subordinate authorities recommend denial. Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

##### **3-2. Exceptions based on status**

Restrictions in section II below are not applicable to the following persons:

*a.* Members of a Reserve Component when not on active duty or active duty for training.

*b.* Members of the Army National Guard when not in Federal service.

*c.* Civilian employees of the DOD. (If under direct command and control of a military officer, assistance will not be provided unless permitted under para 3-1.)

*d.* Members of a Military Service when off-duty and in a private capacity. (A member is not acting in a private capacity when assistance to law enforcement officials is rendered under direction, control, or suggestion of DOD authorities.)

#### **Section II**

#### **Statutory Requirements**

##### **3-3. Posse Comitatus Act**

Primary restrictions on military participation in civilian law enforcement activities are outlined in the Posse Comitatus Act; this Act is section 1385, title 18, United States Code. It provides the following:

“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 not more than \$10,000 or imprisoned not more than two years or both.”

##### **3-4. Permissible direct assistance**

The following activities are not restricted by the Posse Comitatus Act, notwithstanding direct assistance to civilian law enforcement officials:

*a.* Actions taken for furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities. This provision must be used with caution; it does not include

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actions taken for aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of the Posse Comitatus Act. Actions under this provision may include the following, depending on the nature of the DOD interest and the specific action in question:

- (1) Actions related to enforcement of the Uniform Code of Military Justice.
- (2) Actions likely to result in administrative proceedings by DOD, regardless of related civil or criminal proceeding.
- (3) Actions related to the commander's inherent authority to maintain law and order on a military installation or facility.
- (4) Protection of classified military information or equipment.
- (5) Protection of DOD personnel, DOD equipment, and official guests of DOD.
- (6) Other actions that are undertaken primarily for military or foreign affairs purposes.

*b.* Actions taken under the inherent right of the US Government to insure preservation of public order, and carrying out of governmental operations within its territorial limits, by force if necessary. This authority is reserved for unusual circumstances. It will be exercised only under AR 500–50, which permits use of this power in two circumstances, as discussed below.

(1) The emergency authority authorizes prompt and vigorous Federal action (including use of military forces) to—

- (a) Prevent loss of life or wanton destruction of property.
- (b) Restore governmental functioning and public order.

*Note.* These actions will be taken when sudden and unexpected civil disturbances, disasters, or calamities seriously endanger life and property, and disrupt normal governmental functions so much that duly constituted local authorities are unable to control the situation.

(2) Protection of Federal property and functions authorizes Federal action (including the use of military forces) when—

- (a) The need for protection exists.
- (b) Duly constituted local authorities are unable or decline to provide adequate protection.

*c.* Actions taken under DOD responsibilities (sec 331–334, title 10, United States Code) relating to use of military forces with respect to insurgency, domestic violence, or conspiracy that hinders the execution of State or Federal law in specified circumstances. Actions under this authority are governed by AR 500–50.

*d.* Actions taken under express statutory authority to assist officials in execution of laws, subject to applicable limitations. Laws that permit direct military participation in civilian law enforcement are listed below.

- (1) Protection of national parks and certain other Federal lands (secs 23, 78, and 596, title 16, United States Code).
- (2) Enforcement of the Fishery Conservation and Management Act of 1976 (sec 1861 (*a*), title 16, United States Code).
- (3) Assistance in cases of crimes against foreign officials, official guests of the United States, and other internationally protected persons (secs 112 and 1116, title 18, United States Code).
- (4) Assistance in cases of crimes against members of the Congress (sec 351, title 18, United States Code).
- (5) Protection of the President, Vice President, and other designated dignitaries (sec 1751, title 18, United States Code, and the Presidential Protection Assistance Act of 1976, Public Law 94–524).
- (6) Actions taken in support of neutrality laws (secs 408 and 461–62, title 22, United States Code).
- (7) Removal of persons unlawfully present on Indian lands (sec 180, title 25, United States Code).
- (8) Execution of quarantine and certain health laws (sec 97, title 42, United States Code).
- (9) Execution of certain warrants relating to enforcement of specified civil rights laws (sec 1989, title 42, United States Code).
- (10) Removal of unlawful enclosures from public lands (sec 1065, title 43, United States Code).
- (11) Protection of the rights of a discoverer of a Guano Island (sec 1418, title 48, United States Code).
- (12) Support of territorial governors in the event of civil disorders (secs 1422 and 1591, title 48, United States Code).
- (13) Actions in support of certain customs laws (sec 220, title 50, United States Code).
- (14) Support to the Attorney General in protecting nuclear material (under Public Law 97–351).

### **3–5. Restrictions on direct assistance**

Except as otherwise provided in this regulation, prohibition on use of military personnel as a posse comitatus or otherwise to execute the laws prohibits the following forms of direct assistance:

- a.* Interdiction of a vehicle, vessel, aircraft, or other similar activity.

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- b.* Search or seizure.
- c.* Arrest or stop and frisk, or similar activity.
- d.* Use of military personnel—
  - (1) For surveillance or pursuit of individuals.
  - (2) As informants, undercover agents, investigators, or interrogators.

### **3-6. Training**

Installations are authorized to provide training to Federal, State, and local civilian law enforcement officials in operation and maintenance of equipment made available under paragraph 2-3. This does not permit the following:

- a.* Large scale or elaborate training.
- b.* Regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations.

### **3-7. Expert advice**

Installations may provide expert advice to Federal, State, or local law enforcement officials, under sections 371-378, title 10, United States Code. This does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations.

### **3-8. Use of Army personnel to operate or maintain equipment**

Requests for Army personnel to operate or maintain (or to assist in operating or maintaining) equipment made available under paragraph

2-3 may be made by the head of a civilian agency empowered to enforce the laws listed below.

- a.* Controlled Substances Act (sec 801 *et seq.*, title 21, United States Code); Controlled Substances Import and Export Act (sec 951 *et seq.*, title 21, United States Code).
- b.* Any of sections 274 through 278 of the Immigration and Nationality Act (sec 1324-28, title 8, United States Code).
- c.* A law relating to the arrival or departure of merchandise into or out of the customs territory of the United States or any other territory or possession of the United States. "Merchandise" as used here is defined in section 401 of the Tariff Act of 1930 (sec 1401, title 19, United States Code). Customs territory of the United States, as used here, is defined in general headnote 2 of the Tariff Schedules of the United States (sec 1202, title 19, United States Code).
- d.* Any other law which establishes authority for DOD personnel to provide direct assistance to civilian law enforcement officials.

### **3-9. Limits of assistance**

*a.* Assistance provided under paragraph 3-8 will be limited to situations where training of non-DOD personnel would—

- (1) Be unfeasible or impractical from a cost or time perspective.
  - (2) Not otherwise compromise national security or military preparedness concerns.
- b.* The following types of assistance may be provided under this paragraph:
- (1) Army personnel may be assigned to maintain (or assist in maintaining) equipment, with respect to criminal violation of the laws specified in paragraph 3-8.
  - (2) Army personnel may be assigned to operate (or assist in operating) equipment to the extent the equipment is used for monitoring and communicating movement of air and sea traffic, with respect to criminal violation of the laws specified in paragraph 3-8.
  - (3) In emergency circumstance, equipment operated by (or operated with the assistance of) Army personnel may be used outside the land area of the United States (or any US territory or possession) as a base of operations by Federal law enforcement officials to—
    - (a) Facilitate the enforcement of a law listed in paragraph 3-8.
    - (b) Transport such law enforcement officials in connection with such operations.
  - (4) Emergency situations in (3) above are subject to the following limitations:
    - (a) Equipment operated by (or with the assistance of) DOD personnel may not be used to interdict or interrupt the passage of vessels or aircraft; the exception is when DOD personnel are otherwise authorized to take such action, with respect to a civilian law enforcement operation.
    - (b) A joint determination by the Secretary of Defense and the Attorney General must consider that an emergency circumstance exists (under sec 374(c)(2), title 10, United States Code). An emergency circumstance may be determined to exist for purposes of this subparagraph only under the following situations: when the size and scope of the suspected criminal activity in a given situation poses a serious

threat to the interests of the United States; and enforcement of a law listed in paragraph 3–8 would be seriously impaired if the assistance described in this subsection were not provided.

(c) The emergency authority in this subparagraph may be used only with respect to large-scale criminal activity at a particular time or over a fixed period. It does not permit use of this authority on a routine or extended basis.

(d) Nothing in this section restricts the authority of military personnel to take immediate action to save life or property, or to protect a Federal function as provided above.

(5) When Army personnel are otherwise assigned to provide assistance with respect to the laws specified in paragraph 3–8, the participation of such personnel will be consistent with the limitations in such laws.

### **3–10. Other permissible assistance**

The following forms of indirect assistance activities are not restricted by the Posse Comitatus Act:

a. Transfer of information acquired in the normal course of military operations.

b. Other actions (approved by HQDA) that do not subject civilians to the exercise of military power that is—

(1) Regulatory.

(2) Proscriptive.

(3) Compulsory in nature.

## **Chapter 4**

### **Guidance on Determining Reimbursements for Civilian Law Enforcement Support**

*Note:* Guidance in this chapter specifies funding requirements and reporting procedures for use of resources, in cooperation with civilian law enforcement officials; and this guidance also will be used for determining and billing the reimbursable portion of this support.)

#### **4–1. Reimbursement**

In general, reimbursement is required when equipment or services are provided to agencies outside DOD. Reimbursement data will be accumulated and reported under financial reporting requirements. a. Primary authority for reimbursement is the Economy Act (sec 1535, title 31, United States Code). Specific guidance on reimbursement for the loan of equipment or supplies is provided in AR 700–131, chapter 5.

b. Reimbursement for telecommunications services will be under AR 105–23 and AR 37–61.

c. Time permitting, civilian law enforcement officials that come under source code 900 (sec AR 37–100) will provide the supporting installation with a fund advance; this fund advance will be based on the estimated cost of equipment and services.

#### **4–2. Documentation**

As a part of normal administrative control procedures, a copy of the civilian law enforcement agency request (or a statement of the requested support) and the official approval should be retained by the organization providing the assistance. Dates and locations of the support and the DA resources employed will be included.

#### **4–3. Accounting system**

a. The system used to account for the cost of support to civilian law enforcement agencies need not be different than the system management officials have deemed adequate and sufficient for normal administration and control of resources.

b. When the accounting system used by management has the capability to accumulate and distribute the indirect costs incurred in providing the support (including the indirect costs for the overall management of the activity) that system should be used to accumulate the indirect costs.

(1) The existing accounting system should be used when it can be modified efficiently to provide a systematic and rational indirect costing process. This system then would be beneficial in the day-to-day operations of the activity.

(2) If management has no other recurring or significant use for an accounting system which separately can identify direct and indirect costs, the COA will establish a memorandum costing or cost finding system for activities providing support to civilian law enforcement agencies.

#### **4–4. Costing**

a. Incremental costs of support provided to any non-DOD agency by an Army industrial fund activity will be reimbursed. Accordingly, normal industrial fund accounting procedures will apply.

b. When permissible, automatic reimbursable accounting procedures will be used to record a request for reimbursable support with subsequent billing on not less than a quarterly basis if the support provided by an Army element is over an extended period. Moreover, payment is required within 30 days of the date of the



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bill. Payment may not be withheld over disagreement of cost for a specific item contained in the billing document.

### **4-5. Waivers**

*a.* When reimbursement is not required by law for a particular form of assistance, a request for waiver of reimbursement may be granted. Requests for waivers must be submitted to HQDA(DALO–SMS or DAMO–ODS as appropriate), WASH DC 20310. The ASD(MRA&L) is the approval authority to waive reimbursement.

*b.* A request for waiver may be granted in the following circumstances:

(1) When assistance under this regulation—

(*a*) Is provided as an incidental aspect of an activity that is conducted for a military purpose.

(*b*) Involves use of Army personnel in an activity that provides the Army with training or operational benefits substantially equivalent to the benefit of Army training or operations.

(2) When reimbursement is not otherwise required by law.

(3) Waiver of reimbursement is determined not to have an adverse impact on military preparedness.

*c.* When evaluating requests for waivers of reimbursement, HQDA(DAMO–ODS) will take into consideration—

(1) Budgetary resources available to civilian law enforcement agencies.

(2) Past practices with respect to similar types of assistance.

## **Appendix A**

### **Required Publications**

#### **Section I**

#### **Required Publications**

##### **AR 1-4**

Employment of Department of the Army Resources in Support of the United States Secret Service. (Cited in para 2-5*a*.)

##### **AR 37-61**

Budgeting, Funding, and Reimbursement for Telecommunications Support of Army Activities. (Cited in para 4-1*b*.)

##### **AR 37-100**

Account/Code Structure. (Cited in para 4-1*c*.)

##### **AR 75-15**

Responsibilities and Procedures for Explosive Ordnance Disposal. (Cited in para 2-5*a*.)

##### **AR 105-23**

Administrative Policies and Procedures for Base Telecommunications Services. (Cited in para 4-1*b*.)

##### **AR 340-17**

Release of Information and Records from Army Files. (Cited in paras 2-1*b* and 2-2.)

##### **AR 340-21**

The Army Privacy Program. (Cited in paras 2-1*b* and 2-2.)

##### **AR 360-5**

Public Information. (Cited in para 1-6*a*.)

##### **AR 380-13**

Acquisition and Storage of Information Concerning Nonaffiliated Persons and Organizations. (Cited in para 2-2.)

##### **AR 381-10**

US Army Intelligence Activities. (Cited in paras 2-1*c* and *d*, 2-2, 2-4*b*, 2-5*d*, and 3-1*e*(1).)

##### **AR 381-20**

US Army Counterintelligence (CI) Activities. (Cited in paras 2-2 and 3-1*e*(1).)

##### **AR 381-45**

Investigative Records Repository (IRR). (Cited in para 2-1*b*.)

##### **AR 500-50**

Civil Disturbances. (Cited in para 2-5*a*, 3-1*a*, and 3-4*b* and *c*.)

##### **AR 500-60**

Disaster Relief. (Cited in para 2-5*a*.)

#### **Section II**

#### **Required Publications**

# DOPLAW HANDBOOK

## **AR 700–131**

Loan of Army Materiel. (Cited in para 2–5b(2) and 4–1a.)

### **Appendix B**

#### **Sample Format for Quarterly Report of Assistance to Law Enforcement Officials**

**B–1.** This appendix provides a standard format for submitting quarterly reports of assistance to civilian law enforcement officials. Reports can be submitted electronically or in writing, but must follow this format. Explanatory data should be confined to the remarks entries at paragraph B–2a(14) and B–2b(15). Entries not applicable for the reporting period should still be reported and annotated as not applicable.

**B–2.** The report is in three parts, as outlined below.

*a. Part I.* Part I is for requests for assistance from civilian law enforcement officials (other than equipment).

- (1) Requesting activity.
- (2) Request date.
- (3) Support requested (facilities, information, personnel, expert advice, training, and so forth).
- (4) Support period requested.
- (5) Approval status (approved, pending, or denied).
- (6) Approval authority.
- (7) Rationale for disapproval.
- (8) Period support provided.
- (9) Incremental costs to Army (\$).
- (10) Costs paid (year or now).
- (11) Rental fee (for buildings, facilities, and so forth).
- (12) Rental fee paid (year or now).
- (13) Number of personnel, workdays, and grade (civilian and military).
- (14) Remarks.

*b. Part II.* Part II is for all equipment loans.

- (1) Requesting activity.
- (2) Request date.
- (3) Item requested.
- (4) Quantity.
- (5) Loan period requested.
- (6) Approval status (approved, ending, or denied).
- (7) Approval authority.
- (8) Rationale for disapproval.
- (9) Date equipment shipped.
- (10) Incremental costs to Army (\$).
- (11) Costs paid (year or now).
- (12) Rental fee (\$).
- (13) Rental fee paid (year or now).
- (14) Equipment returned (year or now).
- (15) Remarks.

*c. Part III.* Part III is for Explosive Ordnance Disposal (EOD) support.

- (1) USSS support—(number).
- (2) Other Very Important People support—(number).
- (3) Other incident responses—(number).
- (4) Classes taught—(number).

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

### APPENDIX 2-9: SECNAVINST 5820.7B - COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS

Source: <http://neds.daps.dla.mil/Directives/5820b7.pdf>

DEPARTMENT OF THE NAVY  
Office of the Secretary  
Washington, D.C. 20350-1000

SECNAVINST 5820.7B  
OP-642  
28 March 1988

SECNAV INSTRUCTION 5820.7B

From: Secretary of the Navy  
To: All Ships and Stations

Subj: COOPERATION WITH CIVILIAN LAW  
ENFORCEMENT OFFICIALS

Ref: (a) DODDIR 5525.5 of 15 Jan 86,  
Subj: DOD Cooperation with Civil-  
ian Law Enforcement Officials  
(NOTAL)  
(b) SECNAVINST 3820.3C  
(c) SECNAVINST 5520.3  
(d) SECNAVINST 5211.5C  
(e) SECNAVINST 3820.2D  
(f) OPNAVINST 4630.25B  
(g) The Intergovernmental Coopera-  
tion Act of 1968, 31 U.S.C.  
§§ 6501-6508 (1982)  
(h) Federal Property and Administra-  
tive Service Act of 1949, 40  
U.S.C. Ch. 10 (1982 & Supp. III  
1985)  
(i) Surplus Property Act of 1944, 50  
U.S.C. App. §§ 1622 (1982)  
(j) DODDIR 4160.23 of 27 Jan 81,  
Subj: Sale of Surplus Military  
Equipment to State and Local Law  
Enforcement and Firefighting  
Agencies (NOTAL)  
(k) SECNAVINST 4500.15 (NOTAL)  
(l) SECNAVINST 11011.46 (NOTAL)  
(m) OPNAVINST 3440.16A  
(n) OPNAVINST 5450.187  
(o) NAVCOMPTMAN, Vol. 3, Ch. 5  
(p) NAVCOMPTINST 5740.3 (NOTAL)  
(q) DODDIR 5030.46 of 26 Mar 71,  
(r) Posse Comitatus Act, 18 U.S.C.  
§§ 1385 (1982)  
(s) DODIG Criminal Policy Memoran-  
dum Number Five, Subj: Assist-  
ance to the District of Columbia  
Government in Combatting Crime  
(NOTAL)

Encl: (1) Format for "Report on Support to  
Civilian Law Enforcement" (A)  
(2) Format for "Aviation Assistance  
to Law Enforcement Agencies" (A)

1. Purpose. To revise Department of the Navy (DON) policies and procedures for providing assistance to Federal, State, and local civilian law enforcement officials per reference (a). (R)

2. Cancellation. SECNAVINST 5820.7A. (R)

3. Applicability. Applies to all DON commands and activities.

4. Summary of Changes. This instruction revises DON guidance on cooperation with civilian law enforcement officials reflecting current legislation (10 U.S.C. §§ 371-380) and reissued Department of Defense (DOD) guidance (reference (a)). Major changes include detailed guidance on kinds of assistance which can be provided to civilian law enforcement officials and the limitations, approval authorities, revised reporting requirements, and reimbursement procedures applicable to requests for assistance.

5. Definitions

a. Civilian Agency. An agency of one of the following jurisdictions: (R)

(1) The United States (other than the Department of Defense, but including the U.S. Coast Guard). This includes U.S. agencies in international areas dealing with U.S. flag vessels or aircraft in violations of U.S. law.

(2) A State (or political subdivision of it) of the United States.

(3) A Commonwealth, Territory, or Possession (or political subdivision thereof) of the United States.

b. Civilian Law Enforcement Official. An

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officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of that agency.

c. **DON Intelligence Components.** The Director of Naval Intelligence; the Naval Intelligence Command; the Naval Security Group Command; the Director of Intelligence, U.S. Marine Corps; the counterintelligence elements of the Naval Security and Investigative Command; and any other organizations, staffs, and offices when used for foreign intelligence or counterintelligence purposes under reference (b).

### 6. Policy

a. It is DON policy to cooperate with civilian law enforcement officials to the maximum extent practicable, consistent with the needs of national security and military preparedness, the historic tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law. All support provided to civilian law enforcement efforts by DON activities shall be in accordance with this instruction.

b. Assistance provided under this instruction shall be at the least practicable cost. Assistance may not be provided if the provision of such assistance would adversely affect national security or military preparedness.

R) c. All requests from civilian law enforcement officials for the use of DON equipment, facilities, or personnel under this instruction, including requests which are forwarded with a recommendation that the request be denied, shall be submitted promptly to the designated approval authority.

A) (1) When the designated approval authority is the Secretary of the Navy or higher authority, the request shall be forwarded via the chain of command to the Chief of Naval Operations (OP-642) or the Commandant of the Marine Corps (POS), as appropriate, for review and forwarding to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) for approval or forwarding to the Secretary of Defense, if required.

R) (2) Requests for assistance from civilian law enforcement officials which may be approved at

the Secretary of the Navy level or below may be denied by the appropriate second echelon commander if it is determined, under the policies set forth herein, that the requested assistance should not be provided. Requests which are denied by second echelon commanders need not be forwarded to higher authority, but shall be included in the quarterly report required by paragraph 13.

(3) Requests requiring DOD approval must be forwarded with a recommendation of approval or denial and the reasons therefore. Requests shall be forwarded and processed in keeping with the degree of urgency dictated by the situation. Requests may be communicated by telephone when circumstances require. (A)

d. When forwarding a request for assistance under this instruction, the forwarding command shall provide all available relevant information concerning: (A)

(1) the ability to provide the assistance requested without adversely affecting national security or military preparedness, and

(2) the incremental costs which would be incurred by DON in providing the requested assistance. When appropriate, the forwarding command shall recommend approval or disapproval of the request.

e. The Joint Chiefs of Staff shall provide advice (R) on the impact on national security and military preparedness of any request for military assistance at the request of the Secretary of Defense, the Assistant Secretary of Defense (Force, Management and Personnel), the Secretaries of the Military Departments, the Directors of Defense Agencies, or the Commanders of the Unified and Specified Commands.

### 7. Use of Information Collected During Operations

a. DON activities are encouraged to provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any Federal or State law

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within the jurisdiction of such officials. All information collected during the normal course of military operations which may be relevant to a violation of Federal or State law shall be forwarded to the local Naval Investigative Service field office for dissemination to appropriate civilian law enforcement per reference (c). An exception may be made where information is acquired and disseminated to a civilian agency, through channels of dissemination established and approved by the Chief of Naval Operations, the Commandant of the Marine Corps, or higher authority as part of a formal program of cooperation between DON and the civilian agency. On Marine Corps installations with Provost Marshal activities, such information shall be forwarded to the installation Provost Marshal who, when required by existing directives, will refer the information to the Naval Investigative Service.

b. In the event that a system of records maintained by DON to carry out DON functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use under reference (d), to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such records shall be disseminated as provided in paragraph 7a.

c. The acquisition and dissemination of information under this paragraph shall be per references (b) and (e) where applicable. Nothing in this section modifies DON policies or procedures concerning collection or dissemination of information for foreign intelligence or counterintelligence purposes.

d. The planning and execution of compatible military training and operations may take into account the needs of civilian law enforcement officials for information when the collection of information is an incidental aspect of training performed for a military purpose. In this regard, the needs of civilian law enforcement officials may be considered in scheduling routine

training missions. This does not permit the planning or creation of missions or training for the primary purpose of aiding civilian law enforcement officials, nor does it permit conducting training or missions for the purpose of routinely collecting information about U.S. citizens. Local law enforcement agents may accompany routinely scheduled training flights as observers for the purpose of collecting law enforcement information. This provision does not authorize the use of DOD aircraft to provide point-to-point transportation and training flights for civilian law enforcement officials. Such assistance may be provided only following reference (f). (R)

### 8. Use of DON Equipment, Facilities and Personnel

a. DON activities may make equipment, base facilities, or research facilities available to Federal, State, or local civilian law enforcement officials for law enforcement purposes when approved in accordance with paragraph 9e. (R)

b. Requests for DON personnel to operate or maintain, or to assist in operating or maintaining, equipment made available under this paragraph shall be considered under the guidance in paragraph 9a(3), (4), (5), (6), and 9e. (R)

c. Approval authorities shall ensure that assistance provided under this paragraph is following applicable provisions of 10 U.S.C. §§ 372, 2576, 2667 (1982); 31 U.S.C. §§ 1535-1536 (1982 & Supp. IV 1986), and any other applicable laws and directives (see references (f) through (s)). (R)

### 9. Restrictions on Participation by DOD Personnel in Civilian Law Enforcement Activities (A)

#### a. Provisions

(1) Sections 371-380 of Title 10, United States Code, govern military cooperation with civilian law enforcement officials. Further, the Posse Comitatus Act in Title 18, United States Code provides: (R)

"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

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Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years or both."

Although use of the Navy and Marine Corps as a posse comitatus is not criminal under the Posse Comitatus Act, such use is prohibited, with exceptions as contained in this instruction, as a matter of Department of Defense policy.

R)

### (2) Permissible Direct Assistance

(a) This means actions that are taken for the primary purpose of furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities. This provision must be used with caution, and does not include actions taken for the primary purpose of aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of this instruction. Actions under this provision may include the following, depending on the nature of the DOD interest and the authority governing the specification in question:

1. Investigations and other actions related to enforcement of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. §§ 801-935 (1982 & Supp. IV 1986)).

2. Investigations and other actions that are likely to result in administrative proceedings by the Department of Defense, regardless of whether there is a related civil or criminal proceeding.

3. Investigations and other actions related to the commander's inherent authority to maintain law and order on a military installation or facility.

4. Protection of classified military information or equipment.

5. Protection of DOD personnel, DOD equipment, and official guests of the Department of Defense.

6. Such other actions that are under-

taken primarily for a military or foreign affairs purpose.

(b) In addition to activities conducted in accordance with paragraphs 9d and 9d(1), drug investigations conducted by the Naval Security and Investigative Command per reference (s) are permissible. (A

(c) Audits and investigations conducted by, under the direction of, or at the request of IG, DOD, 5 U.S.C. app. 8(g) (1982), subject to applicable limitations on direct participation in law enforcement activities. (A

(d) Actions that are taken under the inherent right of the U.S. Government, under the U.S. Constitution, to ensure the preservation of public order and to carry out governmental operations within its territorial limits, or otherwise per applicable law, by force, if necessary. This authority is reserved for unusual circumstances, and will be used only under reference (m), which permits use of this power in two circumstances: (R

1. The emergency authority authorizes prompt and vigorous Federal action, including use of military forces, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disasters, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation.

2. Protection of Federal property and functions authorizes Federal action, including the use of military forces, to protect Federal property and Federal Government functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

(e) Actions taken pursuant to DOD responsibilities under 10 U.S.C. 9 §§ 331-334 (1982), relating to the use of the military forces with respect to insurgency or domestic violence or conspiracy that hinders the execution of State or Federal law in specified circumstances. (R

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Actions under this authority are governed by reference (m).

(f) Actions taken under express statutory authority to assist officials in executing the laws, subject to applicable limitations. The laws that permit direct military participation in civilian law enforcement, include the following:

1. Protection of national parks and certain other Federal lands. See 16 U.S.C. §§ 23, 78, 593 (1982).

2. Enforcement of the Fishery Conservation and Management Act of 1976. See U.S.C. § 1861 (a) (1982).

3. Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons. See 18 U.S.C. §§ 112, 1116 (1982).

4. Assistance in the case of crimes against members of Congress. See 18 U.S.C. § 351 (1982).

A) 5. Assistance in the case of crimes involving nuclear materials. See 18 U.S.C. §§ 831 (1982).

6. Protection of the President, Vice President, and other designated dignitaries. See 18 U.S.C. §§ 1751 (1982) and the Presidential Protection Assistance Act of 1976, 18 U.S.C. § 3056 note (1982 & Supp. IV 1986).

7. Actions taken in support of the neutrality laws. See 22 U.S.C. §§ 408, 461-462 (1982).

8. Removal of persons unlawfully present on Indian lands. See 25 U.S.C. § 180 (1982).

9. Execution of quarantine and certain health laws. See 42 U.S.C. § 97 (1982).

10. Execution of certain warrants relating to enforcement of specified civil rights laws. See 42 U.S.C. 1989 (1982).

11. Removal of unlawful enclosures from public lands. See 43 U.S.C. § 1065 (1982).

12. Protection of the rights of a discoverer of a guano island. See 48 U.S.C. § 1418 (1982).

13. Support of territorial governors if a civil disorder occurs. See 48 U.S.C. § 1422, 1591 (1982 & Supp. IV 1986).

14. Actions in support of certain customs laws. See 50 U.S.C. § 220 (1982).

(3) **Restrictions on Direct Assistance.** Except as otherwise provided in this instruction, the prohibition on the use of military personnel "as a posse comitatus or otherwise to execute the laws" prohibits the following forms of direct assistance: (A)

(a) Interdiction of a vehicle, vessel, aircraft, or other similar activity. (A)

(b) A search or seizure. (A)

(c) An arrest, apprehension, stop and frisk, or similar activity. (A)

(d) Use of military personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators. (A)

(4) **Training.** DON activities may provide training to Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment made available under paragraph 8. This does not permit large scale or elaborate training, and does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this instruction. This training of Federal, State, and local civilian law enforcement officials shall be provided under the following guidance: (R)

(a) This assistance shall be limited to situations when the use of non-DON personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns. (A)

(b) Such assistance may not involve (A)

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DON personnel in a direct role in a law enforcement operation, except as otherwise authorized by law.

- A) (c) Except as otherwise authorized by law, the performance of such assistance by DON personnel shall be at a location where there is not a reasonable likelihood of a law enforcement confrontation.
- A) (5) **Expert Advice.** DON activities may provide expert advice to Federal, State, or local law enforcement officials in accordance with 10 U.S.C. §§ 371-380. This does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this instruction.
- A) (6) **Use of DON Personnel to Operate or Maintain Equipment.** The use of DON personnel to operate or maintain or to assist in operating or maintaining equipment shall be limited to situations when the training of non-DOD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns.
- A) (a) In general, the head of the civilian law enforcement agency may request DON activities to provide DON personnel to operate or maintain or assist in operating or maintaining equipment for the civilian agency. This assistance shall be subject to the following guidance:
  - A) 1. Such assistance may not involve DON personnel in a direct role in a law enforcement operation (see subsection 9a(3)), except as provided in paragraph 9a(6)(c), or as otherwise authorized by law.
  - A) 2. Except as otherwise authorized by law, the performance of such assistance by DON personnel shall be at a location where there is not a reasonable likelihood of a law enforcement confrontation.
  - A) 3. The use of military aircraft to provide point-to-point transportation and training

flights for civilian law enforcement officials may be provided only under reference (f).

(b) Additional provisions concerning drug, customs, immigration, and certain other laws: a request under this provision for DON personnel to operate or maintain or to assist in operating or maintaining equipment made available under provisions of paragraph 8 may be made by the head of a civilian agency empowered to enforce the following laws:

1. The Controlled Substances Act (21 U.S.C. 801-904 (1982 & Supp. IV (1986))) or the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-966 (1982 & Supp. IV (1986))). (A)

2. Any of Sections 274 through 278 of the Immigration and Nationality Act (codified in 8 U.S.C. §§ 1324-1328 (1982)). (A)

3. A law relating to the arrival or departure of merchandise, as defined in section 1401 of the Tariff Act of 1930 as amended, (19 U.S.C. §§ 1401 (1982)), into or out of the Customs territory of the United States, as defined in the Tariff Schedules of the United States (19 U.S.C. §§ 1202 (1982 & Supp. IV (1986))), or any other territory or possession of the United States; or (A)

4. Any other law that establishes authority for DON personnel to provide direct assistance to civilian law enforcement officials. In addition to the assistance authorized under this paragraph, the following assistance may be provided: (A)

a. DON personnel may be assigned to operate or assist in operating equipment to the extent the equipment is used for monitoring and communicating to civilian law enforcement officials the movement of air and sea traffic with respect to any criminal violations of the laws specified in paragraph 9a(2)(f). This includes communicating information concerning the relative position of civilian law enforcement officials and other air and sea traffic. (A)



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- A) b. In an emergency circumstance, equipment operated by or with the assistance of DON personnel may be used outside the land area of the United States (or any Commonwealth, territory, or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law in subparagraph 9a(2)(d) 1, and to transport such law enforcement officials in connection with such operations, subject to the following limitations:
- A) (1) Equipment operated by or with the assistance of DON personnel may not be used to interdict or interrupt the passage of vessels or aircraft, except when DON personnel are otherwise authorized to take such action with respect to a civilian law enforcement operation.
- A) (2) There must be a joint determination by the Secretary of Defense and the Attorney General that an emergency circumstance exists under 10 U.S.C. §§ 374(c)(2) (1982). An emergency circumstance may be determined to exist for purposes of this subparagraph only when the size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and enforcement of laws in paragraph 9a(2)(f), would be impaired seriously if the assistance described in this subparagraph were not provided.
- A) (3) The emergency authority in this subparagraph may be used only with respect to large scale criminal activity at a particular point in time or over a fixed period. It does not permit use of this authority on a routine or extended basis.
- A) **NOTE:** Nothing in these subparagraphs restricts the authority of military personnel to take immediate action to save life or property or to protect a Federal function as provided in paragraph 9a(2).
- A) (c) When DON personnel are otherwise assigned to provide assistance with respect to the laws specified in paragraph 9a(2)(f), the participation of such personnel shall be consistent with the limitations in such laws, if any, and such restrictions as may be established by the Secretary of Defense, the ASD (FM&P), or the Secretary of the Navy.
- (7) **Other Permissible Assistance.** The following forms of indirect assistance are not restricted. (A)
- (a) Transfer of information acquired in the normal course of military operations. (A)
- (b) Such other actions, approved following procedures established by the Secretary of the Navy that do not subject civilians to use of military power that is regulatory, proscriptive, or compulsory. (A)
- b. **Exceptions based on status.** The restrictions in paragraph 9a do not apply to the following persons: (A)
- (1) A member of a Reserve Component when not on active duty, active duty for training, or inactive duty for training. (A)
- (2) A member of the National Guard when not in the Federal Service. (A)
- (3) A civilian employee of the Department of Defense. If the civilian employee is under the direct command and control of a military officer, assistance will not be provided unless it would be permitted under paragraph 9d. (A)
- (4) A member of a Military Service when off duty, and in a private capacity. A member is not acting in a private capacity when assistance to law enforcement officials is rendered under the direction or control of DOD authorities. (A)
- c. **Exceptions based on military service.** (R)  
DOD guidance on the Posse Comitatus Act (reference (r)), as stated in reference (a), is applicable to the Department of the Navy and the Marine Corps as a matter of DOD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis.
- (1) Such exceptions shall include requests from the Attorney General for assistance under 21 U.S.C. §§ 873(b) (1982 & Supp. IV 1986). (A)

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(2) Prior approval from the Secretary of Defense shall be obtained for exceptions that are likely to involve participation by members of the Navy or Marine Corps in an interdiction of a vessel or aircraft, a law enforcement search or seizure, an arrest, apprehension, or other activity that is likely to subject civilians to use of military power that is regulatory, proscriptive, or compulsory. Such approval may be granted only when the head of the civilian agency concerned verifies that:

(a) The size or scope of the suspected criminal activity poses a serious threat to the interests of the United States, and enforcement of a law within the jurisdiction of the civilian agency would be impaired seriously if the assistance were not provided because civilian assets are not available to perform the missions; or

(b) Civilian law enforcement assets are not available to perform the mission and temporary assistance is required on an emergency basis to prevent loss of life or wanton destruction of property.

A) **d. Military Preparedness.** Assistance may not be provided under this paragraph if such assistance could adversely affect national security or military preparedness. The implementing documents issued by the Secretary of Navy shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security and military preparedness.

A) **e. Approval Authority.** Requests by civilian law enforcement officials for use of DON resources in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this section.

R) (1) Requests for arms, ammunition, combat vehicles, vessels, and aircraft are subject to approval by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) or forwarding to the Secretary of Defense, if required.

R) (2) Requests for the loan or use of other equipment or facilities for more than 60 days (including a permanent disposition) are subject to approval by the Assistant Secretary of the Navy

(Manpower and Reserve Affairs), unless approval by a higher authority is required by statute or regulation applicable to the particular disposition.

(3) All other requests for the use of equipment or facilities may be approved by Commanders in Chief of Unified and Specified commands outside the continental United States; the Chief of Naval Operations, the Commandant of the Marine Corps; second echelon commanders in the Navy, and commanders and commanding officers of major shore commands; commanding generals of Marine Corps operating forces; commanders of Marine Corps bases, camps, aviation installations, logistics installations, and unit training centers, and commanding generals of Marine Corps Reserve support activities unless approval by higher authority is required by statute or regulation applicable to the particular disposition. This approval authority may not be subdelegated. (R)

(4) The use of DON personnel in civil disturbances and related matters is governed by reference (m), which includes the approval authorities. (R)

(5) Approval authority for assistance to the government of the District of Columbia is governed by reference (q). (R)

(6) The following governs approval for assistance to civilian law enforcement officials in other circumstances: (R)

(a) The Secretary of Defense is the approval authority for requests that involve assignment of 50 or more DON personnel or a period of assignment of more than 30 days. (R)

(b) The Secretary of the Navy may approve the following types of assistance, except as provided in 9e(6)(a). (A)

1. Use of DON personnel to provide training or expert advice under or per subsections 9a(4) and 9a(5). (A)

2. Use of DON personnel for equipment maintenance under subparagraph 9a(6)(b)4a. (A)

3. Use of DON personnel to monitor (A)

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

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and communicate the movement of air and sea traffic under subparagraph 9a(6)(b)4a.

- A) (c) The ASD (FM&P) is the approval authority for other requests for assignment of personnel. This authority may be delegated to the Secretary of the Navy with respect to specific categories of assistance.
- A) (d) Requests that involve DON intelligence components are subject to the limitations in reference (b), and are subject to approval by the Secretary of Defense.
- A) (e) The views of JCS shall be obtained on all requests that are considered by the Secretary of Defense or the ASD (FM&P) or that otherwise involve personnel assigned to a Unified or Specified Command.
- A) (f) The view of the Assistant Secretary of Defense (Reserve Affairs) shall be obtained on all requests that are to be considered by the Secretary of Defense or the ASD (FM&P) that involve Reserve component personnel or equipment.
- A) (g) All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD (FM&P). Requests will be forwarded and processed according to priority.

**f. Funding.** Funding requirements for assistance under this paragraph shall be established by the ASD (FM&P).

A) **10. Reimbursement and Accounting Procedures**

a. As a general rule, reimbursement is required when equipment or services are provided to agencies outside DOD. When DON resources are used in support of civilian law enforcement efforts, the costs shall be limited to the incremental or marginal costs incurred by DON. Reference (o) provides additional guidance.

b. As a part of the normal administrative control procedures, a copy of the civilian law enforcement agency request or a statement of the re-

quested support and the official approval should be retained for two years by the command providing the assistance. The date(s) and location(s) of the support and the DON resources employed shall be included in the documentation.

c. The system used to account for the cost of support to civilian law enforcement agencies need be no different from that deemed adequate and sufficient for normal administration and control of resources. If the accounting system used by a command has the capability to accumulate and distribute the indirect costs incurred in providing the support, including the indirect costs for the overall management of the command, that system shall be used. Where such a system is not in use, but the existing accounting system can be easily modified to provide for a systematic and rational indirect costing process which would also be beneficial to the day-to-day operations of the command, such modification shall be effected. Where such a system is not in use and the command has no other recurring or substantial need for an accounting system which separately identifies direct and indirect costs, the command will use a memorandum costing or cost-finding system established by the Comptroller of the Navy.

d. Requests for waivers of reimbursement shall be forwarded to the Chief of Naval Operations (OP-642) or the Commandant of the Marine Corps (POS), as appropriate, with copy to CNO (OP-92)/NAVCOMPT (NCB). Budgetary resources of the requesting civilian law enforcement agency and past practices with respect to similar types of assistance will be considered in evaluating such requests. The Assistant Secretary of Defense (FM&P) is the approval authority to waive reimbursement. Waivers of reimbursement will normally be appropriate in the following circumstances:

(1) When assistance under this instruction involves use of DON personnel in an activity that provides training or operational benefits that are substantially equivalent to the benefit or normal training or operations.

(2) When reimbursement is not otherwise required by law, and assistance is provided as an incidental aspect of the activity that is conducted for military purposes.

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## **11. Responsibilities**

a. The Chief of Naval Operations and the Commandant of the Marine Corps shall:

(1) Review training and operational programs to determine how assistance can be provided to civilian law enforcement officials, consistent with the policy in paragraph 6, with a view towards identification of programs which would not involve any incremental costs or in which reimbursement can be waived under paragraph 10.

(2) Respond to the JCS in the formulation of data to evaluate the impact of requests for assistance on national security and military preparedness.

(3) Advise the Secretary of the Navy on the impact on national security and military preparedness of specific requests for assistance when the Secretary of the Navy or higher authority acts as the approving authority.

(4) Submit quarterly reports to the Assistant Secretary of the Navy (M&RA) covering all requests for assistance from civilian law enforcement officials received during the reporting period. Reports shall include the information prescribed in paragraph 13 and any other appropriate information. Actions involving the use of classified means or techniques may be exempted from such reports with the concurrence of the General Counsel of the Navy.

b. Commander in Chief, Pacific Fleet and Commander in Chief, Atlantic Fleet shall:

(1) Review training and operational programs to determine how assistance can be provided to civilian law enforcement officials, consistent with the policy in paragraph 6, with a view towards identification of programs which would not involve any incremental costs or in which reimbursement can be waived under paragraph 10.

(2) Establish operational procedures for rendering assistance to civilian law enforcement officials, to include:

(a) Establishment of ocean surveillance and reporting programs.

(b) Provision of towing or escort services for vessels seized by the U. S. Coast Guard.

(c) Provision of transportation for arrested persons in custody of civilian law enforcement officials.

(d) Provision of logistic support for law enforcement operational units.

(e) Embarkation of civilian law enforcement officials on selected Navy vessels and aircraft for law enforcement purposes.

(f) Use of force in civilian law enforcement activities.

(3) Establish contact points in subordinate commands for purposes of coordination with civilian law enforcement officials.

c. Naval Investigative Service field offices shall normally serve as the primary point of contact between Navy and Marine Corps commands and Federal, State and local civilian law enforcement officials in connection with routine investigative requests for assistance under this instruction. Requests which involve the use of facilities or equipment under the cognizance of the fleet commanders in chief or which involve the use of personnel to maintain or operate such facilities or equipment shall normally be processed directly by the fleet unit receiving the request. On Marine Corps installations with Provost Marshal activities requests shall be coordinated with the Provost Marshal.

**12. Release of Information.** Information provided for public affairs purposes which concerns law enforcement operations is the primary responsibility of the civilian agency that is performing the law enforcement function. DON activities may provide information on DON support when approved by the Chief of Information.

## **13. Action**

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R) a. Navy and Marine Corps second echelon commands shall submit quarterly reports in the formats of enclosures (1) and (2) to the Chief of Naval Operations (OP-642) or the Commandant of the Marine Corps (POS), as appropriate, with copy to CNO (OP-82)/NAVCOMPT (NCB). Reports shall cover all requests for assistance received from law enforcement officials during the reporting period by the reporting command or by subordinate commands with approval authority under paragraph 9e, including requests that were denied. Such reports are due on the 15th of the month following the end of each quarter.

b. The Chief of Naval Operations (OP-642) and the Commandant of the Marine Corps (POS) will prepare consolidated Service reports for the Assistant Secretary of the Navy (M&RA) to submit to the Assistant Secretary of Defense (FM&P).

c. The provision of information under paragraph 7 shall not be reported under this paragraph unless the information was provided under a specific request from a civilian law enforcement agency for information not already in the possession of the DON. Similarly, information routinely transmitted by the Naval Investigative Service or Marine Corps Provost Marshal's Office to civilian law enforcement agencies shall not be reported under this paragraph unless such information was provided in response to a specific request and the information requested was not already in the possession of the DON.

**14. Report.** The report required in paragraph 13 is assigned symbol OPNAV 5820-1 and is approved for three years only from the date of this directive.

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H. Lawrence Garrett, III  
Under Secretary of the Navy

28 MAR 1988

Sample Format for Preparing, "Report on Support  
to Civilian Law Enforcement"

The quarterly report shall contain the following information for each request considered:

1. Number and type of assistance requested.
  - a. Facilities.
  - b. Information.
  - c. Equipment.
    - (1) Aircraft
    - (2) Vehicles
    - (3) Vessels
    - (4) Special (night vision goggles, weapons, etc.)
    - (5) Miscellaneous
  - d. Aviation Mission Support (see enclosure (2)).
    - (1) Surveillance
    - (2) Identification aircraft support
    - (3) Logistics
    - (4) Miscellaneous
  - e. Surface Mission Support.
    - (1) Surveillance
    - (2) Ship services (towing, tactical law enforcement teams TACLETs, etc.)
    - (3) Logistics
    - (4) Miscellaneous
  - f. Ground-based Mission Support.
    - (1) Radar/Sensor Surveillance

Enclosure (1)

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

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- (2) Aerostats
  - (3) Transportation of law enforcement personnel
  - (4) Border air and ground surveillance
  - (5) Logistics
  - (6) Miscellaneous
  - g. Explosive Ordnance Disposal.
  - h. Training provided to law enforcement agencies.
  - i. Personnel.
  - j. Other support not specifically addressed.
2. The length of time for which assistance is requested, if appropriate (if the request is for information or support for a brief time, enter "NA").
3. Status of the requests:
- a. Number approved.
  - b. Number denied,
  - c. Number pending.
4. A brief discussion of the reason for any denial.
5. Manhours/mandays expended to support law enforcement agencies.

Enclosure (1)

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Aviation Assistance to Law Enforcement Agencies

(Sample Format)

Surveillance

<u>Aircraft</u>	<u>Region State</u>	<u>Sorties</u>	<u>Flight Hours</u>	<u>Gained</u>	<u>Passed to LEA's</u>	<u>Remarks</u>
E-2C	Pacific	18	76	10A	9	No CS support available
E-2C	Atlantic	23	88	13A	10	CHET successful intercept of one aircraft. Flown by Reserves.
P-3C	Atlantic	103	712	32S	28S	CG seized 3 vessels.

Identification

<u>Aircraft</u>	<u>Region State</u>	<u>Sorties</u>	<u>Flight Hours</u>	<u>Visual/IRDS Attempts</u>	<u>Detections Successful</u>	<u>Remarks</u>
OV-10	New Mexico	17	35	3A	1	Handover to USCS, 1200# Marijuana seized.

Logistics/Miscellaneous Support

<u>Aircraft</u>	<u>Region State</u>	<u>Sorties</u>	<u>Flights Hours</u>	<u>Remarks</u>
UH-1N	Bahamas	332	299	Bahamas police seized 12,200# marijuana, 2000# cocaine.
RF-4C	Texas	4	7	Reconnaissance of remote airfields.

## Abbreviation Key:

A - Airborne  
Acft - Aircraft  
S - Surface  
L - Land  
CS - U.S. Customs Service

SS - Secret Service  
Res - Reserve  
ANG - Air Nat'l Guard  
ARNG - Army Nat'l Guard  
LEA - Law Enforcement Agency

Enclosure (2)



## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

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### Logistics/Miscellaneous Support

<u>Aircraft</u>	<u>Region State</u>	<u>Sorties</u>	<u>Flights Hours</u>	<u>Remarks</u>
CG - U.S. Coast Guard			CHET - Customs High Endurance Tracker (aircraft)	
D - DEA			IRDS - Infrared Detection System	

## APPENDIX 2-10: AFI 10-801 - ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AGENCIES

**BY ORDER OF THE AIR FORCE  
SECRETARY OF THE AIR FORCE**

**INSTRUCTION 10-801  
15 APRIL 1994**

*Operations*

### ASSISTANCE TO CIVILIAN LAW ENFORCEMENT AGENCIES

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This instruction implements AFD 10-8, *Support to Civil Authorities*, and Department of Defense (DoD) Directive 5525.5, *DoD Cooperation with Civilian Law Enforcement Officials*, January 15, 1986, with Change 1. It provides guidance and procedures concerning support for Federal, state, and local civilian law enforcement agencies (LEA), specifying limitations and restrictions on using Air Force members and resources in the active and reserve forces, military and civilian, and the Air National Guard units or members when federalized. Send recommended changes, additions, deletions, and any conflict or duplication of other reports to HQ USAF/XOOOD, 1480 Air Force Pentagon, Washington DC 20330-1480. Provide copies of publications that support or implement this AFI to HQ USAF/XOOOD. Waiver authority for this instruction is HQ USAF/XOO. See attachment 1 for references, abbreviations, acronyms, and terms used in this instruction.

#### **SUMMARY OF CHANGES**

This first issuance of AFI 10-801 aligns the instruction with AFD 10-8, incorporates the requirements, information, and procedures formerly in AFR 55-35, and reorganizes text. It differentiates between drug and nondrug law enforcement support, consolidates reporting criteria concerning drug and nondrug related matters, updates DoD quarterly report nomenclature, and eliminates detailed instructions.

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#### **Chapter 1 GENERAL POLICIES AND RESPONSIBILITIES**

##### **1.1. Air Force Support Concepts:**

- 1.1.1. Assist LEAs to the maximum extent practical as permitted by law.
- 1.1.2. Do not provide assistance if it could adversely affect national security or military preparedness. Support recommendations denying assistance on military preparedness grounds with clear and specific evidence.
- 1.1.3. When unable to provide assistance due to lack of the requested resources, recommend suitable substitutes.

##### **1.2. Major Command (MAJCOM), Field Operating Agency (FOA), and Direct Reporting Unit (DRU) Commanders:**

- 1.2.1. Establish OPRs to coordinate with supported CINCs, Regional Logistical Support Offices (RLSO), and LEAs.
- 1.2.2. Compile and submit a complete OPR listing to HQ USAF/XOOOD and notify HQ USAF/XOOOD of changes.

**1.3. Component Commanders.** Advise unified commander when disapproval of a request for support is recommended based on readiness.

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

**1.4. Public Affairs Offices.** Coordinate proposed release of information on Air Force support to LEAs with appropriate LEA. All information releases will comply with DoD Directive 5525.5.

**1.5. Functional Responsibilities.** See attachment 2.

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Supersedes AFR 55-35, 22 December 1986.

Certified by: HQ USAF/XOO (Col R.T. Newell III)

OPR: HQ USAF/XOOOD (MSgt Richard M. Walsh)

Pages: 14/Distribution F

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### Chapter 2 RESTRICTIONS ON USING AIR FORCE PERSONNEL

2.1. Restrictions. Air Force personnel may not actively participate in or perform activities that would violate the *Posse Comitatus Act*, United States Code (18 U.S.C. 1385), Use of the Army and Air Force as *Posse Comitatus*, and, 10 U.S.C. 18, *Military Support for Civilian Law Enforcement Agencies*.

2.2. Military Working Dog Teams (MWDt). Restrictions on assistance provided to LEAs differ based on type of support requested.

- Drug Detection Dog teams (DDD). See DoD Instruction 5525.10.
- Explosive Detection Dog teams (EDD). See DoD Directive 5525.5 and AFI 31-202.
- Obtain guidance for MWDtS from HQ AFSPA, Kirtland AFB, NM 87117-6001, DSN 246-2875, commercial (505) 846-2875, FAX DSN 246-1360.

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### Chapter 3 SUPPORT PROCESSING AND REPORTING PROCEDURES

#### 3.1. Operational Support:

3.1.1. Process requests through the supported CINC's operations center. SECDEF delegated approval authority to the CINCs for counterdrug (CD)-related operational support to the United States and foreign drug LEAs. (See Operational Support at attachment 3.)

3.1.2. Notify HQ USAF/XOO immediately through Air Force Operations Support Center (AFOSC) on contentious support issues received from a CINC; i.e., issues which may attract international, national, US Air Force, or significant news media interest.

3.1.3. Include full details and recommendations on all requests.

3.1.4. See DoD Directive 5525.5, CJCS Instruction 3710.01, and appropriate Combined, Specified, and Unified Command directives for further guidance concerning operational support processing and approval procedures.

#### 3.2. Non-Operational Support:

**3.2.1. LEA Support Requests Received by Regional Logistical Support Office (RLSO).** RLSO identifies the best source and the approval authority, and contacts the approval authority through Service command channels to request support. Each regional area, address, location and phone number is listed in attachment 5.

#### **3.2.2. LEA Support Requests Received by HQ USAF and Intermediate Commands:**

3.2.2.1. Refer routine LEA support requests to the appropriate RLSO for action.

3.2.2.2. Notify HQ USAF/XOO immediately through the AFOSC for situations requiring short-notice support and for requests concerning contentious issues.

#### **3.2.3. LEA Support Requests Received by Local Installations:**

3.2.3.1. Accept routine support requests.

3.2.3.2. If installation commander is able and has the authority to fulfill the request (see Non-Operational Approval Authorities at attachment 4), the installation commander will provide the support. The OPR will contact the appropriate RLSO for a control number for the support provided.

3.2.3.3. If the installation has the requested equipment, but is not the approval authority, the OPR will notify the RLSO, obtain a control number, and forward the request through command channels to the approval authority.

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3.2.3.4. If the installation does not have the equipment or the equipment is not available for loan, the OPR will notify the RLSO, so the RLSO can take further action.

3.2.3.5. Notify HQ USAF/XOO immediately through AFOSC during situations requiring short-notice support and for requests concerning contentious issues. AFOSC will notify appropriate persons and agencies.

3.2.3.6. Up-channelled LEA support requests should include:

- Requesting agency.
- Date request received.
- RLSO control number.
- Equipment requested (NSN, model number, name, and quantity).
- Location of unit or installation where support is available.
- Location where support will be used.
- How support will be used.
- Dates for requested support.
- Estimated cost (equipment value if lease/loan), reimbursement arrangements or recommendation, and DoD funding source if applicable. If the requesting agency asks for a reimbursement waiver, include a recommendation for approval or denial with specific reasons (see paragraph 5.4).

### **3.3. Support Approval or Disapproval Recommendation:**

3.3.1. Include information about the requesting agency and whether DoD support is critical for the stated purpose.

3.3.2. Give specific rationale for a disapproval recommendation (e.g., other agencies can provide the requested support, readiness impact, legal determination, etc.).

3.3.3. Forward requests from LEAs for the no-cost transfer of excess DoD property to the Office of Drug Enforcement Policy and Support (USDP/DEP&S) for coordination and approval according to DoD Directive 5525.5.

3.3.4. Refer to AFMAN 23-110, *USAF Supply Manual* (formerly AFM 67-1) and AFI 32-9003, *Outgrant of Real Property* (formerly AFRs 87-3, 87-7, 87-9, and 87-16) for specific guidance when providing equipment and facilities to LEAs.

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## **Chapter 4 USING COLLECTED INFORMATION**

### **4.1. Information Support Concept:**

4.1.1. Air Force personnel may provide information obtained in the normal course of their duties to LEAs when there is reason to believe Federal, state, or local laws were violated within the LEAs' jurisdictions.

4.1.2. Air Force personnel may obtain and provide information to LEAs when the collection of the information is an incidental aspect to a valid Air Force training or operational mission.

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## **Chapter 5 FUNDING AND REIMBURSEMENT**

**5.1. Funding.** Financial managers at all levels will ensure Air Force CD funds are used only for supporting counterdrug activities. Refer questions on applicability to comptroller. Work through normal channels to obtain funding for non-CD purposes. *NOTE:* Public Law (P.L.) 101-510, Section 1004, *Additional Support for Counterdrug Activities*, provides funding for certain DoD support to drug LEAs -- including specialized training, maintenance, or transportation Air Force has a unique capability to provide. Before incurring expenses, request funding through SAF/FMBP and SAF/MIR.

**5.2. Reimbursement Policy.** Primary authority for reimbursement is the *Economy Act* (31 U.S.C. 1535). In general, LEAs outside DoD must reimburse for equipment or services provided. LEAs may request reimbursement waivers according to this AFI and DoD Directive 5525.5.

5.2.1. Loans under the *Economy Act* are limited to the Federal government. Air Force may lease resources under 10 U.S.C. 2667 to agencies outside the Federal government (see attachment 3 for approval

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authorities). See AFI 65-601, Volume 1, for specific guidance on reimbursement for the loan of equipment or supplies and AFI 33-103 for reimbursement for communications computer systems services.

5.2.2. Time permitting, non-Federal LEAs will identify a preapproved funding source to the supporting installation based on the estimated cost of equipment and services. 5.2.3. Do not deny requests of immediate nature because of the inability or unwillingness of the requester to reimburse Air Force. Direct questions concerning reimbursement procedures to SAF/FMBP, 1130 Air Force Pentagon, Washington DC 20330-1130, DSN 224-3642.

### **5.3. Reimbursement Costs.** Charge LEAs standard DoD pricing.

5.3.1. The applicable Defense Business Operations Fund (DBOF) activity will bill for any services provided to LEAs using standard billing procedures. (Normal DBOF accounting procedures apply.) *NOTE:* The 1994 Defense Appropriations Act provides for specific funds appropriated for drug interdiction and counterdrug activities be made available only for the Gulf States (Alabama, Louisiana, and Mississippi) Counterdrug Initiative (GSCI).

5.3.2. Up-channel reimbursement problems to SAF/MIR.

### **5.4. Reimbursement/Lease Waivers.** Submit LEA waiver requests to SAF/MIR.

5.4.1. OPRs providing support will include dollar value of waivers according to DoD 7220.9-M, Chapter 26, *Department of Defense Accounting and Reporting for Government Property Lost, Damaged, or Destroyed*, March 1991, when forwarding requests to SAF/MIR.

5.4.2. SAF/MIR may grant reimbursement/lease waivers when support is provided in the normal course of military training or operations, results in a benefit to the Air Force that is substantially equivalent to that which would otherwise be obtained from military training or operations, or is in the public interest. (SAF/MIR will consider the LEA's budgetary resources and past determinations for similar types of support when evaluating waiver requests.)

*NOTE:* SAF/MIR will not grant reimbursement waivers when deletion of funds from the Air Force account would adversely affect national security or military preparedness.

5.4.3. Ensure LEAs provide a surety bond to cover the cost of lost or damaged property belonging to Air Force.

### **5.5. Accounting System:**

5.5.1. Use Emergency Special Project (ESP) Code "MA" to capture and report total costs (including military and civilian personnel costs) relating to Air Force CD assistance provided to LEAs.

5.5.2. Record all costs for LEA operations and support with ESP Code "MA." Report incremental costs in RCS: DD-DEP&S(Q)1595, *Report on Support to Civilian Law Enforcement*. (ESP Code "MA" total costs are more inclusive than RCS: DD-DEP&S(Q)1595 incremental costs.)

5.5.3. Record USAF aircraft flight hours flown in support of DoD operations using specific mission symbols (i.e., AWACS/T7) on AFTO Form 781, AFORM Aircrew/Mission Flight Data Document, according to AFI 11-401 and include in RCS: DD-DEP&S(Q) 1595 report.

**5.6. Documentation Procedures.** As part of normal administrative control procedures, retain copies of LEA requests (or statements of requested support) and official approvals. Include dates and locations of support and Air Force resources used.

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## Chapter 6 REPORTING REQUIREMENTS FOR MAJCOM, FOA, AND DRU OPRS

### **6.1. Reporting Requirements:**

6.1.1. Compile and submit a quarterly RCS: DDDEP& S(Q)1595 on all drug and nondrug related requests for assistance and support to LEAs. (See attachment 6 for format.)

6.1.2. Include a numeric cumulative summary, describing activity for the fiscal year to date, and submit to HQ USAF/XOOD, 1480 Air Force Pentagon, Washington DC 20330-1480 by the 15th of the month following the end of the fiscal quarter.

BUSTER C. GLOSSON, Lt General, USAF  
DCS/Plans and Operations

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## 6 Attachments

1. Glossary of References, Abbreviations, Acronyms, and Terms
2. Functional Responsibilities
3. Approval Authority for Counterdrug Operational Support
4. Approval Authority for Counterdrug Non-Operational Support
5. Regional Logistical Support Offices (RLSO)
6. Format for Preparing RCS: DD-DEP&S(Q)1595, *Report on Support to Civilian Law Enforcement AFI 10-801 Attachment 1 15 April 1994 5*

## GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS

### Section A--References

Title 10, United States Code, Chapter 18, *Military Support for Civilian Law Enforcement Agencies*  
Title 10, United States Code, §2576, *Surplus Military Equipment: Sale to State and Local Law Enforcement*  
Title 10, United States Code, §2667, *Leases: Non-Excess Property*  
Title 18, United States Code, §1385, *Posse Comitatus Act*  
DoD Directive 5525.5, *DoD Cooperation with Civilian Law Enforcement Officials*, January 15, 1986, with Change 1  
DoD Instruction 5525.10, *Using Military Working Dog Teams (MWDTs) to Support Law Enforcement Agencies in Counter - drug Missions*, September 17, 1990  
CJCS Instruction 3710.01, *Delegation of Authority for Approving Operational Support to Drug Law Enforcement Agencies and Counterdrug-Related Deployment of DoD Personnel*  
Public Law 101-510 §1004 (as amended by Public Law 102-484 §1041), *Additional Support for Counterdrug Activities*  
AFMD 37, *Air Force Office of Special Investigations* (formerly AFR 23-18)  
AFPD 10-8, *Support to Civil Authorities*  
AFPD 14-1, *Intelligence Management*  
AFPD 14-2, *Intelligence Collection, Production, and Application*  
AFPD 14-3, *Control, Protection, and Dissemination*  
AFPD 36-50, *Civil Air Patrol*  
AFI 10-206, *Operational Reporting* (formerly AFR 55-55)  
AFI 10-802, *Support During Disasters*  
AFI 11-401, *Flight Management* (formerly AFR 60-1)  
AFI 31-202, *Military Working Dog Program* (formerly AFR 125-5)  
AFI 31-401, *Information Security Program Management* (formerly AFRs 205-1 and 205-43)  
AFI 32-9003, *Outgrant of Real Property* (formerly AFRs 87-3, 87-7, 87-9, and 87-16)  
AFI 33-103, *C4 Systems Requirements, Development and Processing* (formerly AFR 700-3)  
AFI 37-132, *Privacy Act Program* (formerly AFR 12-35)  
AFI 65-601, Volume 1, *Budget Policies and Procedures* (formerly AFRs 172-1, Volume 1, and AFR 172-8)  
AFI 71-101, Volume 1, *Criminal Investigations, Counterintelligence, and Protective Service Matters*

### Section B--Abbreviations and Acronyms

#### Abbreviations or Acronyms

#### Definitions

AF/DP	The Deputy Chief of Staff, Personnel
AF/IN	Air Force Intelligence
AF/JAG	The Judge Advocate General
AF/LG	The Deputy Chief of Staff, Logistics
AFOSI	Air Force Office Of Special Investigations
AF/REO	Directorate of Operations and Requirements, Office of Air Force Reserve
AF/SC	The Assistant Chief of Staff, Systems for Command, Control, Communications, and Computers

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AF/SP	Chief, Air Force Security Police
AFSPA	Commander, Air Force Security Police Agency
AF/XOO	Director of Operations, Deputy Chief of Staff, Plans and Operations
AF/XOOD	Air Force Counterdrug Operations Division
ANG	Air National Guard
ANGRC	Air National Guard Readiness Center
C4	Command, Control, Communications, and Computers
CD	Counterdrug
CINC	Commander in Chief
CJCS	Chairman of the Joint Chiefs of Staff
DDD	Drug Detector Dog
DEA	Drug Enforcement Administration
DIA	Defense Intelligence Agency
DoD	Department of Defense
DRU	Direct Reporting Unit
EDD	Explosive Detector Dog
EPIC	El Paso Intelligence Center
FOA	Field Operating Agency
JCS	Joint Chiefs of Staff
LEA	Law Enforcement Agency
MAJCOM	Major Command
MWDT	Military Working Dog Team
OPR	Office of Primary Responsibility
RLSO	Regional Logistical Support Office
SAF/AQ	The Assistant Secretary of the Air Force, Acquisition
SAF/FM	The Assistant Secretary of the Air Force, Financial Management and Comptroller
SAF/GC	Office of the General Counsel
SAF/MI	The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment
SAF/MIR	Deputy Assistant Secretary of the Air Force, Reserve Affairs and Counterdrug Policy
SAF/PA	The Office of Public Affairs
SECDEF	Secretary of Defense
USDP/DEP&S	Office for Drug Enforcement Policy and Support

### ***Section C--Terms***

***Host Nation***--A nation which receives the forces and/or supplies of allied nations to be located on, or to operate in, or to transit through its territory.

***Joint Task Force (JTF)***--A force composed of assigned or attached elements of the Army, Navy or Marine Corps, and the Air Force, or two or more of these Services, which is constituted and so designated by the Secretary of Defense or by the commander of a unified command, a specified command, or an existing joint task force..

***Law Enforcement Agency (LEA)***--Non-DoD government agency chartered and empowered to enforce laws in the jurisdictions of the United States, a state (or political subdivision) of the United States, a territory or possession (or political subdivision) of the United States, and within the borders of a host nation.

***Loan/Lease***--Air Force material, equipment, and property (including real estate) temporarily provided to drug LEAs under 10 U.S.C 2667. Only Federal LEAs are authorized loan of Air Force equipment/facilities. The borrowing agencies are responsible for all delivery, return, and costs associated with depreciation, maintenance, and consumable items.

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***Military Support for Civilian Law Enforcement Agencies***--Title 10, United States Code. These statutes codify DoD's authority to assist LEAs.

***Non-Operational Support***--Counterdrug support provided to LEAs which includes loan or lease of equipment without operators, use of facilities (such as buildings, training areas, and ranges), training conducted by formal schools, transfer of excess equipment, or other support provided by the Services from forces not assigned or made available to the CINCs. Military working dog support will be provided according to DoD Instruction 5525.10 and AFI 31-202.

***Operational Support***--Counterdrug support to LEAs involving military personnel and their associated equipment and training, provided by the CINCs from forces assigned to them or made available to them by the Services for this purpose. Operational support is not defined as support in the form of equipment alone. It can include the use of facilities, military working dog support, training in formal schools, or the conduct of joint law enforcement investigations by military criminal investigative organizations with cooperating civilian LEAs.

***Posse Comitatus Act, Title 18, United States Code, Section 1385 (18 U.S.C. 1385)***--This criminal statute restricts direct military participation in law enforcement activities conducted within the United States and its territories. It provides the following: "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 not more than \$10,000 or imprisoned not more than two years or both."

***Regional Logistical Support Offices (RLSO)***--Responsible for CD Non-Operational support from Federal, state, and local LEAs located within area of responsibility (AOR). Operates under the direction of USDP/DEP&S (Plans and Support Directorate). Provides focal points for LEAs seeking non-operational logistics and training support in drug law enforcement matters.

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## FUNCTIONAL RESPONSIBILITIES

### **A2.1. SAF/MI:**

- Serves as the principal advisor to the Secretary of the Air Force on all matters related to LEA support.
- Serves as the Air Force executive agent for all contacts with USDP/DEP&S and other DoD components.
- Exercises approval authority for LEA assistance requests.

### **A2.2. SAF/MIR:**

- Exercises approval authority for LEA drug-related matters.
- Exercises approval authority for CD reimbursement/lease waivers.
- Serves as the chairperson for the Air Force Civil Law Enforcement Support Steering Group.
- Advises SAF/MI in role as Air Force executive agent.
- Brings together experts from operations, legal, budget, logistics, personnel, and law enforcement staff agencies to develop support policies and procedures.

**A2.3. AF/XOO.** Serves as USAF focal point for cooperating with LEAs and provides a single HQ USAF OPR for processing requests for assistance requiring submittal for review by SAF/MI.

**A2.4. SAF/AQ.** Provides a single USAF OPR for acquisition issues.

**A2.5. SAF/FM.** Provides policy and procedural guidance on costing, reimbursement, and accounting for support provided to LEAs.

### **A2.6. SAF/GC:**



## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

- Provides legal advice and assistance to SAF/MI and other OPRs.
- Coordinates with DoD/GC as required.

**A2.7. SAF/PA.** Provides a single USAF OPR for information release issues.

**A2.8. AF/DP.** Provides a single USAF OPR for detailing of military personnel to supported CINCs and LEAs.

**A2.9. AF/IN.** Provides a single USAF OPR for requests for USAF intelligence assistance.

**A2.10. AF/JAG.** Provides a single USAF OPR for resolving legal issues.

**A2.11. AF/LG.** Provides a single USAF OPR for review of logistics impacts of support for LEA requests for Air Force equipment, spares, repairable support, or maintenance support personnel.

**A2.12. AFOSI:** Provides a single USAF OPR for investigative services to Air Force commanders for violations of laws by Air Force members (emphasis on the detection, interdiction, suppression, and monitoring of the flow of drugs into the United States via Air Force channels).

**A2.13. AF/REO.** Provides a single USAF OPR for Air Force Reserve Policy.

**A2.14. AF/SC:**

- Provides a single USAF OPR for providing any communications and automated data processing equipment or networks for LEA use.
- Advises on capabilities available for particular employments.

**A2.15. AF/SP.** Provides a single USAF OPR for requests for security police assistance.

**A2.16. AFSPA.** Serves as DoD executive agent for missions performed by MWDTs, regardless of Service.

**A2.17. ANGRC:**

- Provides a single USAF Air National Guard OPR for Air National Guard support issues.  
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- Coordinates state CD plans and monitors their implementation in conjunction with the DoD Drug Coordinator.
- Promulgates instructions for providing LEA support and keeps HQ USAF/XOOOD informed of Air National Guard CD support.

**A2.18. HQ AFRES/DO (Robins AFB, Georgia).** OPR for operational matters and for responsibilities in paragraph 1.2 (MAJCOM, FOA, & DRU Commanders).

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### APPROVAL AUTHORITY FOR COUNTERDRUG OPERATIONAL SUPPORT

CINCs have authority to approve the following operational support to drug LEAs and CD-related deployment of DoD personnel within their areas of responsibility:

- Ground reconnaissance.
- Detection, monitoring, and communications.
- Aerial.
- CD-related training of drug LEA personnel.
- Nonherbicidal eradication.
- Linguistics.
- Transportation.
- Intelligence.

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- Tunnel detection.
- Divers for subsurface hull inspection.
- Military engineering or training.
- Use of military vessels for establishing bases of operations for drug LEAs.
- Maintenance.
- Host nation drug LEA operational support and foreign drug LEA CD-related deployments of DoD personnel.

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### APPROVAL AUTHORITIES FOR COUNTERDRUG NON-OPERATIONAL SUPPORT

Type of Support	<u>Approval Authority</u>
1. Arms, ammunition, tactical vehicles, vessels, and aircraft.	SAF/MI*
2. Equipment purchase requests from Federal agencies.	MAJCOM, FOA, & DRU commanders**
3. Maintenance personnel to install, perform maintenance on, and train LEA users on loaned or leased equipment.	MAJCOM, FOA, DRU commanders
4. Loan/lease/use of equipment (other than para 1) or facilities for more than 60 days.	MAJCOM, FOA, DRU commanders***
5. Loan/lease/use of equipment (other than para 1) or facilities for 60 days or less.	Base, wing, & installation commanders

**Note:** SAF/MI exercises approval authority for assistance on *all* nondrug related requests.

\*Notify SECDEF within 48 hours of decision.

\*\*May delegate to local commanders

\*\*\*Notify AF/XOOD, SAF/MI, and USDP/DEP&S within 48 hours of decision.

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### REGIONAL LOGISTICAL SUPPORT OFFICES (RLSO)

**Region I.** Connecticut, Delaware, District of Columbia, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin, (see Note 1). PO Box 400, Buffalo NY 14225, Commercial (716) 846-3187, Fax (716) 856-3067.

**Region II.** Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, US Virgin Islands, and Puerto Rico. Brickell Plaza Federal Building, 909 Southeast First Avenue, Room 432, Miami FL 33131-3050, Commercial (305) 530-7911, Fax (305) 536-5842.

**Region III.** Arizona, Arkansas, California, Colorado, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming (see Note 2). PO Box 5050, El Paso TX 79937, Commercial (915) 568-9085, Fax (915) 568-9091, DSN 978-9085.

**Region IV.** Alaska, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington (see Notes 1 & 2). 501 West Ocean Boulevard, Suite 100, Long Beach CA 90822-5399, Commercial (310) 980-4300, ext 580/1/2/3/4, Fax (310) 980-4385, MODEM (310) 980-4386, DSN 360-6414.

#### **NOTES:**

1. RLSD Regions I & IV share responsibilities for Washington, Idaho, and Montana. Within those states, Region I is OPR for requests involving Operation North Star and Alaska; Region IV is OPR for all other non-operational support.

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

2. RLSO Regions III & IV share responsibilities for California. Within California, Region III is the OPR for requests involving Operation Alliance and Region IV is OPR for all other non-operational support.

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### **FORMAT FOR PREPARING RCS: DD-DEP&S(Q)1595, REPORT ON SUPPORT TO CIVILIAN LAW ENFORCEMENT**

Report levels of activity for each of the following:

I. Aviation assistance to LEAs:

- A. Type aircraft (if not active Air Force, specify component, i.e., ANG, AFRES) furnished.
- B. Number of sorties (dedicated and/or associated).
- C. Flying hours. (If a sortie was flown for more than one CINC or agency, do not count the sortie more than once, i.e., USACOM 4.2, SOUTHCOM 3.1, Sortie 1.)
- D. Number and type of specific drug LEA requests (aircraft identification, surveillance, logistics, miscellaneous) supported by aviation assistance.

II. Facilities support (no-cost lease):

- A. Type of facility.
- B. Agency supported.
- C. Facility location.
- D. Facility value (\$).

III. Equipment on loan to drug LEAs:

- A. Receiving unit or agency.
- B. Present location of equipment.
- C. Type of equipment.
- D. Number of items loaned.
- E. Inclusive dates of loan.
- F. Value of each item loaned.
- G. Total value of items loaned.

IV. Equipment on loan to drug LEAs with lease waiver:

- A. Waiver authority.
- B. Receiving unit or agency.
- C. Present location of equipment.
- D. Type of equipment.
- E. Number of items loaned.
- F. Inclusive dates of loan.
- G. Value of each item loaned.
- H. Total value of items loaned.

V. Training of drug law enforcement personnel:

- A. Agencies supported.
- B. Location of training.
- C. Type of training provided.
- D. Number of personnel trained.
- E. Dates training was provided.

VI. Personnel detailed to drug LEAs (recap):

- A. Agencies supported.
- B. Location of detailees.
- C. Number of personnel detailed.
- D. Dates detailed.
- E. Type of duty performed.

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## VII. MTT(s) deployed to assist drug LEAs and host nations:

- A. Type of MTT deployed.
- B. Number of teams deployed.
- C. Deployed location.
- D. Dates of deployment.

## VIII. Missions supported:

- A. Types of missions.
- B. Numbers of missions.
- C. Dates of missions: Chronological description of missions supported (include operation code names).

## IX. Military Working Dog Teams (MWDTs):

- A. Drug Detector Dog (DDD):
  - 1. Number of requests received.
  - 2. Number of requests supported.
  - 3. Number of teams deployed.
  - 4. Dates of deployment
  - 5. Man-hours and man-days expended.
  - 6. Marginal/incremental costs (nonreimbursed expenses).
- B. Explosive Detector Dog (EDD):
  - 1. Number of requests received.
  - 2. Number of requests supported.
  - 3. Number of teams deployed.
  - 4. Dates of deployment.
  - 5. Man-hours and man-days expended.
  - 6. Marginal/incremental costs (nonreimbursed expenses).

## X. Intelligence activities: Intelligence assistance or information relevant to a violation of any Federal or state law provided to EPIC/DEA or LEAs.

## XI. Support under Section 1004 Authority:

- A. Name of operation or project number.
- B. Component providing support.
- C. Supported agency.
- D. Date of support.
- E. Category of support (refer to the 8 categories of Sec 1004).
- F. Dollar value of support and appropriation account.
- G. Type of fund (e.g., Sec 1004, other counterdrug funds, military department or agency funds--include project codes).

## XII. Support under Gulf States Counterdrug Initiatives (GSCI):

- A. Name of operation or project number.
- B. Component providing support.
- C. Supported agency.
- D. Date of support.
- E. Description of support.
- F. Dollar value of support and appropriation account.
- G. Type of fund (e.g., P.L. 101-510, Section 1004, other counterdrug funds with project code, military department or agency funds. Fund reports may be duplicative, e.g., funds may be counted as both P.L.101-510, Section 1004 and GSCI. If funds are counted in more than one category, annotate where the amounts are being double counted.)

## XIII. Specific Accomplishments. Particular emphasis should be placed on anecdotal information, such as amount, type, and estimated value (\$) of drugs and assets seized and any operations having clear results.

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

### APPENDIX 2-11: SUPPORT TO DOJ

PAAUZYUW RUEADWD1129 0731335-UUUU-RUEASRB RUERPHB.  
ZNR UUUUU  
P 130834Z MAR 00  
FM DIRMILSPT DCSOPS WASHINGTON DC//DAMO-ODS//  
TO RUEASRB/CDR FORSCOM FT MCPHERSON GA//AFOP-OCT//  
RUEANBA/CDRUSACIDC WASHDC //CIOP//  
INFO RUEADWD/SA WASHINGTON DC//  
RUEADWD/CSA WASHINGTON DC  
RUEAWJA/DEPARTMENT OF JUSTICE WASHINGTON DC  
RUERMFA/CDRIICOPRS FT HOOD TX//  
RUEKJCS/JOINT STAFF WASHINGTON DC//J3WHEM/J3//  
RUEKJCS/SECDEF WASHINGTON DC //  
RUEADWD/DA WASHINGTON DC//SASA-MS//  
BT  
UNCLAS  
SUBJ: DOD SUPPORT TO DEPARTMENT OF JUSTICE  
OPER/ DOD SUPPORT TO DOJ//  
ORDTYPE/FRAGO1/SECRETARY OF THE ARMY//  
REF/A/DODD 3025.15/18 FEB 97//  
REF/B/31 USC 1535/THE ECONOMY ACT//  
REF/C/DOJ RFA/8 FEB 00/6 MAR 00//  
REF/D/OFFICE OF SPECIAL COUNSEL MEMOS DATED/1 FEB 00/9  
FEB 00/  
PAGE 02 RUEADWD1129 UNCLAS  
17 FEB 00//  
REF/E/OSD EXEC SEC MEMO DATED/11 FEB 00//  
REF/F/DIRMILSPT EXORD 081536Z MAR 00//  
NARR/REF A IS THE DOD DIRECTIVE FOR MILITARY ASSISTANCE TO  
CIVIL AUTHORITIES. REF B IS THE AUTHORITY FOR DOD TO PROVIDE  
REIMBURSABLE SUPPORT TO FEDERAL AGENCIES. REF C ARE TWO  
REQUEST FOR  
ASSISTANCE FROM THE DEPARTMENT OF JUSTICE. REF D ARE THREE  
MEMOS  
FROM THE OFFICE OF THE SPECIAL COUNSEL REQUESTING DOD  
SUPPORT. REF E  
IS THE OSD EXEC SEC MEMO PROVIDING SECDEF APPROVAL FOR DOD  
SUPPORT TO  
THE DOJ. REF F IS THE DIRECTOR OF MILITARY SUPPORT EXECUTE  
ORDER  
DIRECTING SPECIFIC DOD SUPPORT TO DOJ.//  
APPENDIX 2- 6 : SUPPORT TO DOJ  
249  
RMKS/THIS IS A FRAGMENTARY ORDER THAT MODIFIES THE  
SECRETARY OF  
DEFENSE APPROVED AND THE SECRETARY OF THE ARMY DIRECTED  
SUPPORT TO  
THE DOJ.//  
TIMEZONE/Z//  
GENTEXT/SITUATION./  
1. SITUATION. THE DEPARTMENT OF JUSTICE (DOJ) REQUESTED  
DOD ASSISTANCE ON BEHALF OF THE OFFICE OF THE SPECIAL  
COUNSEL (OSC) IN ITS CONDUCT OF A FORWARD LOOKING

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INFRARED (FLIR) TEST.//

2. MISSION. DOD PROVIDES A LOCATION, PERSONNEL AND EQUIPMENT TO

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SUPPORT DOJ - OSC AS THEY CONDUCT A FLIR TEST ON FORT HOOD, TX, COMMENCING O/A 16 MARCH 2000. (O/A IS PLUS OR MINUS 2 DAYS.) GENTEXT/EXECUTION/

3. EXECUTION./

3.A. CONCEPT OF OPERATIONS. DOD WILL PROVIDE SUPPORT TO DOJ - OSC

IN THE CONDUCT A FORWARD LOOKING INFRARED TEST.//

3.B. TASKINGS./

3.B.1. FORSCOM./

3.B.1.A. DELETE TASKING TO PROVIDE ONE M79 GRENADE LAUNCHER./

3.B.1.B. PROVIDE ONE M60 7.62 MG, ONE M203 40MM GRENADE LAUNCHER, AND ONE MK-19 40MM GRENADE MACHINE GUN./ 3.B.1.C. PROVIDE MARKSMEN QUALIFIED TO FIRE THE M60, M203, AND MK-19/

3.B.1.D. PROVIDE 1000 ROUNDS OF 5.56 BALL AMMO, (DODIC A057); 1000 ROUNDS 7.62 LINKED WITH TRACER (4 BALL TO 1 TRACER) (DODIC A131); AND 50 ROUNDS OF 40 MM TP (M918) LINKED FOR THE MK-19. ALL AMMUNITION MUST BE DELIVERED TO THE RANGE IN FACTORY PACKED CONTAINERS.

AMMUNITION THAT IS PART OF THE FACTORY PACKED CONTAINER BUT NOT

USED FOR THE TEST WILL BE RETURNED TO DOD CONTROL./

3.B.2. US ARMY CRIMINAL INVESTIGATION COMMAND (USACIDC). PROVIDE

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ONE OPERATIONAL M79 GRENADE LAUNCHER PER PARA 3.C.2./

3.C. COORDINATING INSTRUCTIONS./

3.C.1. DIRECT COORDINATION AUTHORIZED FOR ALCON./

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3.C.2. USACIDC LAB WILL SHIP THE M79 TO THE 11TH MP BN (CID) AT FORT

HOOD, TX WHO WILL HAND RECIEPT THE WEAPON TO THE III CORPS AND FT

HOOD POC./

3.C.3. KEEP DOMS INFORMED./

4. ADMIN AND LOGISTICS./

4.A. IAW THE ECONOMY ACT, THE DOJ WILL REIMBURSE DOD FOR SUPPORT,

TO INCLUDE: RESOURCES, EQUIPMENT AND TRANSPORTATION.

COMPONENT

COMMANDS WILL INITIALLY FUND THE OPERATION. SERVICE

COMPONENT

COMMANDS WILL CAPTURE AND REPORT COSTS TO SERVICE

COMPTROLLER.//

4.B. THE LENGTH OF THE OPERATION IS NOT EXPECTED TO EXCEED 7 DAYS.//

4.C. PUBLIC AFFAIRS. QUERIES REGARDING DOD SUPPORT TO THE DOJ-OSC

SHOULD BE REFERRED WITHOUT COMMENT TO THE DOJ, OFFICE OF SPECIAL

COUNSEL.//

4.D. ALL EQUIPMENT NOT PHYSICALLY LOCATED AT FORT HOOD, TX

## APPENDIX 2: MILITARY SUPPORT TO CIVILIAN AUTHORITIES

WILL NEED

TO BE TRANSPORTED TO THAT LOCATION. LAD 15 MAR 00.//

GENTEXT/COMMAND AND SIGNAL/

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5. COMMAND AND SIGNAL./

5.A. DOJ POC IS JAMIE ORENSTEIN (202) 514-5000/

5.B. OSC POC IS GREG HANNAH, (314) 345-2042/

5.C. OSD GENERAL COUNSEL POC IS DAVID SCHANZER (703) 692-9182/

5.D. OSD EXECSEC, COL HANEY, (703) 692-7125/

5.E. FORSCOM POC IS LTC CORBETT, DSN 367-5371/

5 F. TRANSCOM POC IS COL RON RICHBURG, DSN 576-8105/

5 G. HQ USACIDC POC, LTC TAYLOR, (703) 806-0300/

5.H. USACIDC LAB POC, MR. HORNSBY, (404) 362-7048/

5.I.11TH MP BN (CID) POC, LTC THOMPSON (254) 28-0452/ III CORPS AND

FT. HOOD POC IS LTC POMEROY, DSN 737-4211/ 5.J. DOMS POC IS

LTC LA CROSSE, (703) 697-4331, DSN 227-XXXX, FAX, XXX-3147, EMAIL:

[THOMAS.LACROSSE@DOMS.ARMY.MIL](mailto:THOMAS.LACROSSE@DOMS.ARMY.MIL)/

GENTEXT/AUTHENTICATION/DIRMILSPT OFFICIAL: MG CODY/LTC LA

CROSSE//

BT





## APPENDIX 3: COUNTERDRUG OPERATIONS

### APPENDIX 3 COUNTERDRUG OPERATIONS

#### **APPENDIX 3-1: 18 U.S.C. § 1385 - THE POSSE COMITATUS ACT (PCA)**

*See Appendix 2-1*

#### **APPENDIX 3-2: 10 U.S.C. §§ 371-381 - MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES**

*See Appendix 2-2*

#### **APPENDIX 3-3: 10 U.S.C. § 379 - COAST GUARD LAW ENFORCEMENT DETACHMENTS**

*See Appendix 2-2*

#### **APPENDIX 3-4: 14 U.S.C. § 89 - LAW ENFORCEMENT (COAST GUARD)**

##### **14 U.S.C. §89 (2001)**

##### **Coast Guard**

##### *Sec. 89. Law enforcement*

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

*Source*

(Aug. 4, 1949, ch. 393, 63 Stat. 502; Aug. 3, 1950, ch. 536, Sec.1, 64 Stat. 406.)

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UPDATE: None

### **APPENDIX 3-5: 32 U.S.C. § 112 - NATIONAL GUARD FUNDING**

#### **32 U.S.C. §112 (2002)**

##### **National Guard**

###### *Sec. 112. Drug interdiction and counter-drug activities*

(a) Funding Assistance. - The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a State drug interdiction and counter-drug activities plan satisfying the requirements of subsection (c). Such funds shall be used for the following:

- (1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of drug interdiction and counter-drug activities.
- (2) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.
- (3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities. However, the use of such funds for the procurement of equipment may not exceed \$5,000 per item, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.

(b) Use of Personnel Performing Full-Time National Guard Duty. -

(1) Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State drug interdiction and counter-drug activities plan referred to in subsection (c), be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out drug interdiction and counter-drug activities.

(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.

(C) To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform:

- (i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.
- (ii) National Guard personnel will not degrade their military skills as a result of performing the activities.
- (iii) The performance of the activities will not result in a significant increase in the cost of training.

## APPENDIX 3: COUNTERDRUG OPERATIONS

(iv) In the case of drug interdiction and counter-drug activities performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

(3) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if -

(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

(B) in the case of services, the performance of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan. (c) Plan Requirements. - A State drug interdiction and counter-drug activities plan shall -

(1) specify how personnel of the National Guard of that State are to be used in drug interdiction and counter-drug activities;

(2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service;

(3) certify that participation by National Guard personnel in those operations is service in addition to training required under section 502 of this title;

(4) certify that any engineer-type activities (as defined by the Secretary of Defense) under the plan will be performed only by units and members of the National Guard;

(5) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and

(6) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities included in the plan that are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.

(d) Examination of Plan. -

(1) Before funds are provided to the Governor of a State under this section and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b), the Secretary of Defense shall examine the adequacy of the plan submitted by the Governor under subsection (c). The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.

(2) Except as provided in paragraph (3), the Secretary shall carry out paragraph (1) in consultation with the Director of National Drug Control Policy.

(3) Paragraph (2) shall not apply if -

(A) the Governor of a State submits a plan under subsection (c) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).

(e) Exclusion From End-Strength Computation. - Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 1993 otherwise implementing) this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10. (f) End Strength Limitation. -

(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members of the National Guard -

(A) on full-time National Guard duty under section 502(f) of this title to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days; or

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(B) on duty under State authority to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days with State pay and allowances being reimbursed with funds provided under subsection (a)(1). (2) The Secretary of Defense may increase the end strength authorized under paragraph (1) by not more than 20 percent for any fiscal year if the Secretary determines that such an increase is necessary in the national security interests of the United States.

(g) Annual Report. - The Secretary of Defense shall submit to Congress an annual report regarding assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

(1) The number of members of the National Guard excluded under subsection (e) from the computation of end strengths.

(2) A description of the drug interdiction and counter-drug activities conducted under State drug interdiction and counter-drug activities plans referred to in subsection (c) with funds provided under this section.

(3) An accounting of the amount of funds provided to each State.

(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform activities under the State drug interdiction and counter-drug activities plans.

(h) Statutory Construction. - Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(i) Definitions. - For purposes of this section:

(1) The term "drug interdiction and counter-drug activities", with respect to the National Guard of a State, means the use of National Guard personnel in drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities, authorized by the law of the State and requested by the Governor of the State.

(2) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.-

SOURCE- (Added Pub. L. 101-189, div. A, title XII, Sec. 1207(a)(1), Nov. 29, 1989, 103 Stat. 1564; amended Pub. L. 102-25, title VII, Sec. 703, Apr. 6, 1991, 105 Stat. 118; Pub. L. 102-396, title IX, Sec. 9099A, Oct. 6, 1992, 106 Stat. 1926; Pub. L. 104-106, div. A, title X, Sec. 1021, Feb. 10, 1996, 110 Stat. 426; Pub. L. 104-208, div. C, title VI, Sec. 660, Sept. 30, 1996, 110 Stat. 3009-720; Pub. L. 105-85, div. A, title X, Sec. 1031, Nov. 18, 1997, 111 Stat. 1880; Pub. L. 105-261, div. A, title X, Sec. 1022, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 106-65, div. A, title X, Sec. 1021, Oct. 5, 1999, 113 Stat. 746.)-

PRIOR PROVISIONS Similar provisions were contained in Pub. L. 100-456, div. A, title XI, Sec. 1105, Sept. 29, 1988, 102 Stat. 2047, which was set out as a note under section 374 of Title 10, Armed Forces, prior to repeal by Pub. L. 101-189, Sec. 1207(b).

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**UPDATE: None**

### **APPENDIX 3-6: NATIONAL DEFENSE AUTHORIZATION ACT OF 1991, PUB. L. NO. 101-510, §1004 (1991) (AS AMENDED)**

Pub. L. No. 101-510 (1991) (as amended)

#### **SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES**

## APPENDIX 3: COUNTERDRUG OPERATIONS

(a) **SUPPORT TO OTHER AGENCIES-** During fiscal year 1991, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested--

- (1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;
- (2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or
- (3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) **TYPES OF SUPPORT-** The purposes for which the Secretary may provide support under subsection (a) are the following:

- (1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of--
  - (A) preserving the potential future utility of such equipment for the Department of Defense; and
  - (B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.
- (2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in subparagraph (A) for the purpose of--
  - (A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and
  - (B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.
- (3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.
- (4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.
- (5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.
- (6) Aerial and ground reconnaissance outside, at, or near the borders of the United States.
- (7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.
- (8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(c) **CONTRACT AUTHORITY-** In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(d) **LIMITED WAIVER OF PROHIBITION-** Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(e) **CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES-** In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a)

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of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(f) **RELATIONSHIP TO OTHER LAWS-** (1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (d), section 376 of title 10, United States Code.

(g) **AVAILABILITY OF FUNDS-** Of the amount made available for operation and maintenance under section 1001(1), \$50,000,000 shall be available to the Secretary of Defense for the purpose of carrying out this section.

### **APPENDIX 3-7: CJCSI 3121.01A - STANDING RULES OF ENGAGEMENT FOR US FORCES (U)**

*See:* Appendix 11-11

**APPENDIX 3-8: CJCSI 3121.02 - RULES ON THE USE OF FORCE BY DOD  
PERSONNEL PROVIDING SUPPORT TO LAW ENFORCEMENT AGENCIES  
CONDUCTING COUNTERDRUG OPERATIONS IN THE UNITED STATES**



**CHAIRMAN OF THE JOINT  
CHIEFS OF STAFF  
INSTRUCTION**

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**RULES ON THE USE OF FORCE BY DOD PERSONNEL PROVIDING SUPPORT  
TO LAW ENFORCEMENT AGENCIES CONDUCTING  
COUNTERDRUG OPERATIONS IN THE UNITED STATES**

References: See Enclosure B.

1. Purpose. This instruction establishes rules regarding the use of force by DOD personnel during military operations that provide support to law enforcement agencies (LEAs) conducting counterdrug (CD) operations in the United States.
  2. Cancellation. Not applicable.
  3. Applicability
    - a. This instruction applies to all DOD organizations and agencies conducting CD military support operations in the United States.
    - b. This instruction applies to DOD support to LEAs conducting CD operations in the United States, which includes the land area, internal waters, territorial sea, and airspace of the United States, as well as that of US territories, possessions, and commonwealths; except as provided below.
    - c. This instruction does not apply to US military units or personnel while under OPCON or TACON to the USCG in support of CD operations. While OPCON or TACON to USCG, such units or personnel will follow the Use of Force Policy issued by the Commandant, USCG.
    - d. This instruction does not apply to CD support provided by National Guard or Air National Guard units except when in the service of the United States.
-

e. This instruction does not apply to DOD support to CD operations outside the land area, internal waters, territorial sea, and airspace of the United States, as well as that of US territories, possessions, and commonwealths. Such operations are governed by Standing Rules of Engagement for US Forces or the Use of Force Policy issued by the Commandant, USCG, or other authorities.

f. This instruction does not apply to the following:

(1) Investigations of drug offenses committed by military members or committed on Federal military installations, even if such investigations are conducted in cooperation with civilian law enforcement officials.

(2) Investigations or operations conducted by military criminal investigative organizations under their respective Service regulations.

4. Policy. See Enclosure A.

5. Definitions. See Glossary.

6. Responsibilities. The Joint Staff, J-3, Counternarcotics Division, is responsible for the maintenance of these rules on the use of force.

7. Summary of Changes. Not applicable.

8. Releasability. This instruction is approved for public release; distribution is unlimited. DOD components (to include the combatant commands), other Federal agencies, and the public may obtain copies of this instruction through the Internet from the CJCS Directives Home Page--<http://www.dtic.mil/doctrine>. Copies are also available through the Government Printing Office on the Joint Electronic Library CD-ROM.

9. Effective Date. This instruction is effective upon receipt.



HENRY H. SHELTON  
Chairman  
of the Joint Chiefs of Staff

Enclosures:

A--Rules on the Use of Force by DOD Personnel Providing Support to Law Enforcement Agencies Conducting Counterdrug Operations in the United States

B--References

GL--Glossary



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### ENCLOSURE A

#### RULES ON THE USE OF FORCE BY DOD PERSONNEL PROVIDING SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTERDRUG OPERATIONS IN THE UNITED STATES

1. Purpose and Scope. To provide rules on the use of force by DOD personnel during military operations that provide support to law enforcement agencies (LEAs) conducting CD operations in the United States. This includes the land area, internal waters, territorial sea, and airspace of the 50 states of the United States, as well as that of US territories, possessions, and commonwealths.

2. Policy. Nothing in this instruction should be construed to limit the authority, right, and responsibility of the unit commander to use necessary force consistent with this instruction in protecting his or her unit or personnel.

a. Special Considerations. This section provides legal and policy guidance for DOD personnel conducting military operations that provide support to LEAs conducting CD operations in the United States.

(1) The Secretary of Defense has designated countering production, trafficking, and use of illegal drugs as a “high priority national security” mission of the Department of Defense. As such, DOD support to law enforcement CD operations is a military operation other than war mission of the Department of Defense that supports law enforcement in countering drugs at their source, in transit, and within the United States.

(2) DOD personnel will provide support to the CD activities of LEAs consistent with applicable law and policy.

(3) DOD personnel will not act as law enforcement personnel and will not execute civilian law while conducting military operations that provide CD support to LEAs in the United States.

(4) DOD CD support to LEAs will remain at all times distinguishable and separate from the law enforcement activities and functions undertaken by the LEAs.

(5) DOD personnel will not directly participate in law enforcement activities and functions such as a search, seizure, arrest, or other similar activities.

(6) DOD personnel, while conducting their military support operation, may use force in individual or unit self-defense, or in defense of others within the immediate vicinity of the DOD personnel, in accordance with paragraph 3.

(a) LEA personnel have the primary responsibility for protecting themselves. The right to use force in self-defense does not authorize DOD personnel to provide security for law enforcement personnel or others. DOD personnel, however, may act in defense of such personnel consistent with the guidance set forth in this instruction.

(b) DOD personnel may not use force to facilitate the accomplishment of the underlying LEA CD operation. The right to use force in self-defense may not be used to justify the substitution of DOD personnel for LEA personnel or to augment the offensive use of force by these LEA personnel in law enforcement operations.

b. Accompanying LEAs. Except as provided in 10 USC 379, and consistent with such agreements concluded thereunder, DOD personnel are prohibited from accompanying US Federal, state, or local LEA personnel on actual CD field operations or participating in any activity in which CD-related hostilities are imminent.

c. Confrontation with Nonmission Personnel and Civilians. DOD personnel will make every effort to avoid confrontation, armed or otherwise, with nonmission personnel and civilians.

d. Training in Drug Interdiction Areas. The limitations described in subparagraphs 2a and 2b do not prevent US military forces from conducting approved exercises or training in designated drug interdiction areas. Should exercises or training be conducted in drug interdiction areas, appropriate measures will be taken to ensure that US military forces do not deploy to or operate from locations where CD-related hostilities or confrontations with civilians, armed or otherwise, are likely to occur.

e. Training Requirement. Commanders will not permit DOD personnel to provide support to LEA CD operations within the United States unless those personnel have received appropriate, timely training on the use of force, including deadly force, as set forth in this instruction.

### 3. Action

a. Rules for Use of Force by DOD Personnel During Military Operations that Provide CD Support to LEAs in the United States

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(1) DOD personnel will avoid confrontation with nonmission personnel and civilians. If confrontation, armed or otherwise, appears likely to occur, DOD personnel should, if circumstances permit, take the following actions:

(a) Alert all DOD personnel in the unit's vicinity or area and prepare to withdraw from the area.

(b) Notify the appropriate LEAs.

(c) Withdraw to a predesignated position (rally point) where confrontation with nonmission personnel and/or civilians will be avoided.

(2) If force other than deadly force (non-deadly force) can be used without unreasonably increasing the danger or threat of death or serious physical injury to DOD personnel or others within the immediate vicinity of DOD personnel, deadly force is not necessary.

(3) If feasible, and if to do so would not increase the danger to DOD personnel or others, a verbal warning to cease the threatening actions will be given before using deadly force.

(4) Warning shots are not authorized.

(5) DOD personnel may use force in individual or unit self-defense, or in defense of other persons within the immediate vicinity of the DOD personnel, or to prevent the actual theft or sabotage of property designated as vital to national security or inherently dangerous property. When force is used, only the minimum force necessary to control a situation or deter the use of force against DOD personnel or others within the immediate vicinity of threatened DOD personnel is authorized. DOD personnel, however, are not required to place themselves or other persons within their immediate vicinity, in unreasonable danger of death or serious physical injury before using deadly force.

(6) Use of Deadly Force

(a) "Deadly force" is force likely to cause death or serious physical injury. Use of deadly force must be objectively reasonable under all circumstances known to DOD personnel at the time. Force that is not likely to cause death or serious physical injury, but unexpectedly results in such harm or death, is not deadly force.

(b) Deadly force is not authorized unless it is necessary. The necessity to use deadly force arises when:

1. DOD personnel have a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to DOD personnel or others within their immediate vicinity; or

2. When there is no safe alternative to using such force, and without it, DOD personnel or others within their immediate vicinity would face imminent danger or threat of death or serious physical injury.

(c) “Imminent” does not necessarily mean “immediate” or “instantaneous.” The determination of whether a particular threat or danger is “imminent” is based on an assessment of all circumstances known to DOD personnel at the time. Thus, an individual could pose an imminent danger even if he or she is not at that very moment pointing a weapon at DOD personnel or someone within the immediate vicinity of the DOD personnel. Examples include:

1. An individual possesses a weapon or is attempting to gain access to a weapon under circumstances indicating an intention to use it against DOD personnel or other persons within the immediate vicinity of the DOD personnel.

2. An individual without a deadly weapon, but who has the capability of inflicting death or serious physical injury and is demonstrating an intention to do so (e.g., an attempt to run over DOD personnel or other persons within the immediate vicinity of the DOD personnel with a car).

(7) Weapons may not be fired solely to disable moving vehicles. Weapons may be fired at the driver or other occupant of a moving vehicle only when DOD personnel have a reasonable belief that the subject poses an imminent danger of death or serious physical injury to DOD personnel or other persons within the immediate vicinity of the DOD personnel, and the use of deadly force does not create a danger to others that would outweigh the likely benefits of its use.

b. Following and Recapture of DOD Personnel and Others

(1) When participating in CD military support operations in the United States, DOD personnel will immediately contact LEA personnel if DOD personnel or others within the immediate vicinity are captured. If no LEA personnel are available to do so, DOD personnel are authorized to follow, at a safe interval, persons holding the captured personnel, as long as such persons remain in sight or within contact until LEA personnel arrive and assume the recovery operation. DOD personnel will not attempt recovery operations unless LEA personnel are unavailable and the DOD personnel believe the captured personnel to be in imminent danger of death or serious physical injury.

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(2) Unless previously authorized by the National Command Authorities (NCA), or agreed to in advance by the foreign nation involved, authority to follow persons does not include entry into the land territory of a foreign nation, its territorial sea, or its national airspace.

c. Temporary Detention of Persons. When participating in CD military support operations in the United States, DOD personnel are authorized to temporarily subdue and detain any person who poses an imminent danger of death or serious physical injury to DOD personnel or other persons within the immediate vicinity of the DOD personnel. Detention by DOD personnel is authorized only if no LEA personnel are available. Individuals temporarily detained by DOD personnel may be searched for weapons as a force protection measure. All detained persons will be released to the appropriate civilian authorities at the earliest opportunity.

d. Defense of Property

(1) Use of force

(a) Normally, deadly force is not authorized to defend property. However, DOD personnel may use force up to and including deadly force to prevent the actual theft or sabotage of property that has been designated by the NCA as vital to national security, or property that is inherently dangerous. Property is inherently dangerous to others if, in the hands of an unauthorized individual, it presents an imminent danger of death or serious bodily harm to others, such as high risk, portable, and lethal: missiles; rockets; arms; ammunition; explosives; chemical agents; and special nuclear materials.

(b) The use of force to defend property should not be confused with the use of force by DOD personnel in self-defense, or in defense of others within the immediate vicinity of DOD personnel, in accordance with paragraph 3. For example: Force up to and including deadly force may be used to defend a DOD helicopter that is being fired upon in flight, regardless of whether it has been designated as property vital to national security. By contrast, if a DOD helicopter with no weapons systems or weapons on board is unoccupied and parked on a tarmac, and has not been designated as property vital to national security, DOD personnel would not be authorized to use deadly force to prevent it from being stolen or damaged.

(2) Following persons and recovery of property.

(a) When participating in CD military support operations in the United States, DOD personnel will immediately contact LEA personnel if property vital to national security or inherently dangerous property is stolen. If no LEA personnel are available to do so, DOD personnel are authorized to follow, at a safe interval, and for a reasonable distance, persons fleeing with the

stolen property, as long as such persons remain in sight or within contact until LEA personnel arrive.

(b) DOD personnel authorized to follow as provided above may attempt recovery if LEA personnel remain unavailable and the following circumstances exist:

1. The stolen property is vital to national security; or
2. The stolen property is inherently dangerous and DOD personnel believe it will pose an imminent danger of death or serious physical injury to DOD personnel or others within their immediate vicinity.

(c) Unless previously authorized by the NCA or agreed to in advance by the foreign nation involved, authority to follow persons does not include entry into the land territory of a foreign nation, its territorial sea, or its national airspace.

(3) Temporary detention of persons. When participating in CD military support operations in the United States, DOD personnel are authorized to temporarily subdue and detain any person who attempts to engage in the theft or sabotage of property vital to national security or inherently dangerous property. Detention by DOD personnel is authorized only if no LEA personnel are available. Individuals temporarily detained by DOD personnel may be searched for weapons as a force protection measure. All detained persons will be released to the appropriate civilian authorities at the earliest opportunity.

4. Supplemental Instructions. Supplemental instructions to these rules may be requested from the Secretary of Defense or the CINC authorizing a particular CD support operation. The operation-authorizing official may publish additional instructions that are more restrictive in nature, but such restrictions may not detract from or infringe upon the right of self-defense.



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### ENCLOSURE B

#### REFERENCES

- a. Title 10, United States Code, Chapter 18, Sections 371-381
- b. Title 10, United States Code, Chapter 3, Section 124
- c. Title 18, United States Code, Chapter 67, Section 1385
- d. Public Law 101-510, Section 1004, National Defense Authorization Act for Fiscal Year 1991, as amended
- e. National Security Strategy, December 1999
- f. National Drug Control Strategy, 1999
- g. DOD Directive 5210.56, 25 February 1992, "Use of Deadly Force and the Carrying of Firearms by DOD Personnel Engaged in Law Enforcement and Security Duties"
- h. DOD Directive 5525.5, 15 January 1986, "DOD Cooperation with Civilian Law Enforcement Officials"
- i. SecDef memorandum, 6 October 1998, "Military Support to Counternarcotics Activities"
- j. OSD/DEP&S memorandum, 26 January 1995, "Priorities, Policies, and Procedures for Department of Defense Counterdrug Support to Domestic Drug Law Enforcement Agencies"
- k. OSD/DEP&S memorandum, 15 December 1994, "DOD Domestic Counterdrug Operational Support to Drug Law Enforcement Agencies"
- l. CJCSI 3121.01A, 15 January 2000, "Standing Rules of Engagement for US Forces"
- m. CJCSI 3710.01, 28 May 1993, "Delegation of Authority for Approving Operational Support to Drug Law Enforcement Agencies and Counterdrug - Related Deployment of DOD Personnel" (Under Revision)
- n. Joint Pub 3-07.4, 17 February 1998, "Joint Counterdrug Operations"

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- o. Joint Pub 3-07, 16 June 1995, "Joint Doctrine for Military Operations Other Than War"
- p. Joint Pub 3-0, 1 February 1995, "Doctrine for Joint Operations"
- q. DOJ Memorandum, 16 October 1995, "Uniform Department of Justice Deadly Force Policy"
- r. Coast Guard Use of Force Policy, Chapter 4, Maritime Law Enforcement Manual, COMDTINST M16247 (series). Global Command and Control System (GCCS) address: <http://204.36.191.2/cghq.html//>

## APPENDIX 3: COUNTERDRUG OPERATIONS

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### GLOSSARY<sup>1</sup>

**accompany** – To physically be with or go with. DOD personnel "accompany" LEAs when they travel with such personnel on foot or in the same vehicle, aircraft, ship, or boat, including any groupings of the same. DOD personnel are prohibited from accompanying US drug law enforcement agents on actual counterdrug field operations or participating in any activity in which counterdrug-related hostilities are imminent.

**actual CD field operations** – Activities during which the intent, or the reasonable expectation, is that the US LEAs will conduct CD law enforcement activities such as search, seizure, arrest, or other similar activities. The word "search," as used in this context, does not include conducting aerial reconnaissance or detection, monitoring, and communication of movement of surface traffic in accordance with 10 USC 374, or transporting LEA personnel in DOD aircraft to conduct initial detection and reporting of cultivation sites consistent with guidance provided in CJCSI 3710.01 series.

**CD-related hostility/hostile action** – Belligerent or violent confrontation or conflict resulting from illicit drug activities/trafficking.

**designated drug interdiction area** – Includes the land and sea areas in which, as determined by the Secretary of Defense, the smuggling of drugs into the United States occurs or is believed to have occurred.

**deadly force** – Force likely to cause death or serious physical injury.

**imminent** – All available facts indicate that a CD activity or CD-related hostile action is about to occur. The determination of whether a particular threat or danger is "imminent" is based on an assessment of all the circumstances known to DOD personnel at the time. "Imminent" does not necessarily mean "immediate" or "instantaneous."

**inherently dangerous property** – Property that, in the hands of an unauthorized person, presents an imminent danger of death or serious bodily harm to others. Examples include high risk, portable, and lethal: missiles; rockets; arms; ammunition; explosives; chemical agents; and special nuclear materials.

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<sup>1</sup> Terms and definitions listed are not standardized within DOD (Joint Pub 1-02) and are applicable only in the context of this document.

**in the United States** – This includes the land area, internal waters, territorial sea, and airspace of the 50 states of the United States, as well as that of US territories, possessions, and commonwealths.

**law enforcement activities/functions** – These activities include but are not limited to, searches, seizures, arrests, raids, interrogations, investigations, stop and frisks, or other similar activities. The word “search,” as used in this context, does not include conducting aerial reconnaissance or detection, monitoring, and communication of movement of surface traffic in accordance with 10 USC 374, or transporting LEA personnel in DOD aircraft to conduct initial detection and reporting of cultivation sites consistent with guidance provided in CJCSI 3710.01 series.

**property vital to national security** – Property designated by the NCA such as designated equipment and areas containing strategic operational assets, sensitive codes, or special access programs, or specifically designated equipment and property.

**serious physical injury** – Includes serious damage, such as deep cuts, torn members of the body, serious damage to internal organs, and other life-threatening injuries but would not include minor injuries, such as a black eye or a bloody nose; also known as “serious bodily harm.”

**unit self-defense** – As used in this instruction and in circumstances where no LEA personnel are available to respond in a timely and prompt manner, the use of force by DOD personnel during military operations that provide support to LEAs conducting CD operations in the United States in defending a particular US force element, including individual personnel thereof, and other US forces in the vicinity, from an imminent danger of death or serious physical injury.

## APPENDIX 3: COUNTERDRUG OPERATIONS

### APPENDIX 3-9: CJCSI 3710.01A - DoD COUNTERDRUG SUPPORT



## CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION

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J-3

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### DOD COUNTERDRUG SUPPORT

References: See Enclosure B.

1. Purpose. This instruction promulgates Secretary of Defense (SecDef) delegation of authority to approve certain counterdrug (CD) operational support missions. It also provides, in accordance with the National Defense Authorization Act of 1991, as amended, instructions on authorized types of DOD CD support to law enforcement agencies (LEA), other government agencies, and foreign nations.
2. Cancellation. This instruction supersedes CJCSI 3710.01, 28 May 1993.
3. Applicability. This instruction is applicable to combatant commands and subordinate organizations conducting and supporting CD operations.
4. Policy. See Enclosure A.
5. Definitions. See Glossary for definitions. Abbreviations and acronyms are established throughout the text of Enclosure A. Many are also included in the glossary.
6. Responsibilities. See Enclosure A.
7. Summary of Changes
  - a. Incorporates Deputy Secretary of Defense (DepSecDef) 2 October 2003 memorandum, "Department Support to Domestic Law Enforcement Agencies Performing Counterdrug Activities," emphasizing use of title 32 (National Guard) vs. title 10 (Active duty and Reserve) personnel for domestic CD missions/activities.

b. Incorporates DepSecDef 3 October 2003 memorandum, "Department of Defense International Counternarcotics Policy," emphasizing support for CD programs that contribute to the War on Terrorism and National Security.

c. Clarifies to which combatant commanders the Secretary of Defense has delegated authority to approve CD missions and deploy assigned forces in accordance with (IAW) this instruction.

d. Removes requirement for certifying that CD deployments do not provide a "greater than incidental" benefit to host nation (HN).

e. Clarifies difference between operational support CD missions under authority of Section 1004, NDAA (1991) and Detection and Monitoring (D&M) missions under the authority of 10 USC 124.

f. Incorporates provisions of the following: (1) Office of the Secretary of Defense DOD Coordinator for Drug Enforcement Policy and Support (OCDEP&S) (renamed Deputy Assistant of Defense (Counternarcotics) (DASD(CN)) memorandum outlining policy for providing support to civilian law enforcement agencies; (2) OSD DASD(CN) memorandum outlining policy for providing DOD fixed-wing transportation support to federal LEAs; (3) OSD DASD(CN) memorandum outlining the priorities for providing DOD CD support to LEAs; and (4) DepSecDef memorandum outlining DOD policy for providing advanced military training to US civilian law enforcement agencies.

g. Changes format to facilitate easier use and include a Table of Contents, and Glossary.

h. Incorporates provisions of Section 8077 of the FY 04 DOD Appropriations Act, which prohibits the use of DOD funds to support training of foreign security forces if SecDef has received credible information from the Department of State (DOS) that the unit to be trained has committed a gross violation of human rights, unless necessary corrective steps have been taken.

i. Adds two new categories of domestic CD support, including command, control, communications, computer, and intelligence (C4I) and network support as well as demonstrations of technology.

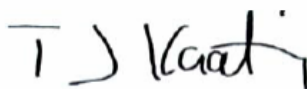
8. Releasability. This instruction is approved for public release; distribution is unlimited. DOD components (to include the combatant commands), other federal agencies, and the public may obtain copies of this instruction through the Internet from the CJCS Directives Home Page--  
[http://www.dtic.mil/cjcs\\_directives](http://www.dtic.mil/cjcs_directives). Copies are also available through the Government Printing Office or the Joint Electronic Library.

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9. Effective Date. This instruction is effective upon receipt.

For the Chairman of the Joint Chiefs of Staff:

A handwritten signature in black ink, appearing to read "T J Keating".

T. J. KEATING  
VADM, USN  
DIRECTOR, JOINT STAFF

Enclosures:

- A - DOD Counterdrug Operational Support
- B - References
- GL - Glossary

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### ENCLOSURE A

#### DOD COUNTERDRUG OPERATIONAL SUPPORT

##### 1. General

a. This instruction supersedes CJCSI 3710.01, 28 May 1993, "Delegation of Authority for Approving Operational Support to Law Enforcement Agencies and Counterdrug-Related Deployment of DOD Personnel." The Secretary of Defense has delegated authority, as specified in this instruction, to the geographic combatant commanders (GCCs) to approve requests for DOD CD support to the following agencies:

(1) Domestic LEAs, including US federal, state, territorial, tribal, and local agencies.

(2) Other US government departments or agencies with CD responsibilities.

(3) Foreign law enforcement agencies with CD responsibilities, to include foreign military forces with CD responsibilities, pursuant to requests from US federal LEAs or other US government agencies with CD responsibilities.

b. The Secretary of Defense retains approval authority for all CD support not specifically delegated and outlined in this instruction. SecDef expressly reserves approval authority for:

(1) All DOD support requiring the transfer of operational control (OPCON) of forces between combatant commanders, except as otherwise described and delegated herein.

(2) Requests for listening and observation posts and mobile patrols.

(3) Requests (pursuant to reference d, section 1004(b)(6)), to target or track suspicious buildings, vehicles, vessels, or persons in the United States to provide their continuing coordinates to LEAs or to conduct systematic and deliberate observation on a continuing basis, unless the activity is a proper continuation of an approved ground, aerial or maritime detection, and monitoring mission under provisions of 10 USC 124 (reference a). This prohibition is not intended to preclude approval of continuing visual observation from a fixed point on the ground as a part of otherwise approved military training missions.

(4) Requests (pursuant to reference d, section 1004(b)(6)), for the monitoring of suspected illegal drug air, sea, and surface traffic (for handoff to

an LEA), first detected outside the boundary of the United States, to within 25 miles of the US boundary.

2. DOD Support Not Covered By This Instruction. This instruction does not apply to the following activities:

a. Detection and Monitoring (D&M). D&M operations are military missions conducted to detect and track the aerial and maritime transit of illegal drugs into the United States, under the authority of 10 USC 124. While not conducted at their request, D&M operations support the CD enforcement efforts of federal, state, local, and foreign LEAs. GCCs are delegated the authority to support D&M within their AORs with theater assigned forces. However, D&M missions conducted under the authority of 10 USC 124, using forces not assigned to the GCC, are addressed in separate execute orders and not covered by this instruction.

b. Request from law enforcement to use DOD equipment without operators and buildings and facilities. Requests for this support will be processed in accordance with (IAW) departmental and agency regulations and procedures.

c. Military working dog support. (DODI 5525.10)

d. Sensitive support to special activities. (DODD S-5210.36)

3. DOD CD Support. This instruction applies only to DOD CD support specifically requested by LEAs provided by or involving DOD personnel in connection with CD missions, including training and associated technical and administrative support (as described in reference d, section 1004(a)). Types of CD support include the following:

a. Equipment Maintenance

(1) Loaned Defense equipment (reference d, section 1004(b)(1)).

(2) Loaned Defense equipment (reference d, section 1004(b)(2)).

b. Transportation support (reference d, section 1004(b)(3)).

c. Establish and/or operate bases or training facilities (includes engineer support) (reference d, section 1004(b)(4)).

d. CD-related training of law enforcement personnel (reference d, section 1004(b)(5)).

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- e. Detect, monitor, and communicate the movement of air and sea traffic detected outside US borders for up to 25 miles within the United States (reference d, section 1004(b)(6)(A)).
- f. Detect, monitor, and communicate the movement of surface traffic detected outside US borders for up to 25 miles within the United States (reference d, section 1004(b)(6)(B)).
- g. Engineering Support (roads, fences, and lights) at US borders (reference d, section 1004(b)(7)).
- h. Command, control, communications, computer, and intelligence (C4I) and network support (reference d, section 1004(b)(8)).
- i. Linguist Support (reference d, section 1004(b)(9)).
- j. Intelligence Analyst Support (reference d, section 1004(b)(9)).
- k. Aerial reconnaissance support (reference d, section 1004(b)(10)).
- l. Ground Reconnaissance support (reference d, section 1004(b)(10)).
- m. Diver Support (10 USC 371).
- n. Tunnel Detection Support (10 USC 371).
- o. Use of Military Vessels for LEA Operating Bases (10 USC 379).
- p. Technology Demonstrations.

#### 4. CD Support – General

##### a. Aerial Reconnaissance Support

(1) GCCs may authorize the use of the following:

- (a) Radar and sensors, to include synthetic aperture radar, forward-looking infrared, and electro-optic devices.
- (b) Unmanned aerial vehicles.
- (c) Aerial visual and photographic reconnaissance, and national overhead and aerial imagery.

(2) However, if recording devices are used or imaging is to take place in the United States, Commander, USNORTHCOM (CDRUSNORTHCOM)/Commander, USPACOM (CDRUSPACOM), must obtain a proper use statement from DIA and the concurrence of the component General Counsel, as applicable, per DIA message 231845ZDEC96.

b. Ground Reconnaissance Support

(1) GCCs may authorize the use of the following:

- (a) Unattended ground sensors.
- (b) Ground surveillance radar.

(2) If recording devices are used or imaging is to take place in the United States, CDRUSNORTHCOM/CDRUSPACOM must obtain a proper use statement from DIA and the concurrence of the component General Counsel, as applicable, per DIA message 231845ZDEC96.

(3) Initial detection and reporting of the presence or movement of buildings, vehicles, vessels, or persons within surface areas are permitted.

c. Tunnel Detection Support. GCCs may approve missions to support LEA Tunnel Detection operations IAW provisions within this instruction. DOD personnel may not search, enter, or otherwise participate directly in law enforcement operations.

d. Diver Support. During missions approved to conduct subsurface hull inspections and training, divers may visually inspect and report to LEAs any unusual physical hull configurations. Divers may not attempt entry, search, or alter features detected.

e. Linguist Support and Intelligence Analyst Support. GCCs may approve requests for support under the authority of reference d, section 1004(b)(9), subject to the requirements outlined in references f and i (for intelligence analysts only) and concurrence by the service or agency General Counsel. This delegation does not include the authority to approve cryptologic support, real-time translation of oral or wire intercepts, direct participation in interrogation activities or the use of counterintelligence assets for CD purposes.

f. Transportation Support

(1) GCCs may approve requests for CD activity-related transportation support under the authority of reference d, section 1004(b)(3), subject to the policy guidance outlined in reference g. US Transportation Command



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(USTRANSCOM) concurrence is required for use of its assets for Special Assignment Airlift Missions (SAAM) when inadequate airframes exist for equivalent priority DOD missions. This delegation is constrained by subparagraph (4) below.

(2) GCCs may approve requests for transportation support under the authority of 10 USC 372, pursuant to the procedures outlined in reference h and the policy guidance outlined in reference g. Such transportation requests must be coordinated with the Attorney General and, if the transportation is to or from foreign locations, the Secretary of State. GCCs approving transportation requests under this authority will provide notification to the DOD Office of General Counsel (OGC). This delegation is constrained by subparagraph (4) below.

(3) Except for extradition requests, federal LEA requests for transportation support will be submitted to the supported GCC (or as further delegated IAW this instruction) in whose area of responsibility the mission is to originate. The responsible federal LEA, through its parent or national headquarters, must forward extradition requests to the DOD Executive Secretary, who will forward approved requests to the Joint Staff for action.

(4) GCCs are **not** authorized to approve transportation support in direct tactical support of the operational portions of ongoing LEA or foreign LEA operations, or of any activities where CD-related hostilities are imminent. If criminal evidence or prisoners seized by LEAs are brought aboard DOD aircraft, vehicles, or vessels being used to provide transportation support, such evidence and/or prisoners will remain solely within the control and custody of the LEAs.

g. Use of Military Vessels for LEA Operating Bases. The use of military vessels as a base of operations for LEAs, except when approved under reference d, requires SecDef and Attorney General approval. SecDef has not delegated authority to approve use of military vessels for LEA operating bases in the territorial waters of an HN. Such approval coordination will be pursued in the same manner as for linguist support described in subparagraph 4e above and include prior notification to DOD OGC.

h. Equipment Maintenance and Operation Support. Authority is delegated to approve maintenance and operation support IAW references d and h, but does not include the cost of parts or equipment to be funded under reference d or other sources.

i. Command, Control, Communications, Computer, and Intelligence (C4I) and Network Support. Assistance in establishing and maintaining C4I and networking support to provide improved integration of law enforcement, active

military, and National Guard activities will be IAW reference d, section 1004(b)(8).

j. Technology Demonstrations. Technology demonstrations may be conducted in coordination with the DOD Counternarco-Terrorism Technology Program Office, and technology requirements may be developed based on stated LEA needs (10 USC, section 373).

#### 5. CD Support - Domestic

a. General Delegations. With regard to the general delegations in paragraph 4 above and the delegations contained in this paragraph, SecDef has delegated approval authority to CDRUSNORTHCOM or CDRUSPACOM, as appropriate, for the following:

(1) CD support involving no more than 400 personnel for any one mission.

(2) CD support not exceeding 179 days for any one mission.

(3) DOD personnel are not authorized to accompany LEAs on actual CD field operations nor may they participate in activities where CD-related hostilities are imminent.

(4) CDRUSNORTHCOM/CDRUSPACOM will first determine if the State National Guard (title 32 forces) can provide the requested support. If the State National Guard cannot provide the forces, CDRUSNORTHCOM/CDRUSPACOM will determine if the request is feasible, supportable, and consistent with DOD policy IAW reference j.

b. CD-Related Training of Law Enforcement Personnel. CDRUSNORTHCOM/CDRUSPACOM may approve training for LEA personnel in the United States. Per reference j, no advanced military training will be provided to LEA personnel. However, the US Army Military Police School may continue to train LEA personnel in the Counterdrug Special Reaction Team Course, Counterdrug Tactical Police Operations Course, and Counterdrug Marksman/Observer Course (reference s). On an exceptional basis, Commander, USSOCOM (CDRUSSOCOM), may approve such training by special operations forces (reference s).

c. Engineering Support. CDRUSNORTHCOM/CDRUSPACOM may approve engineering support in the United States. Per reference j, military engineering support is limited to the Southwest Border and defined as mobility and countermobility (fences, lights, roads) efforts. This includes approval of materiel purchases necessary to support DOD mission personnel, but does not include

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military construction or provision of other materials. See reference d, section 1004(b)(7).

### 6. CD Support – Foreign

a. General Delegations. With regard to the general delegations in paragraph 4 above and the delegations contained in this paragraph, SecDef has delegated approval authority for CD support outside the United States; SecDef has delegated approval authority for CD support to GCCs for:

(1) Planning and Coordination Visits. Planning and coordination visits to American Embassies (contingent on Embassy approval) may be conducted with theater-assigned or allocated forces for planning of intertheater or multinational operations.

(2) Intelligence Analyst Support. Intelligence analyst support may be provided to US Ambassadors using theater-assigned or allocated forces (consistent with references f and i). This approval is subject to DOD Component General Counsel concurrence when military intelligence component and/or Service personnel are used in support of LEAs, per reference f and components implementing directives:

(a) At respective US Embassies or consulates.

(b) At US regional analysis centers.

(3) Planning and Coordination Visits. Planning and coordination visits of 10 personnel or less for 60 days or less to HN headquarters (contingent on American Embassy approval) may be conducted with theater-assigned or allocated forces to accomplish the GCC's D&M mission or to support the US Ambassador's CD effort with expert advice or assistance to the US Country Team.

(4) Linguist Support. Includes translator and interpreter support consistent with reference f. This approval is subject to DOD Component General Counsel approval when military intelligence components and/or personnel are used to support LEAs, as defined in reference f and component implementing directives. This delegation does not include authority to approve cryptologic support, real-time translation of oral or wire intercepts, direct participation in interrogation activities, or the use of counterintelligence assets for CD purposes. Linguist missions to locations outside American Embassies will be limited to short-duration visits (not to exceed 30 days) of no more than 10 persons to primary HN and US C4I headquarters for the express purpose of accomplishing the mission of supporting the Ambassador's CD effort.

(5) CD-Related Training of Law Enforcement Personnel

(a) GCCs may approve CD-related training of foreign law enforcement personnel requiring no more than 50 theater-assigned personnel for no more than 45 days with HN and Country Team approval and notification.

(b) GCCs may approve CD-related technical and administrative support team deployments no more than 25 personnel for no more than 179 days with HN and Country Team approval and notification.

b. Transportation Support. Transportation, consistent with the provisions of subparagraph 4f, may be provided. Delegated authority does not authorize supported GCCs to approve transportation support of personnel in direct tactical support of the operational portions of ongoing LEA or foreign law enforcement agency operations. If transportation support is provided to foreign law enforcement agencies IAW reference d, additional notification to the Office of the Secretary of Defense DOD Coordinator for Drug Enforcement Policy and Support (OSD(OCDEP&S/DEP-LPC)), IAW subparagraph 8j(5) of this CJCSI, will be sent in order to facilitate required congressional and other notifications.

7. SecDef Preapproved CD Operational Support Plans. Supported GCCs may approve LEA requests for operational support that are part of SecDef pre-approved operations subject to the following:

a. Supported GCCs must gain approval of the overall concept of operations from SecDef prior to commencing operations. Supported commanders (CDRs) will provide the concept of operations to the Joint Staff (J-3/JOD) for review and interagency staffing at least 90 days prior to the scheduled start date.

b. Proposed activities must be consistent with policy, fiscal, and legal constraints.

c. Foreign CD operational support must have HN and US Ambassador approval.

d. Supporting GCC and/or Service coordination concerning resource availability, deployment times, and dates are required prior to forwarding plan for approval.

e. SecDef approval of the overall plan authorizes the supported GCCs to issue deployment orders and to approve participants' travel for coordinating mission details.

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f. Requests for location changes, mission changes, and mission extensions to the approved plan that exceed the authority of the GCCs delegated in this instruction will be forwarded to the Joint Staff (J-3) for action.

g. The supported GCC must provide notification IAW subparagraph 8j, within the required timeframes (whenever feasible), prior to executing each specific support activity that is a part of preapproved operations plan (whether involving one or several countries).

h. Requests to conduct planned reconnaissance support will be submitted IAW reference e, if applicable.

### 8. Coordinating Instructions

a. Requests for DOD CD support to a department or agency of the Federal Government must originate with an appropriate department or agency official responsible for CD activities. Request for DOD CD support to a state or local government agency must come from an appropriate official of the state or local government agency. Support to foreign law enforcement agencies must be requested by an official of a department or agency of the US Federal Government who has CD responsibilities and must have the concurrence of the US Ambassador of the HN in which the mission will be conducted as well as concurrence of an appropriate HN CD authority. See reference d, section 1004(a).

#### b. LEA Support Request Processing

(1) Domestic LEA requests for DOD operational and other types of CD support will be submitted through Operation ALLIANCE (OPALL) to either Joint Task Force-Six (JTF-6) (or IAW CDRUSNORTHCOM policy) for Continental US, Alaska, Puerto Rico and the US Virgin Islands; CDRUSPACOM for Hawaii (or IAW CDRUSPACOM policy); or the appropriate State National Guard CD Coordinator.

(2) Foreign requests for DOD operational and other types of CD support should be submitted directly to the appropriate Joint Interagency Task Force or supported commander for consideration.

(3) OPALL establishes priority of continental United States (CONUS) support. Approval authorities will give full consideration to priorities established by OPALL consistent with published DOD policy. In the absence of an OPALL support priority list, approval authorities will establish the priority of support, consistent with published DOD policy.

(4) IAW reference's j and k, the following criteria must be met before requests for DOD support are approved.

(a) The requested support must have a valid CD activities nexus.

(b) Each request for domestic CD operational support and other types of CD support must originate with a federal, state, or local government agency that has responsibility for CD operations. Support to foreign LEAs must originate with a US federal LEA or federal agency with CD responsibilities per reference d, section 1004(a).

(c) Each request must solicit support that the Department of Defense is authorized to provide pursuant to law and subject to the provisions of this instruction.

(d) Support must clearly assist the requesting agency with the CD activities of the agency.

(e) Support must be consistent with DOD implementation of the National Drug Control Strategy.

(f) All approved CD operational and other types of CD support must have military training value to the supporting unit or be consistent with the DOD policy (references j and K).

c. LEA Fixed-Winged Transportation Support Requests. Supported GCC has approval authority, with USTRANSCOM and Deputy Assistant Secretary of Defense for Counternarcotics concurrence for use of USTRANSCOM assets for SAAM missions, for fixed-wing transportation support to federal LEAs (reference g).

(1) DOD policy is to support federal, state, and local LEA transportation requests to the maximum extent possible. State and local LEAs requesting fixed-wing transportation support must first submit requests to their state National Guard (NG) CD coordinators. If the NG cannot provide the support, state or local LEAs should coordinate with a federal LEA to sponsor and forward their request to the Department of Defense for consideration. Federal LEA requests and Federal LEA-sponsored requests for controlled deliveries and other personnel and equipment movements should be submitted in writing by the national/Washington, D.C., headquarters of the requesting department or agency and should be signed by the national-level director of operations or other equivalent authority.

(2) Requests should include required date, time, and location of pickup and delivery points; detailed cargo and passenger descriptions; detailed

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rationale for DOD support; and a 24-hour point of contact at the on-load and off-load location.

(3) Priority of support is listed below and is IAW reference g.

(a) The first priority will be controlled delivery requests that involve on-going, real-time, time-sensitive operations, and a significant amount of drugs, or the disruption of a major organization.

(b) The second priority will be to support other personnel and equipment movements that are directly linked to ongoing CD operations. To the maximum extent possible, these missions will be supported with regularly scheduled channel aircraft. When necessary, because of mission requirements and size of the load, dedicated aircraft (SAAM sorties) may be used to support these missions. DOD will not support administrative-type movements, such as conferences, routine personnel and equipment deliveries that can be accomplished with commercial aircraft and other similar missions.

### d. Intelligence Support Processing

(1) All intelligence activities of DOD intelligence components and/or personnel must be conducted IAW reference f. Commanders exercising delegated authority under the terms of this instruction will ensure Service Component General Counsel concurrence is obtained for use of Service intelligence personnel in direct support of LEAs.

(2) Per reference l, Defense Intelligence Agency (DIA) has responsibility for validating, registering, assigning, recommending priorities for, and monitoring DOD collection activities. DIA also retains responsibility for maintaining and operating facilities for DOD imagery indexing, processing, duplication, evaluation, exploitation, and central repository services in support of the Department of Defense and other authorized recipients. DIA point of contact is DIA Counterdrug Division, (703) 602-3212 (STU III).

(3) Any requests for support involving cryptologic resources must be approved by the Director of Crime and Narcotics (DCN) and National Security Agency (NSA). Also, the Department of Defense, including the Department of Defense General Counsel, must concur in such requests. Notify DCN of any requests for cryptologic support outside the United States or its territories. NSA point of contact is the Office of the DCN, 301-688-0080 (commercial/STU III)(DIRNSA FT GEORGE G MEADE MD//DCN//).

(4) In considering all requests, supported GCCs will be mindful that reference i requires SecDef to advise appropriate committees of Congress on

operational support requests involving the obligation or expenditure of intelligence funds not specifically appropriated for CD activities.

(5) Reference i also requires SecDef to keep the Select Committees on Intelligence fully and currently informed concerning all ongoing intelligence activities.

e. Operations on Private Property. Any requests involving DOD personnel operating on domestic private land without the written permission of the landowner must be forwarded to the Joint Staff (J-3) for action.

f. DOD Participation in LE Activities. Supported GCCs will ensure that DOD personnel do not directly participate in law enforcement activities such as search, seizure, arrest, or other similar activities unless otherwise authorized to do so by law.

g. Redelegation of Authority

(1) Supported GCCs may further delegate approval authority (subject to the limitations of paragraphs 4 through 6) to general/flag officers within their chains of command. Supported GCCs will provide instructions (within the limitations of this instruction) for delegation of approval authority to their delegates. Instructions will include a requirement for legal review of all proposed support before it is approved. Initial denial authority rests with the first general/flag officer in the support request process. Supported GCCs will make final disposition on appeals.

(2) Delegation or redelegation of approval authority neither constitutes nor implies tasking authority over forces not under the OPCON of the supported CDR. Supported GCCs and their delegates, when so specified in the delegation, are authorized direct liaison with Services and other CDRs to coordinate use of non-theater-assigned forces. In situations involving individual augmentation, the provisions of reference's j and k also apply.

h. CD Operations in Another CDR's AOR. When performing counterdrug support missions, forces may temporarily cross combatant commander AOR boundaries. When this situation occurs, the combatant commander whose boundary is crossed must be immediately notified. All efforts should be made prior to operations to obtain concurrence from the combatant commander whose AOR could be crossed during missions. Minor missions of limited duration may be telephonically coordinated with follow-up message.

i. Minor Changes to SecDef-Approved Missions. For minor changes to CD operational and other types of support missions already approved by SecDef:



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(1) The supported GCC may approve minor changes in dates for deployment (up to 30 days after, but not earlier than, the date approved by SecDef) and minor changes in redeployment (plus or minus 30 days from the date previously approved). Dates of deployment (vice execution) and redeployment are defined as the dates of travel. This subparagraph does not authorize the supported GCC to extend the duration of the employment or mission support phase; however, it does authorize the supporting CDR to deploy an advance party to prepare for mission execution. This subparagraph authorizes the supported GCC to make only minor changes to the dates of travel. When dates of deployment or redeployment slip more than 7 days, supported GCC will info all concerned via record message to addressees listed in original request for deployment order (RDO) as reference (a) and approved deployment order (DEPOD) as reference (b).

(2) The supported GCC may approve minor changes in numbers of deploying or deployed personnel (plus or minus 5 persons, but not more than 10 percent of the approved deployment number, and the total mission number is not to exceed 400 persons for domestic support and 50 for foreign support). Supporting CDR concurrence is required when non-theater personnel are involved.

(3) For change of locations within the country in which a deployment is taking place, the supported CDR is authorized to approve location changes when the HN and/or the US Embassy requests the change to enhance the security of US personnel. Supported GCC will notify via record message the CJCS, SecDef and all addressees listed in note 19 using original request for RDO as reference (a) and approved DEPOD as reference (b).

j. Significant Changes to SecDef-Approved Plans. SecDef approval is required for changes to a SecDef-approved plan when:

(1) Changes in deployment or redeployment dates are more than 30 days or changes increase the duration of the mission.

(2) Numbers of deploying or deployed personnel exceed that reported in the initial notification by 5 persons or 10 percent of the total approved deployment number (whichever is greater).

(3) The change would cause a CDR-approved mission to exceed authorities delegated to the supported CD CDR.

k. GCC Procedures for Approving CD Operational Support Missions

(1) Whenever a request for operational and other types of CD support is received by a supported GCC, that GCC will either take the request for action (approval or disapproval) or forward it to the Joint Staff (J-3)<sup>1</sup> for action.

(2) Requests for SecDef approval will be forwarded to the Joint Staff (J-3) at least 45 days prior to execution date with information specified in subparagraph 8n below.<sup>2</sup>

(3) Requests for SecDef approval involving special operations forces will be forwarded to the Joint Staff (SOD) at least 45 days prior to execution date with information specified in subparagraph 8n below.

(4) When mission requests or changes to missions are approved under delegated authority, GCCs will notify the Joint Staff at least 15 calendar days before execution (whenever feasible) with information specified in subparagraph 8n below and indicate the specific provision of this instruction under which support was approved. An info copy of the deployment order is appropriate. Expeditious notification of activities near the US-Mexican border is especially important. Approving GCC will verify receipt by Joint Staff (J-3).

(5) A notification of intent to support foreign LEAs under reference d, clearly labeled as support to foreign LEAs and containing the same information required by subparagraph 8n, will be sent to OSD (DASD-CN/OGC), info to Joint Staff (J-3) not less than 5 working days in advance of execution.<sup>3</sup>

1. Public Affairs. When supported GCCs or their delegates take requests for action, they will also issue related public affairs guidance. Include this guidance in the notification process (subparagraph 8j).

m. Requests Received by Non-GCCs. When a CDR not authorized IAW subparagraph 1a or paragraph 4 to approve CD missions, OSD, a Defense agency, or a Service receives a request for DOD operational and other types of

<sup>1</sup> Use J3/ROD for reconnaissance assets, J3/SOD for special operation forces, J3/DDIO for psyop assets and J3/JOD for all other missions.

<sup>2</sup> Message address should include the following as applicable: Joint Staff(J3/SOD/JOD/ROD/DDIO), OSD(DASD-CN), OSD(ISA), DUSD(PS), State Department (PM-ISO/INL/applicable region (ARA, EAP, etc.)), the applicable DLEA Headquarters, and appropriate Military Department points of contact (Army-HQDA WASHINGTON DC//DAMO-ODD/SAGC/SAILE//, Air Force-HQ USAF WASHINGTON DC//XOFI//, Navy-UNSECNAV WASHINGTON DC//OGC-OPA//, CNO WASHINGTON DC//N515//, and Marine Corps-CMC WASHINGTON DC//POS/JA/CL//).

<sup>3</sup> This notification may be the same as the notification required in subparagraphs 8j(2)&(3), but must be clearly marked and contain the required message addresses. Requester must verify receipt with OSD(DASD-CN/DEF-LPC) when combined with notification in subparagraphs 8j(2)&(3).

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CD support directly from a LEA or other government agency, forward the request to the Joint Staff (J-3) for action.

n. Human Rights Verification. IAW with references k and q, GCCs will obtain verification that Department of State possesses no credible information of gross violations of human rights relative to the HN units or their members with whom DOD intends to train.

o. Required Information for Mission Approvals or Changes. When SecDef approval and deployment order are required, or when notifying SecDef of a CDR-approved mission or change, IAW reference's j and k, provide the following information:

(1) Origin of the request (include name, title, and requesting LEA point of contact and mission of the supporting unit detailed and the unit sourced.

(2) Concept of operations including a description of command relationships, an explanation of the CD activities nexus for the mission, an explanation of how the requested deployment is related to CD, and information relating to the benefit to the DOD War on Terrorism; security cooperation objectives; readiness; or national security.

(3) Citation of the statutory authorities for providing the support, analysis of the pertinent legal issues, and the name of the judge advocate who reviewed the request for legal sufficiency.

(4) Deployment, mission execution start/stop, and redeployment dates. Include dates arriving and departing HN (if applicable).

(5) Staging and operations location (specifically including the proximity to the US southwest border, if applicable).

(6) Type (composition), size, and force component of supporting unit or deploying force.

(7) Required number of personnel.

(8) Military Occupational Specialty, Naval Designators, or Air Force Specialty Code of intelligence component specialty personnel, if any, and intelligence oversight guidance, as applicable.

(9) Type and amount of equipment.

(10) Transportation arrangements, coordination, and priority.

(11) Whether or not personnel will be armed and applicable rules of engagement (ROE) or, in the case of domestic CD support missions, rules for the use of force policy.

(12) Status afforded deploying forces (legal status applying to soldiers outside the continental United States). Note: If legal protections (e.g., a status of forces agreement) do not exist, requesting agency should provide a risk assessment and justification for conducting the mission.

(13) Force protection measures and responsibilities.

(14) Source of DOD funding (to include specific project code) and estimated amount, if applicable.

(15) Proposed public affairs guidance.

(16) Name or specific position of official granting host government and US Ambassador approval, if applicable.

(17) For supported CD CDR-approved missions, extensions, or changes involving non-theater assigned personnel, provide the name, rank (O-6 minimum), office, and telephone number of the person providing the supporting CD CDR or Service concurrence.

(18) Country or theater clearance and passport requirements.

(19) All requests for deployment orders in which foreign forces will be trained will include the following statement: "Embassy verifies that the Department of State possesses no credible information of gross violations of human rights by the (name of designated unit), or a member of that unit, as of this date." This certification must be made within 270 days of the starting date of the proposed training.

(20) Miscellaneous administrative or logistics requirements (immunizations, special or required training, uniforms, interpreter or language requirements, special equipment, and billeting).

(21) Explanation of why existing title 32 resources cannot execute the mission (domestic requests only).

(22) Explanation of why the Department of Homeland Security cannot provide the requested support (domestic requests only).

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(23) Status of approval of the deployment by the host country (name and specific position of the HN official granting approval), US Chief of Mission, and appropriate commander.

p. Command and Control Relationships

(1) Transfer (of OPCON) of forces from a supporting CDR to a supported CDR requires SecDef approval and a Joint Staff deployment order.

(2) SecDef authorizes CDRUSJFCOM, CDRUSPACOM, and CDRUSSOCOM to provide tactical control of combatant commanders assets to CDRUSNORTHCOM to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

(3) SecDef authorizes CDRUSJFCOM, CDRUSPACOM, and CDRUSSOCOM to provide tactical control of COCOM assets to CDRUSSOUTHCOM to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

q. Standing Rules of Engagement/Use of Force Policy. The CJCS Standing Rules of Engagement (SROE) apply to US forces during all military operations and contingencies outside of the territory of the United States, unless otherwise directed. Reference m provides SROE-related policy and guidance on use of force by DOD personnel in CD support operations outside the territory of the United States. During CD support missions in the United States, use of force policy is governed by reference q, unless otherwise directed.

9. Funding and Reimbursement

a. It is imperative that DOD CD funds be obligated only for the specific activity for which appropriated and transferred. Coordinate with the Military Department that has the fiduciary funding responsibility for the proposed activity as required. Support provided must be IAW reference d or other statutory authority. Unless support is provided pursuant to reference A, the requesting LEA must reimburse the Department of Defense (Economy Act) unless the mission satisfies the conditions of reference h (10 USC, section 377(b)) below:

(1) Support provided in the normal course of military training or operations.

(2) Support is substantially equivalent to that which would otherwise be obtained from military operations or training.

b. LEA reimbursement is not required for support provided to an LEA under reference d, as long as the support is consistent with a specific project that has been approved for funding, is available to the CDR or military department with fiduciary funding responsibility IAW subparagraph 8a above, or as long as funds have been specifically transferred and made available for that type of support.

c. If reimbursement is required for the support to the LEA and the requesting agency is either unwilling or unable to reimburse the Department of Defense, CDRs, or military department with fiduciary funding responsibility will forward the request through the Joint Staff for OSD review and decision.

d. Questions involving funding propriety or availability should in all cases be referred in comptroller channels, through the Military Department to the Office of the Deputy Assistant Secretary of Defense for Counternarcotics (DASD-CN, ATTN: DIR, PB, COMM 703-696-5606).

10. Corrections, Modifications, and Additions. Corrections, modifications, and additions to this delegation of authority will be necessary from time to time to ensure it accurately reflects the authority delegated and operational needs of DOD activities involved in CD support. Recommendations for changes should be directed to the Joint Staff (J-3/JOD).

11. Guidance on Conflicting Policy. For CD operational support to US federal, state, and local (including territorial and tribal) LEAs, where this guidance is inconsistent with reference n, this instruction constitutes interim SecDef guidance modifying or revising reference n.

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### ENCLOSURE B

#### REFERENCES

- a. Title 10, United States Code, section 124.
- b. CJCS Message 262355ZSEP03, "Counterdrug (CD)/Counter-NARCO-TERRORISM (CNT) EXECUTE ORDER"
- c. DOD Directive S-5210.36, 10 June 1986, "Provision of DOD Sensitive Support to DOD Components and other Departments and Agencies of the US Government"
- d. Section 1004 of the National Defense Authorization Act for Fiscal Year 1991, Public Law No. 101-510, 104 Stat. 1629, as amended
- e. CJCSI 3250.01, 6 May 1994, "Policy Guidance for Sensitive Airborne and Maritime Surface Reconnaissance Operations"
- f. DOD Regulation 5240.1-R, December 1982, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"
- g. OSD OCDEP&S memorandum, 15 November 1994, "Department of Defense Fixed-Wing Air Transportation Support to Federal Drug Law Enforcement Agencies"
- h. Title 10, United States Code, chapter 18, sections 374 and 377
- i. Title V of the National Security Act of 1947, as amended, Accountability for Intelligence Activities, sections 501 and 502 (50 USC sections 413 and 413a)
- j. DepSecDef memorandum, 2 October 2003, "Department Support to domestic Law Enforcement Agencies Performing Counternarcotics Activities"
- k. DepSecDef memorandum, 3 October 2003, "Department of Defense International Counternarcotics Policy"
- l. DOD Directive 5105.21, 19 May 1977, "Defense Intelligence Agency"
- m. CJCSI 3121.01A, 15 January 2000, "Standing Rules of Engagement for US Forces"
- n. DOD Directive 5525.5, 15 January 1986, "DOD Cooperation with Civilian Law Enforcement Officials"

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- o. CJCSI 1301.1A, 30 October 1998, "Policy and Procedures to Assign Individuals to Meet Combatant Command Mission Related Temporary Duty Requirements"
- p. Title 10, United States Code, section 373.
- q. CJCSI 3121.02, 31 May 2000, "Rules on the Use of Force By DOD Personnel Providing Support to Law Enforcement Agencies Conducting Counterdrug Operations in the United States"
- r. Joint Staff messages 010040ZDEC99 and 181946ZSEP00, "Human Rights Verification for DOD-Funded Training Programs with Foreign Personnel"
- s. DepSecDef memorandum, 31 July 2002, "Department of Defense Counternarcotics Policy"
- t. DepSecDef memorandum, 31 July 2002, "DoD Training Support to US Civilian Law Enforcement Agencies"



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### GLOSSARY

- area of operations (AO) – An operational area defined by the joint force commander for land and naval forces. Areas of operation do not typically encompass the entire operational area of the joint force commander, but should be large enough for component commanders to accomplish their missions and protect their forces. Also called AO. (Joint Pub 1-02)
- arrival zone (AZ) – In counterdrug operations, the area in or adjacent to the United States into which illegal drugs are smuggled and from which their initial domestic distribution begins. By air, an airstrip; by sea, an offload point on land or transfer to small boats. (Joint Pub 1-02)
- controlled delivery – The use of DOD fixed-wing aircraft for counterdrug transportation support to domestic law enforcement agencies. Support involves the acquisition and funding of aircraft to transport contraband (e.g., illegal drugs, money, etc.), agents, cooperating defendants, and commercial/private vehicles required for counterdrug operations that are time-sensitive or ongoing.
- counterdrug (CD) activities – Those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to drug trafficking. This includes, but is not limited to, measures taken to detect, interdict, disrupt, or curtail activities related to substances, materiel, weapons, or resources used to finance, support, secure, cultivate, process, or transport illegal drugs.
- counterdrug (CD) non-operational support – Support provided to law enforcement agencies/HNs that includes loan or lease of equipment without operators, use of facilities (such as buildings, training areas, and ranges), training conducted in formal schools, transfer of excess equipment, or other support provided by the Services from forces not assigned or made available to the combatant commanders. (Joint Pub 1-02)
- counterdrug (CD) operational support – Support to HNs and law enforcement agencies involving military personnel and their associated equipment and provided by the geographic combatant commanders from forces assigned to them or made available to them by the Services for this purpose. Operational support does not include support in the form of equipment alone, nor the conduct of joint law enforcement investigations with cooperating civilian law enforcement agencies. (Joint Pub 1-02)

deployment date – The date a unit or an individual leaves home station to execute a mission. Deployment may be ordered by a military deployment order or temporary duty order.

execution date – The date a unit or an individual begins the mission. Execution can be ordered by a military deployment order, an execute order, or a temporary duty order.

force protection (FP) – Security program designed to protect soldiers, civilian employees, family members, facilities, and equipment, in all locations and situations, accomplished through planned and integrated application of combating terrorism, physical security, operations security, personal protective services, and supported by intelligence, counterintelligence, and other security programs.

ground-based radar (GBR) – Land-based fixed or mobile asset that provides primary or augments existing radar coverage and is capable of long-range searches up to 240 nms and height finding up to 95,000 feet. Communications available from the unit include HF, VHF, UHF, and SATCOM.

host nation (HN) – A nation that receives the forces and/or supplies of allied nations, coalition partners, and/or NATO organizations to be located on, or to operate in, or to transit through its territory. Also called HN. (Joint Pub 1-02)

host-nation (HN) support – Civil and/or military assistance rendered by a nation to foreign forces within its territory during peacetime, crises or emergencies, or war based on agreements mutually concluded between nations. Also called HNS. (Joint Pub 1-02)

Law Enforcement Agency (LEA) – Any of a number of agencies (outside the Department of Defense) chartered and empowered to enforce laws in the following jurisdictions: the United States, a state (or political subdivision) of the United States, a territory or possession (or political subdivision) of the United States, or to enforce US laws within the borders of an HN. Also called LEA. (Joint Pub 1-02)

mobile training team (MTT) – A team consisting of one or more US military or civilian personnel sent on temporary duty, often to a foreign nation, to give instruction. The mission of the team is to train indigenous personnel to operate, maintain, and employ weapons and support systems, or to develop a self-training capability in a particular skill. The National Command Authorities may direct a team to train either military

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or civilian indigenous personnel, depending upon host-nation requests. Also called MTT. (Joint Pub 1-02)

Operation ALLIANCE (OPALL) – A major multiagency initiative with primary area of coverage being the southwest border and including the entire states of Arizona, California, New Mexico, and Texas. For the purpose of coordinating DOD support to law enforcement, its area of operation is the entire continental United States, Puerto Rico, and the US Virgin Islands. Its mission is twofold: (1) create and promote channels for interagency cooperation and coordination of interdiction, intelligence, and investigative functions within its area of operation; (2) develop, administer, and coordinate the prioritization and provision of DOD support to civilian law enforcement throughout the United States, Puerto Rico, and the US Virgin Islands in conjunction with JTF-6, US Army South, and the National Guard Bureau.

operational control (OPCON) – Command authority that may be exercised by commanders at any echelon at or below combatant command. Operational control may be delegated and normally provides full authority to organize commands and forces and to employ those forces as the commander in operational control considers necessary to accomplish assigned missions. Operational control should be exercised through the commanders of subordinate organizations and does not, in and of itself, include authoritative direction for logistics or matters of administration, discipline, internal organization, or unit training. Also called OPCON. (Joint Pub 1-02)

Posse Comitatus Act – Prohibits direct participation in law enforcement activities such as search, seizure, arrest, or similar activities. (Title 18, “Use of Army and Air Force as Posse Comitatus” - United States Code, Section 1385)

rules of engagement (ROE) – Directives issued by competent military authority that delineate the circumstances and limitations under which US forces will initiate and/or continue engagement with other forces encountered.

tactical control (TACON) – Command authority over assigned or attached forces or commands, or military capability or forces made available for tasking, that is limited to the detailed and, usually, local direction and control of movements or maneuvers necessary to accomplish missions or tasks assigned. Tactical control is inherent in operational control. Tactical control may be delegated to, and exercised at, any level at or below the level of combatant command. Also called TACON. (Joint Pub 1-02)

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use of force – policy guidance issued by competent authority that delineate the circumstances and limitations under which US forces may use force, up to and including deadly force. For domestic CD support missions, use of force policy guidance is found in CJCSI 3121.02, “Standing Rules on the Use of Force by DOD Personnel During Military Operations Providing Counterdrug Support to Law Enforcement Agencies in the United States.”

*Source:* [http://www.dtic.mil/cjcs\\_directives/cdata/unlimit/3710\\_01.pdf](http://www.dtic.mil/cjcs_directives/cdata/unlimit/3710_01.pdf)

## APPENDIX 3: COUNTERDRUG OPERATIONS

### APPENDIX 3-10: NGR 500-2/ANGI 10-801 - NATIONAL GUARD COUNTERDRUG SUPPORT

*(Appendix A and Glossary omitted)*

Departments of the Army and the Air Force  
National Guard Bureau  
Arlington, VA 22202-3231  
31 March 2000

\*NGR 500-2/ANGI 10-801

Emergency Employment of Army and Other Resources

NATIONAL GUARD COUNTERDRUG SUPPORT

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By Order of the Secretaries of the Army and the Air Force:

RUSSELL C. DAVIS  
Lieutenant General, USAF  
Chief, National Guard Bureau

Official:

DEBORAH GILMORE  
Chief  
Administrative Services

---

**History.** This printing publishes a revision of NGR 500-2/ANGI 10-801.

**Summary.** This regulation/instruction prescribes policies, procedures and responsibilities governing the utilization of National Guard and Department of Defense (DoD) resources in the National Guard Counterdrug Support Program. It also provides guidance pertaining to program and budget management of the Army National Guard Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) and the Air National Guard Drug Abuse Testing Program, referred to collectively as Substance Abuse (SA) programs.

**Applicability.** This regulation/instruction applies to the Army and Air National Guard of the 50 States, the Commonwealth of Puerto Rico, the Territory of Guam, the United States Virgin Islands, and the District of Columbia, hereafter referred to as states, while performing counterdrug missions when not in Federal Service.

**Proponent and exception authority.** The proponent of this regulation is the National Guard Bureau (NGB) Counterdrug Office. The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation.

**Internal Control Systems/Management Control Process.** This regulation/ instruction incorporates guidance from AR 11-2, AFI 65-201 and OMB Circular A-123. The Federal Managers' Financial Integrity Act, OMB Circular A-123 and DoD Directive (DoDD) 5010.38 apply to all DoD activities and programs. This regulation contains management control provisions, but does not identify key management controls that must be evaluated.

**Supplementation.** Supplementation of this regulation/instruction is prohibited without prior approval from the Chief, National Guard Bureau, **ATTN:** Counterdrug Office, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231.

**Suggested Improvements.** Users are encouraged to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Chief, National Guard Bureau, **ATTN:** Counterdrug Office, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231.

**Distribution:** B/F

\*This regulation supersedes NGR (AR) 500-2/ANGI 10-801, 27 October 1997

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#### Introduction

##### 1-1. Purpose.

This regulation/instruction prescribes policies, procedures and responsibilities governing the utilization of National Guard and Department of Defense (DoD) resources in the National Guard Counterdrug Support Program. It also provides program management and budget guidance for the Army National Guard Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) and the Air National Guard Drug Abuse Testing Program, referred to collectively as Substance Abuse (SA) programs. This regulation/instruction does not address National Guard counterdrug activities performed under authority of Title 10, United States Code. This regulation/instruction does not apply to military technician assistance programs established pursuant to Technician Personnel Regulation.

##### 1-2. References.

Required references, related references, prescribed forms and referenced forms are listed in appendix A.

##### 1-3. Explanation of Abbreviations and Terms.

Abbreviations and terms used in this regulation/instruction are explained in the glossary.

**1-4. Statutory Authority.**

- a.* Section 112, Title 32, United States Code (32 USC 112) is the authority for the Counterdrug Support Program.
- b.* Public Law 92-129 (Identification & Treatment of Drug and Alcohol Dependent Persons in the Armed Forces), as implemented by AR 600-85 (Alcohol and Drug Abuse Prevention and Control Program), NGR (AR) 600-85 (Drug Abuse Prevention and Control), AFI 44-120 (Drug Abuse Testing Program), is the authority for the ARNG ADAPCP and ANG Drug Abuse Testing Program.

**1-5. Responsibilities.**

- a.* The Secretary of Defense (SECDEF), in accordance with 32 USC 112, may provide resources through the Chief, National Guard Bureau, to states receiving SECDEF approval of the Governors' State Plans for National Guard Counterdrug Support.
- b.* The National Guard Bureau (NGB) is the official channel of communication between the states, Secretary of Defense and the Departments of the Army and Air Force as well as other federal agencies.
- c.* The Counterdrug Office (NGB-CD) has responsibilities as follows:

(1) Primary responsibility for the development and execution of National Guard Counterdrug Support Program policies, procedures, and regulations/instructions. Submit questions on Counterdrug Support Program policy to the Chief, Counterdrug Office.

(2) The Chief, Counterdrug Office, is the NGB Program Manager for the ARNG ADAPCP, providing guidance to the states in accordance with AR 600-85 and NGR 600-85.

(3) The Chief, Counterdrug Office, is the NGB Program Manager for the ANG Drug Abuse Testing Program, providing guidance to the states in accordance with AFI 44-120.

(4) The Counterdrug Office is the single point of contact within the National Guard Bureau for all issues pertaining to the Counterdrug Support Program and for program management/budget issues pertaining to the ADAPCP and the ANG Drug Abuse Testing Program.

(5) The Counterdrug Office funds a full-time Title 32 Active Guard/Reserve (AGR) Counterdrug Coordinator (CDC) position in each state for administration and management of counterdrug programs. (See paragraph 8-7 of this regulation/instruction.)

*d.* The Governor is the Commander-in-Chief of the State's National Guard units not in federal service. The District of Columbia National Guard serves under the Commanding General, who performs the function of a Governor with respect to state plans IAW paragraph 2-5.

*e.* Adjutants General are responsible for selection of CDCs and determining the chain of supervision for the Counterdrug Support Program. Adjutants General are responsible for identifying state program managers for the ADAPCP and the ANG Drug Abuse Testing Program. All designations must be in accordance with AR 600-85, NGR 600-85, and AFI 44-120 as applicable.

*f.* The Counterdrug Coordinator is responsible for all management control aspects of the Counterdrug Support Program within their state. They will ensure that programs and functions are conducted effectively and efficiently. All issues affecting the Counterdrug Support Program will be communicated between the CDC and Counterdrug Office to ensure the program meets management control requirements.

**1-6. Regulatory Structure.**

All of the programs described in this regulation/instruction are operated within the existing National Guard regulatory structure. Unless otherwise directed by proper authority, all existing rules, regulations, instructions and procedures applicable in general to the National Guard are also applicable to the programs described in this regulation/instruction.

**Chapter 2****Counterdrug Support Program****2-1. Legal Considerations and Requirements.**

*a. National Guard role.* The National Guard provides counterdrug support to federal, state and local law enforcement agencies (LEAs) and to Community Based Organizations (CBOs) that request Drug Demand Reduction assistance. National Guard personnel engaged in counterdrug support activities for which federal funding is provided by 32 USC 112 must be acting in support of LEAs and/or CBOs. National Guard counterdrug programs will only provide support to LEAs, and/or CBOs that have a counterdrug nexus as the primary purpose. When using

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32 USC 112 funds, states may execute only those missions that have been approved by the SECDEF within the Governors' State Plans, in conformity with the mission definitions in this regulation/instruction.

(1) Requests to perform missions that are on the SECDEF approved mission list but were not included in the original annual state plan execution memorandum must be submitted to SECDEF thru NGB-CD for approval. Such requests must include certification by the Governor/Attorney General. (See paragraph 2-5.)

(2) Requests to perform missions that are not on the approved mission list must be submitted through NGB-CD to the SECDEF for approval. Requests must include certification by the Governor/Attorney General. (See paragraph 2-5.)

**b. Requests for support.** The National Guard will not initiate counterdrug operations without a request for support validated by the CDC or designated representative. Requests must originate with an LEA or CBO and be in writing, signed by a responsible official and specify the length of required support. An annual written request will be required when the requesting agency desires continuation of support from fiscal year to fiscal year.

**c. Verbal requests.** Verbal request must be followed by a written request as soon as possible for all support.

**d. Federal/State law.** The authority to provide counterdrug support is defined by Federal law if Federal funds are expended to support a mission, and by State law if State funds are used to support a mission. CDCs are reminded that CD activities in support of a Federal LEA can not violate State law.

**e. Arrests, searches, and seizures.** The Posse Comitatus Act (18 USC 1385) does not apply to National Guard personnel on duty under authority of Title 32. As a matter of policy, however, National Guard personnel will not, except for exigent circumstances or as otherwise authorized in this regulation, directly participate in the arrest of suspects, conduct searches which include direct contact of National Guard members with suspects or the general public, or become involved in the chain of custody for any evidence. State law may impose additional restrictions.

(1) Exigent circumstances are situations, in which immediate action is necessary to protect police officers, National Guard personnel, or other persons from death or injury; to prevent the loss or destruction of evidence; or to prevent the escape of a suspect already in custody.

(2) Supported LEAs are responsible for obtaining warrants required for searches or for determining the need for searches, inspections, and observations that do not require warrants. This responsibility includes the determination of any potential legal restrictions upon the use of thermal imaging or sense enhancing systems.

**f. Responsibility/liability.** Responsibility/liability for the actions of National Guard personnel involved in counterdrug support activities is as follows:

(1) Federal protection for personal injury, death, or property damage caused by National Guard personnel, acting within the line of duty, in Title 32 status, is governed by the Federal Tort Claims Act (28 USC 2671-2680).

(2) Responsibility and liability for actions by National Guard personnel on State Active Duty (SAD) are in accordance with state law. Personnel in a SAD status are not covered by the Federal Tort Claims Act.

(3) Responsibility and liability for loss and damage to National Guard equipment will be determined by a Report of Survey, in accordance with applicable regulations.

(4) Personnel on Title 32 duty in a non-pay status pursuant to written orders, when acting within the line of duty, are considered employees of the United States for purposes of the Federal Tort Claims Act.

(5) Volunteers (military or civilian) not on orders, are not employees of the United States for purposes of the Federal Tort Claims Act or the Federal Employees Compensation Act.

**g. Environmental and/or Historical Landmark restrictions.** All operations will be conducted in accordance with federal and state environmental and/or historical landmark laws and regulations.

### 2-2. Subpoenas and Requests for Information.

**a.** The National Guard, and its current and former members and employees, may receive subpoenas, orders or other requests for the appearance or testimony of individuals or requests to produce, disclose or release "official information" regarding the Counterdrug Support Program. The State AGR Judge Advocate will be immediately notified in such cases.

**b.** The provisions of AR 27-40 (Litigation) or AFI 51-301 (Civil Litigation), as appropriate, are applicable when the above situations are related to "judicial proceedings" and "litigation" (as defined in those regulations).

**c.** The payment of travel expenses, per diem and fees, in response to subpoenas, is governed by AR 27-40 and AFI 51-301. National Guard members under subpoena who are not already serving under Counterdrug Support Program orders will be placed under orders for the period required for preparation and testimony. The CDC will maintain a copy of the subpoena or other documents. If the member is placed on, or serving under, orders by the National Guard, any payments received from the court as compensation for testifying must be forwarded to the USPFO (ARNG) or unit comptroller (ANG).

**d.** The provisions of AR 25-55 (The Department of the Army Freedom of Information Program) or DoD 5400.7-R, AFSUP1 (DoD Freedom of Information Act Program), as appropriate, are applicable when the above situations

are related to producing, disclosing or releasing official information (as defined by these regulations/instructions). AR 25-55 and DoD 5400.7-R, AFSUP1 apply when federal records are released to the public.

### 2-3. Special Notification Requirement.

The Counterdrug Coordinator will contact the NGB Chief Counsel (NGB-JA), through the Counterdrug Directorate, when either of the following circumstances occur in connection with the Counterdrug Support Program:

- a.* Possibility of civil liability on the part of a National Guard member, the National Guard, or volunteers.
- b.* Occurrence of negative judicial rulings based wholly or in part upon the conduct of National Guard members, or volunteers, including the suppression of evidence.

### 2-4. Tort Liability.

*a.* The Federal Tort Claims Act (FTCA) (28 USC 2671-2680) is applicable to National Guard members engaged in counterdrug support, serving under Title 32 orders. Individuals whose property is lost, damaged or destroyed, or who suffer personal injury or death as a result of the negligent acts or omissions of National Guard members acting within the scope of their duties, may file a claim against the United States under the FTCA. National Guard members acting within the scope of their authority and performing approved support (listed in the Governor's State Plan and approved by OSD) are immune from suit except for certain Constitutional torts; i.e., when a negligent act or omission constitutes a violation of the Constitutional rights of the injured party, including persons suspected of criminal activity, and certain intentional torts, such as assault and battery, false arrest and imprisonment.

*b.* National Guard members engaged in counterdrug support activities in a State Active Duty (SAD) status are entitled to the protections and immunities afforded by state law.

*c.* There is, at the present time, no protection from Federal Tort Claims Act liability or Federal Employees Compensation Act coverage for volunteers, including National Guard members not on orders or in any other recognized status. Such volunteers will not be utilized in any counterdrug activity without their having been advised beforehand of the foregoing lack of coverage. All National Guard volunteers should be placed as a minimum on retirement points only status in order to provide them liability coverage.

### 2-5. Governor's State Plan.

*a.* Each state will submit for review an annual Governor's State Plan to the National Guard Bureau, **ATTN:** Counterdrug Office. The plan will be approved and signed by the governor and the state attorney general in accordance with 32 USC 112(c).

*b.* The state plan must include a certification by the governor that any activities carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.

*c.* The plan must include a certification by the attorney general that the missions/activities in the plan are consistent with, and not prohibited by, state law.

*d.* Certifications and approvals by governor and attorney general (or equivalent) cannot be waived.

*e.* Plans will be prepared in accordance with instructions published each year by the Counterdrug Office.

*f.* The CDC is responsible for the submission of the Governor's State Plan for counterdrug support.

*g.* The Governor's State Plan will not include plans for the Army National Guard Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) or the Air National Guard Drug Abuse Testing Program.

*h.* Carriage of weapons in support of Law Enforcement Agencies must be annotated in the Governor's State Plan.

### 2-6. Waiver Request.

Waiver requests for NGR 500-2/ANGI 10-801 must be submitted through the Chief, NGB-CD to the Chief, National Guard Bureau for approval. All requests must contain information detailing the reason for the waiver, that it will meet applicable federal, state and local laws and how it will affect their state program.

### 2-7. Authorized Missions.

Only the following counterdrug missions will be funded by the SECDEF under the authority of 32 USC 112.

However, all counterdrug missions included in the Governor's State Plan must be consistent with, and not prohibited by, state law. Some states may not authorize the National Guard to perform every SECDEF approved mission. It is the purpose of the attorney general certification to ensure that the Governor's State Plan does not include any missions that are inconsistent with, or prohibited by, state law.

*a. Mission Category #1. Program Management. Mission 1. Counterdrug Coordination, Liaison, and Management.* Plan and coordinate state counterdrug supply and demand reduction support, establish liaison with supported LEAs and other community organizations, resource and manage personnel and equipment requirements for counterdrug support operations, and prepare operational/financial reports and briefings as required.

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### **b. Mission Category #2. Technical Support.**

(1) **Mission 2a. Linguist Support (Translator Support).** Provide transcription/translation of audio/video tapes, seized documents and other information media. National Guard personnel will not participate in active/real-time Title III conversation monitoring or directly participate in interrogation activities. The National Guard will not maintain or store final products in National Guard facilities or databases.

(2) **Mission 2b. Investigative Case and Analyst Support.** Assist LEAs in the establishment of counterdrug intelligence systems/databases and provide intelligence analysis support. All intelligence activities must be conducted in accordance with appropriate DoD regulations. The National Guard will not maintain or store final products in National Guard facilities or databases. Provide assistance to LEAs in developing investigations and cases for prosecution. Activities include, but are not limited to, inputting, reviewing, and analyzing collected LEA information, and providing legal, paralegal, and auditing assistance. Operational support to LEAs is designed to enhance the effectiveness of the supported agency and release law enforcement officers for drug enforcement duties. This category of support excludes such tasks as secretarial, janitorial, or receptionist duties.

(3) **Mission 2c. Deleted IAW OSD policy.**

(4) **Mission 2d. Communications Support.** Provide personnel to establish, operate and maintain communications stations, bases, and equipment in support of LEA counterdrug operations and assist with CBO communications/technical issues.

(5) **Mission 2e. Engineer Support.** Provide engineer support to LEAs and community organizations where the project has a counterdrug nexus. This will exclude operations concerning drug laboratories or hazardous materials. Local LEAs and governments must secure the area prior to arrival of National Guard personnel, take possession of any evidence or materials to be confiscated/destroyed and obtain clearances, court orders, warrants and/or permits for destruction, removal or disposal of materials or other environmental hazards/concerns.

(6) **Mission 2f. Subsurface/Diver Support.** Conduct subsurface inspections of commercial vessel hulls within U.S. territorial waters or U.S. maritime ports of entry (POE) through the use of sidescan sonar buoys or divers to detect alien devices or containers attached to the vessel hulls, or other underwater activities. Prior to the use of military qualified National Guard Diver personnel for hull inspection activities, the vessels must be secured by the responsible law enforcement officials. Divers may visually inspect and report to LEAs any unusual physical hull configurations but may not attempt entry, search, removal or alteration of features detected. Divers participating in these operations must be on dive status in approved dive positions. National Guard personnel will not dive in a permissive dive status conducting mission 2f. Permissive diving is strictly a training tool, not an operational status.

### **c. Mission Category #3. General Support.**

(1) **Mission 3a. Domestic Cannabis Suppression/ Eradication Operations Support.** Support of LEA domestic cannabis suppression and eradication operations. This includes, but is not limited to, aerial support, logistic support, communications support, intelligence, planning support, operational staff coordination, medical support, physical security, ground transportation, eradication and destruction of contraband, and spraying of herbicides, in accordance with Environmental Protection Agency (EPA) regulations and state laws.

(2) **Mission 3b. Transportation Support.** Provide transportation (aerial, ground, or maritime) of LEA personnel/equipment, persons in LEA custody, seized property or contraband as part of ongoing time-sensitive counterdrug operations, when security or other special circumstances reasonably necessitate National Guard support and there is a counterdrug nexus. Routine administrative aerial transportation is not permitted under this mission nor are missions that compete with private enterprise. LEA officers are responsible for the security of any evidence or persons in their custody. Provide ground transportation of youth, adults, and associated equipment and supplies for community/state demand reduction program activities.

(3) **Mission 3c. Maintenance/Logistical Support.** Provide maintenance/logistical support of LEA vehicles and equipment to enhance the counterdrug effectiveness of the supported agency and release Law Enforcement Officers (LEOs) for drug enforcement duties. General maintenance/logistics support for non-counterdrug vehicles and equipment is prohibited.

(4) **Mission 3d. Cargo/Mail Inspection.** Assist LEAs by inspecting cargo and mail. Primary emphasis will be placed on POEs and functional equivalents. Cargo/Mail includes, but is not limited, to vehicles, containers, commercial cargo, aircraft, watercraft, baggage, and mail. National Guard personnel will not make arrests, conduct searches of individuals, seize property, or enter into the chain of evidence. Law enforcement officers must be present at inspection sites, make seizures, maintain custody of evidence, and maintain control of vehicle occupants.

**d. Mission Category #4. Counterdrug-related Training. Mission 4. Training LEA/Military Personnel.** Train LEA/military personnel in military subjects and skills useful in the conduct of counterdrug operations or in the operation of military equipment used in counterdrug operations. LEA participants are responsible for associated travel and per diem expenses.

### **e. Mission Category #5. Reconnaissance/Observation.**

**(1) Mission 5a. Surface Reconnaissance.** Reconnoiter or perform area observation by land or water to detect and report illegal drug activities that include, but are not limited to, cultivated marijuana, suspected isolated drug trafficking airstrips, drug drop zones, drug trafficking corridors, illegal drug laboratories, suspicious aircraft, watercraft, or motor vehicles. National Guard personnel are prohibited from pursuing or targeting specific persons for surveillance. National Guard personnel will not maintain or store gathered information in National Guard facilities or databases. Information will be reported as designated by the supported LEA. Approved categories of counterdrug activities include, but are not limited to:

**(a) Unattended Sensor Support.** Personnel will support LEAs in the emplacement, monitoring and maintenance of unattended sensors in areas where suspected drug activity is occurring.

**(b) Visual reconnaissance/observation by mobile patrols and listening posts/observation posts (LPs/OPs),** using binoculars, cameras, night vision devices, and infrared/thermal imagery, including FLIR or lowlight devices. A LEO must be present or in direct contact with the National Guard team.

**(c) Ground Surveillance Radar (GSR).** Establish and operate ground radar sites using either Army or Air GSR systems. Mission includes site security and may require transportation support.

**(2) Mission 5b. Aerial Reconnaissance.** Conduct reconnaissance/observation of airspace, maritime or surface areas (land and internal waterways of the US and territories) for illegal drug activities which include, but are not limited to, cultivation of marijuana or delivery of illegal drugs. Reconnaissance may be directed toward suspected drug trafficking airstrips/drop/zones/ corridors or suspicious aircraft/watercraft/motor vehicles. For CD RAID/C-26/HH-60G FLIR missions, a LEO must be present or in direct contact. Mission may require site security for aircraft and ground radar. Approved equipment and techniques include, but are not limited to:

**(a) Radars.**

**(b) Unmanned Aerial Vehicles (UAVs).**

**(c) Aerial visual techniques,** including infrared/thermal imagery, and photographic reconnaissance.

**(d) Photo reconnaissance/film processing.**

**f. Mission Category #6. Demand Reduction Support.** Demand reduction support organizes National Guard resources, members, and their families in support of drug abuse prevention programs in the community. Support missions in this category should complement, but must not duplicate, other organizations' programs.

**(1) Mission 6a. Community Based Demand Reduction Support.** Provide support to community based activities primarily designed to educate, train, or otherwise prevent drug abuse among youth. This includes, but is not limited to, support of youth centers, drug-free events, community recreational programs, safe havens and community mobilization events.

**(2) Mission 6b. Educational Institution Demand Reduction Support.** Support community based activities that focus on educational institutions, or otherwise have an educational institution as the primary sponsor, and are primarily designed to educate, train, or otherwise prevent drug abuse. This includes, but is not limited to, tutoring, mentoring, support of after-school programs, drug-free activities, role model programs, and sports-drug awareness programs.

**(3) Mission 6c. Informational Demand Reduction Support.** Provide information about drug abuse or drug abuse programs. This includes, but is not limited to, static displays, the Red Ribbon Campaign, educational material distribution, and expenses for speakers.

**(4) Mission 6d. Leadership Development.** Support camps, retreats, seminars and programs, not primarily associated with educational institutions that focus on developing drug abuse prevention leadership skills in youth and adults. This includes, but is not limited to such activities as cadet programs, youth leadership camps, summer training courses for youth leaders, parent training programs, etc.

**(5) Mission 6e. Coalition Development.** Assist in the development of functioning community based coalitions organized to reduce the illegal use of legitimate drugs and the use of illegal drugs.

## **2-8. Agreements between the State and LEAs/CBOs (MOUs/MOAs).**

**a.** A Memorandum of Understanding or Memorandum of Agreement (MOU/MOA) between the state and any supported LEA/CBO is required for counterdrug support for more than 30 consecutive days. The agreement must be approved and signed by both parties before support is provided. All MOU/MOAs will be reviewed and the review documented by the CDC with the LEAs/CBOs annually to ensure they meet support requirements. If only minor changes are required an addendum may be added to the MOU/MOA.

**b.** Agreements will be drawn in accordance with procedures established by the state and the LEAs/CBOs concerned, and must comply with all applicable federal/state laws and regulations/instructions. Agreements will be reviewed by a state judge advocate prior to submission to the LEA/CBO and must be in a professional format containing all requirements listed under 2-8c. The state attorney general (or equivalent) will review all MOUs/MOAs to ensure compliance with state law prior to The Adjutant General's approval.

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c. Agreements will address the following topics, as a minimum, and specify the responsibilities and obligations of both parties.

- (1) Purpose of agreement.
- (2) Authority (i.e., regulations, statutes).
- (3) Planned deployment of National Guard personnel and/or equipment.
- (4) Reporting procedures.
- (5) Command and control.
- (6) Scope of operations.
- (7) Force protection and Rules of Engagement.
- (8) Public affairs support.
- (9) Safety.
- (10) Responsibilities, including acquisition of warrants and permits.

(11) Relative liabilities of parties including any hold harmless agreements. No hold harmless agreements are required in agreements between federal agencies. The Federal Government may not hold harmless a state or other jurisdiction.

(12) Renegotiation. Agreements must be renegotiated when laws, regulations and/or support requirements change in such a manner that the agreement cannot be executed; e.g. revocation of DoD approval for a particular mission.

(13) Termination of Agreement. Agreements will terminate upon such terms as the parties agree; e.g. upon 90 days notice by either party. Inclusion in the agreement of an end date is not required merely because funds are appropriated on an annual basis.

(14) Asset forfeiture/sharing, if applicable.

d. MOUs/MOAs address support in a general manner but must cover all areas of concern. If a more specific agreement is required an operations plan with a cover memorandum may augment the MOU/MOA.

### 2-9. Interstate Agreements (MOUs/MOAs).

a. States that conduct operational counterdrug missions within the borders of other states will, to the extent required by and IAW the laws of the involved states, establish written MOUs/MOAs between the involved states.

b. At a minimum, Adjutants General, through the CDCs, will coordinate notice of the intent to conduct interstate operations prior to commencing such operations.

### 2-10. Funding, Entitlements and Other Fiscal Information.

a. Status of funding. CDC's will ensure that all personnel understand that the duration and size of the program is subject to annual appropriated funding levels, and that reductions in staff or breaks in duty could be required in the event of reduced budgets.

b. Title 32 USC 112 provides the funding authority for the National Guard Counterdrug Support Program. It authorizes funding for pay and allowances, uniform clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard used for counterdrug activities, and for the operation and maintenance of the equipment and facilities of the National Guard used for counterdrug support activities. It also authorizes funding for the procurement of services, supplies, equipment and the leasing of equipment for the National Guard of that state for the purpose of drug interdiction and counterdrug activities.

c. National Guard counterdrug support funds are part of the DoD counterdrug appropriation and will not be used for purposes other than the National Guard counterdrug support program. These funds are fenced by Modified Army Management Structure Codes (MAMSCOs), DoD Project Element Codes, (PECs), Workday Utilization Codes (WUCs), and Emergency Specialty Project Codes (ESP's). Requests for transfer of funds between appropriations or between ARNG and ANG must be submitted to NGB-CD for approval.

d. Incremental costs associated with missions performed incidental to training that include above normal expenditures (such as lodging) may be charged to counterdrug support accounts.

e. Periods of duty and pay/allowances

(1) Full-Time National Guard Duty Counterdrug (FTNGDCD) orders will reflect the entire duration of the mission and will not be broken to exclude weekends for the sole purpose of avoiding the costs of pay and allowances and associated entitlements/benefits.

(2) Soldiers and airmen are entitled to travel and transportation allowances while performing travel away from their counterdrug duty stations, when such travel constitutes "directed travel" in accordance with the Joint Federal Travel Regulation (JFTR).

f. Local area travel reimbursement is authorized for expenses incurred by members conducting official business in the local commuting area as defined by local commanders.

*g.* Travel expenses incurred by personnel on FTNGDCD with the counterdrug program when commuting to and from unit home station to train with the unit while it conducts Inactive Duty Training (IDT/IAD) and/or Annual Training (AT) are chargeable to the Counterdrug Program when the unit home station is a place other than the member's primary (FTNGDCD) place of duty. Such travel is "directed travel" because it is a condition of participation in counterdrug duty; soldiers and airmen training with their units while on Full-time National Guard Duty Counterdrug are not performing IDT/IAD, and are entitled to reimbursement for travel expenses IAW JFTR.

*h.* Personnel ordered to 140 or more consecutive days FTNGDCD are entitled to a PCS move at government expense in accordance with the JFTR. Soldiers/Airmen must not be denied travel pay, PCS entitlements, or other entitlements under the Joint Federal Travel Regulations (JFTRs). If funds are not available to support the duty IAW the JFTR, personnel will not be ordered to perform duty.

*i.* It is the responsibility of the CDC to develop and maintain internal controls necessary to assist with the reconciliation of both the ARNG and ANG financial systems. These controls will give proper documentation to support audit and control in accordance with Management Control Programs of both Army and Air Force in accordance with Federal Managers' Financial Integrity Act (FMFIA), Public Law 97-255.

*j.* Title 32 USC 112 counterdrug funds may be used for training of United States LEAs only. (See paragraphs 2-7, and 5-3.) Training will not be conducted for the purpose of training LEAs from other countries, but they may attend courses scheduled for domestic LEAs, providing no 32 USC 112 funds are expended for their associated costs.

*k.* Title 32 USC 112 counterdrug funds will not be used for the procurement of giveaways such as caps, T-shirts, pens, pencils, etc.

*l.* Contracted training, trainers, training materials, and training development are authorized only for training in support of missions approved in the State Counterdrug Support Plan, when internal training resources are not available.

*m.* Contracting for external evaluations of National Guard Counterdrug Programs must be approved by NGB-CD.

*n.* Accounting for nonappropriated funds, i.e., asset forfeiture-sharing funds, grants, and foundation donations, is a state responsibility.

*o.* Accounting for military nonappropriated funds, i.e. PX, BX, etc. will be coordinated with the USPFO and ANG comptrollers in accordance with applicable regulations.

*p.* Non-counterdrug training exceeding three days.

(1) Counterdrug funds cannot be utilized for non-counterdrug training exceeding three days in length excluding travel time. CDCs may permit soldiers and airmen participating in non-counterdrug training of three days length, or less, to remain in a pay status on counterdrug orders, but will not be responsible for travel costs or other expenses connected with such training. This paragraph does not refer to Annual Training. (See paragraph 2-10t.)

(2) "Non-counterdrug training", as used in paragraph 2-9p(1), above, does not include IDT/IAD. Counterdrug personnel serving under orders which encompass IDT/IAD will remain under those orders during all such periods, and counterdrug personnel are required to attend IDT/IAD as a condition of participation in the program. See paragraph 2-9f, above, for guidance pertaining to IDT/IAD/--related travel entitlements.

*q.* Separation pay. Counterdrug personnel performing self-terminating full-time duty pursuant to 32 USC 112 are, with certain limited exceptions as outlined in the DoD Financial Management Regulation, are entitled to separation pay if they meet the requirements of 10 USC 1174.

*r.* A cooperative agreement between the USPFO, acting on behalf of the Chief, NGB, and the Adjutant General, acting on behalf of the state, will be prepared prior to the issuance of any funding for counterdrug activities which include reimbursement to the state.

*s.* All Counterdrug funds are allocated for a specific intent and purpose. The duty performed must be directly related to the appropriate fund cite as allocated. The only exception is: CDCs may assign soldiers and/or airmen paid with interdiction support funds to perform no more than five consecutive days of demand reduction duty in a period and all travel will be paid from the demand reduction travel fund cite. The state will not exceed 10% of its interdiction funded days in support of demand reduction per fiscal year and will report this duty to NGB-CD.

*t.* Counterdrug personnel will remain on counterdrug orders while performing Annual Training. The pay, allowances, and other benefits shall be the same as those to which the member is entitled while performing counterdrug activities. Counterdrug appropriations shall be reimbursed out of appropriations available for paying Annual Training costs.

*u.* CDCs are responsible to ensure proper management controls are in place for effective control of travel orders and vouchers. Travel orders and appropriate documentation must be maintained and available for review for current and prior FY.

*v.* The CDC must maintain the current Counterdrug Budget Obligation Plan (CBOP).



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### 2-11. ARNG Funding.

*a.* Pay and allowances (appropriation 2060).

Pay, allowances, travel, and per diem for FTNGDCD and AGR (Title 10 and Title 32) personnel are chargeable to the National Guard Personnel Appropriation (NGPA) and are identified as program costs in accordance with DFAS IN Manual 37-100-XX.

*b.* Operations and maintenance (appropriation 2065) Operations and maintenance expenses are chargeable to the Operations and Maintenance, National Guard, appropriation (OMNG), in accordance with DFAS 37 series manuals/regulations. O&M expenditures may include:

(1) Procurement of material, supplies, and labor required for operating and maintaining counterdrug facilities, aircraft, ground vehicles, and equipment.

(2) Procurement of medical supplies used in the Counterdrug Support Program.

(3) Procurement of contract meals and lodging for counterdrug personnel in support of counterdrug operations.

(4) Other counterdrug related expenses that cannot be linked directly to a specific mission. Additional guidance may be obtained from the Army Comptroller Directorate, Program and Budget Division (NGB-ARC-P).

(5) ARNG Air OPTEMPO Funding. Funding provided to states for CD RAID/CD Aviation Operations Flying Hour Programs (ARNG Air OPTEMPO – POL and Consumables) are only authorized for CD purposes and will not be diverted to other state programs. ARNG Air OPTEMPO Depot Level Repairs (DLR) funding at the AVCRAD level are only authorized for CD DLR purposes for those states receiving CD OPTEMPO Flying Hour Program funds and will not be diverted to other AVCRAD/State programs. Shortfalls of ARNG Air OPTEMPO (POL, Consumables and DLR) funding will be forwarded to NGB-CD for resolution. Excesses of ARNG Air OPTEMPO (POL Consumables and DLR) will be forwarded to NGB-CD for redistribution to other CD RAID/CD Aviation programs.

(6) Other expenses (i.e. contract meals for non AGR/FTNGDCD counterdrug personnel) that cannot be linked directly to a specific mission. Additional guidance may be obtained from Army Comptroller Division, Budget Execution and Analysis Branch (NGB-ARC-BE0).

### 2-12. ARNG Financial Management of CD Funding.

Regular reconciliation of Funding Authorization Documents (FADs), and Funding Allowance Targets (FATs), United States Property and Fiscal Officer (USPFO) reports and the internal budget records maintained by the staff of the CDC must account for all funds issued. The following reports must be available for review for the current and prior fiscal year:

- a.* Funding Allowance Targets (FATs)
- b.* Unliquidated Obligation Listing
- c.* Reservation Master Listing
- d.* Monthly Transaction Register Listing
- e.* Financial Plan Status Report (available from USPFO)
- f.* Obligation Plan Reports for USPFO

### 2-13. ANG Funding.

*a.* Military personnel (appropriation 3850/fund code 56). Pay, allowances, travel and per diem for FTNGDCD personnel and pay and allowances for AGR personnel are chargeable under this appropriation in accordance with AFMAN 65-604 (Appropriation Symbols and Budget Codes).

*b.* Operations and maintenance (appropriation 3840/fund code 58). Operations and maintenance funds cover costs that are the same as those of the ARNG, but include funding for Air National Guard AGR and FTNGDCD travel and per diem.

### 2-14. ANG Financial Management of CD Funding.

*a.* Regular reconciliation of all Funding Documents, workday accounting documents, obligation documents (Form 9s MIPRs, AF 616s Travel orders etc.) and internal budget records maintained by the staff of the CDC must account for all funds issued. The following reports must be available for review for the current and prior fiscal year:

(1) Resource Managers' reports from the Command Budget Authority System (CBAS), Micro-based budget automated system (Microbas) or the BQ system.

(2) Workday Documents

(3) Squadron WUC Detail Report

*b.* Workday transfers must be approved by NGB. Requests for transfer of funds and workdays should be forwarded to the regional coordinator for approval.

**2-15. Asset Sharing.**

*a.* The Department of Justice and the Department of the Treasury have asset sharing programs (sharing of resources obtained through asset forfeiture) for the National Guard. The criteria for qualification to participate in the programs are set by the agencies which manage the programs and generally require that the National Guard qualify as a state law enforcement agency and use the percentage of participation in a particular case to determine the extent of the sharing. State participation is voluntary, at the discretion of the Adjutant General, and only if allowed by state law.

*b.* CD funds cannot be augmented from funds derived from asset sharing.

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### Chapter 3 Counterdrug Support Program Operations

#### 3-1. Request Channels.

LEAs and CBOs will request counterdrug support through the Adjutant General, **ATTN:** Counterdrug Coordinator. Support requests that are beyond the capability of the state National Guard will be forwarded to the Counterdrug Directorate, **ATTN:** Regional Coordinator.

#### 3-2. Operations Orders/Plans/SOPs.

See operations files instructions in Chapter 9 of this regulation/instruction.

#### 3-3. Duty Status.

See paragraph 8-1 of this regulation/instruction.

#### 3-4. Support Role.

The role of the National Guard in counterdrug supply reduction operations is to support LEAs. The CDC will ensure that personnel are not placed in situations that are likely to bring them in direct contact with suspects. The CDC will also ensure that National Guard members are not knowingly sent or directed to enter into a hostile environment where information indicates there is a high probability of encountering hostile fire or other life threatening situations.

#### 3-5. Force Protection.

National Guard personnel at all levels will ensure that pre-operation (liaison) coordination and planning with supported law enforcement agencies address the Risk Management of personnel and equipment throughout the operation. A Risk Assessment of potential threats to National Guard members and property will be conducted during the planning stage. The CDC is designated as the focal point for NG personnel assigned to counterdrug support and will ensure the coordination of security and clear jurisdictional responsibilities between LEAs and CD mission personnel. CDCs will receive and disseminate time sensitive threat information from law enforcement agencies IAW AR 525-13, paragraph 5-16 and local policy. National Guard personnel will ensure that public affairs efforts, directed at complying with the public's right to know, do not jeopardize the safety of National Guard members and equipment by disclosure of personnel or unit identification in photographs, video recordings or printed articles.

#### 3-6. Arming of Troops and Use of Force.

*a.* This paragraph contains federal guidelines that cannot be broadened. However, states will review these rules with the Attorney General (or equivalent) and add further restrictions as appropriate to comply with state law and/or policy.

*b.* The National Guard serves in a support role to law enforcement and will not be directly engaged in law enforcement duties; accordingly, Guard members will only be armed at the request of the supported law enforcement agency and when meeting the following criteria. A mission risk assessment will be conducted to identify hazards and evaluate whether Guard personnel should be armed as a force protection issue. The Adjutant General will determine whether troops will be armed. The Adjutant General's policy, to include procedures for chain of approval, delegation of authority (when applicable), and other guidance as desired, will be published in written form and made known to all counterdrug personnel. The Adjutant General may delegate approval, but the approval authority must be a primary staff officer and the Counterdrug Coordinator.

*c.* All personnel authorized to carry firearms must have received qualification training and testing on the type of firearm to be carried, in accordance with current regulations. Training will include instruction on safety functions, security, capabilities, limitations and maintenance of the firearms. Testing will include qualification firing in accordance with current qualification standards. (See 5-14 and 5-15)

*d.* Arms and ammunition will be secured at all times IAW appropriate regulations and policies. Rounds will be chambered only on order of the commander/senior officer/senior noncommissioned officer present, in coordination and in conjunction with the supported LEA, except in cases of exigent circumstances.

*e.* Firearms will not be discharged from moving vehicles. (Exception: To defend themselves or other persons in a life-threatening situation. The discharge of a weapon will require the filing of a Incident Report IAW paragraph 3-15.)

*f.* Pilots in command (PICs) of aircraft have the authority to override an order to chamber rounds while on board aircraft.

*g.* Possession or use of non-issued or personally owned firearms and/or ammunition during counterdrug support operations is prohibited. National Guard personnel will not accept offers of weapons or ammunition from LEAs

except for use on LEA operated ranges for training purposes only. The only weapons used for counterdrug support operations will be federally owned military weapons listed on the USFPOs property book account.

- h.* Federally owned military weapons will not be secured in private dwellings at anytime.
- i.* The CDC will direct additional weapons training when, in his judgment, it is advisable, regardless of the level of training indicated by training and qualification records.
- j.* National Guard members may use minimum force (restrain, detain, subdue) for the following purposes:
  - (1) To defend themselves or other persons.
  - (2) To protect property, or prevent loss/ destruction of evidence.
  - (3) To make arrests if they have arrest powers pursuant to state law and exigent circumstances require such action.
- k.* The discharge of any firearm is always considered to be deadly force.
- l.* National Guard members will be thoroughly briefed on the Rules of Engagement and Use of Force prior to the commencement of any operation.

### 3-7. ARNG Operational Ammunition.

- a.* An ammunition account may be established to support missions within the Counterdrug Support Program, per Common Table Allowances (CTA) 50-909, paragraph 26 (18) (Field and Garrison Furnishings and Equipment). Operational munitions are used when performing guard duty, patrols, investigative type duties and other operations in which the bearing of arms has been approved in accordance with paragraph 3-6 of this regulation/instruction.
- b.* Operational ammunition must be secured and accounted for in accordance with AR 710-2 (Inventory Management Supply Policy Below the Wholesale Level), DA Pam 710-2-1 (Using Unit Supply System) and DA Pam 710-2-2 (Supply Support Activity Supply System: Manual Procedures).

### 3-8. Basis of Issue for ARNG Operational Ammunition.

- a.* NGB-CD has determined that the following line item numbers and quantities (extracted from MP operational loads, CTA 50-909, Table 62) will be the basis of issue for the counterdrug operational load:

(1) C39136 9mm Ball M882 (A363)	45 rds/wpn
(2) D34821 00 Buckshot M19 (A011)	10 rds/wpn
(3) C35041 Ctg. 5.56 Ball M855 (A059)	120 rds/wpn
(4) D34973 5.56 Ball M193 (A071)	120 rds/wpn
(5) J77626 Grenade, Green Smoke (G940)	24 ea/DUIC
(6) J79133 Grenade, Red Smoke (G950)	24 ea/DUIC

**NOTE:** LIN D34973 is to be used with the M16A1 rifle. LIN C35041 is to be used with the M16A2 rifle. No substitution is authorized. C35041 should not be fired in the M16A1 rifle. D34973 can be fired safely and accurately in the M16A2/M16A3, but range is reduced approximately 16 percent, and penetration is also reduced.

- b.* The number and type of weapons used for computing the operational load will be limited to that necessary to conduct authorized operations.

### 3-9. Prohibited Practices.

- a.* Local purchase of commercial ammunition is prohibited.
- b.* Possession or use of personally owned firearms/ ammunition, or any firearms/ammunition other than that issued by counterdrug staff, is prohibited while on duty.
- c.* National Guard personnel will not accept offers of ammunition from LEAs, or other non-military sources, or provide ammunition to non-military entities.

### 3-10. Rules of Evidence and Chain of Custody.

Rules of evidence in civilian and military courts generally provide that physical objects cannot be accepted into evidence unless a chain of custody can be established. This is especially true for items subject to adulteration such as drugs. To ensure admissibility of such evidence, only LEOs should seize, handle and/or maintain custody of items that may be considered as evidence.

### 3-11. Operational Briefings.

In addition to initial training and annual refresher training in Counterdrug Support Program doctrine, soldiers and airmen in support of LEAs will be given additional briefings when the nature of operations indicates that reinforcement is advisable. Special briefings on rules of engagement, force protection, security, use of force, chain of custody, and/or other basic program provisions outlined in this regulation/instruction may be advisable when contact with suspects seems probable, when conducting multijurisdictional operations, when performing air

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operations with new personnel, or when conducting operations involving motor convoys, new terrain or contact with civilians. CDCs and supervisors will determine when such additional briefings are appropriate.

### **3-12. Operations Security (OPSEC).**

Supply reduction support operations will follow OPSEC procedures of AR 530-1 (Operations Security (OPSEC)) and DoD 5400.7-R, AFSUP1. OPSEC briefings will be administered as part of operations briefings, where appropriate or separately as required.

### **3-13. Physical Security.**

CDCs will ensure that all physical security protective measures and appropriate risk assessments of all National Guard counterdrug controlled offices and and/or work areas are conducted in accordance with AR 190-11, AR 190-13 (The Army Physical Security Program), AR 190-51 (Security of Unclassified Army Property) and/or AFI 31-101V1 (The Air Force Physical Security Program), as applicable.

### **3-14. Communications Security (COMSEC).**

Policies and procedures outlined in AR 380-19 (Information System Security Program) and/or AFI 14-201 (Intelligence Production and Applications) and AFI 33-211 (Communications Security (COMSEC)) will be followed to ensure protection of confidential information in information management systems and to determine appropriate methods for transmission or reception of voice and hard copy information.

### **3-15. Protective Markings.**

*a.* Mark counterdrug plans, operations plans/orders, MOUs/MOAs and other sensitive documents, "FOR OFFICIAL USE ONLY," in accordance with AR 25-55, Chapter 4, and DoDD 5400.7R, AFSUP1. Refer to regulation/instruction for the proper marking of "FOR OFFICIAL USE ONLY" (FOUO) documents. Mark FOUO material sent to authorized persons outside the DoD with the following explanation typed or stamped on the document: This document contains information EXEMPT FROM MANDATORY DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT (FOIA). Exemptions (b)(5), (b)(7)(F), and Title 5, U.S. Code Section 552 (b) (5) and (b)(7)(F). Further distribution is prohibited without the approval of the Office of Primary Responsibility (OPR). The OPR is the office within the state holding ownership of the documents so marked.

*b.* Sensitive LEA materials will be treated as classified material protected to the CONFIDENTIAL level IAW CJCSM 3701.01 and Joint Pub 3-07.4 (Joint Counterdrug Operations).

*c.* There are other types of information that require application of controls and protective measures for a variety of reasons. In accordance with DoDD 5200.1-R, DoD Information Security Program Regulation, this information is known as "controlled unclassified information." Since classified information and controlled unclassified information exist side by side in the work environment, often in the same document, AR 380-5 should be reviewed for guidance. To release FOUO information to members of Congress consult DoDD 5400.4, and to the General Accounting Office use DoDD 7650.1.

### **3-16. Intelligence Oversight (IO).**

#### *a. References.*

- (1) DoD 5200.1PH, DoD Guide to Marking Classified Documents.
- (2) DoD 5200.1R, Information Security Program Regulation.
- (3) DoDD 5200.27, Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense.
- (4) AR 380-13, Acquisition and Storage of Information Concerning Persons and Organizations.
- (5) AR 381-10, US Army Intelligence Activities.
- (6) AFI 14-104, Conduct of Intelligence Activities.
- (7) NGR 20-10/ANGI 14-101, Inspector General Intelligence Oversight Procedures.

#### *b. General.*

(1) The National Guard does not conduct Intelligence activities of its own in Counterdrug Support Program missions. National Guard members support the criminal information analysis activities of LEAs. Criminal information comes into temporary possession of National Guard members supporting LEAs but is not retained by the National Guard.

(2) NGR 20-10/ANGI 14-101 provide guidance to National Guard Inspectors General in implementing oversight of intelligence activities. These two publications may aid CDCs in complying with requirements, since they describe procedures used by Inspectors General in reviewing counterdrug activities.

#### *c. Requirements.*

(1) National Guard Counterdrug Programs are not required to have formal intelligence oversight programs unless they have specifically requested Military Intelligence Support. They then must follow the procedures outlined in AR 381-10/AFI 14-104.

(2) Intelligence oversight training will be included in doctrinal training given to each member at initial entry, and repeated annually for all personnel. CDCs will ensure that members performing duty such as Missions 2a (Linguist Support), 2b (Investigative Case and Analyst Support) and various operations of Mission Category 5 (including Thermal Imagery in Mission 5b, Aerial Reconnaissance), receive such additional and specialized training as may be appropriate.

(3) CDCs will coordinate with LEAs to ensure that support of intelligence operations is conducted in accordance with applicable directives and in the support role intended by Counterdrug Support Program policy. This will require periodic monitoring of the daily routines and actual duties performed by National Guard members

### 3-17. Special Notification Requirements.

a. CDCs must notify NGB-CD when any of the following occurs in a counterdrug operation:

(1) Loss of life or serious injury.

(2) Substantial loss of, or damage to, government or private property; this includes loss of a government weapon and/or ammunition.

(3) "Immediate action" situation. This is any situation in which a National Guard member discharges a weapon, or is fired upon; a National Guard member inflicts injury; a National Guard member sustains an injury from hostilities; or, any other situation where the senior National Guard member present determines that an event of serious nature has occurred and should be reported.

b. This requirement is in addition to reports required by other federal or state regulations/policies.

c. When counterdrug personnel prepare reports in accordance with AR 190-40 (Serious Incident Reporting) or AFMAN 10-206 (Operational Reporting) ANGI 10-206 (Operational Reporting), the CDC will notify the Army and Air National Guard Command Posts and NGB-CD. If NGB-CD is notified of a serious incident directly from a state this information will be coordinated with the Army and Air National Guard Command Posts immediately by the person receiving the report.

d. Initial reporting will be by telephone call, facsimile message or electronic mail. A written report will follow if requested by NGB-CD.

### 3-18. Aviation Assets and Aircraft Safety.

a. **Aviation assets.** The State Army Aviation Officer (SAAO) for the Army National Guard and appropriate flying unit commanders for the Air National Guard will control aviation assets utilized in the Counterdrug Support Program. The CDC and NGB-CDO will coordinate to determine the number of flying hours needed to support the states flying hour program (FHP). A MOA will be established between the CDC and the SAAO for facilitation and execution of the FHP. The MOA will address, but is not limited to, outlining of duties and responsibilities of CD RAID/CD Aviation Operations (CD AVOPS) and personnel, supervisory roles, FHP execution/funding specifics, State Army Aviation Facility support for CD RAID and/or CD AVOPS and other pertinent requirements to ensure quality and timely LEA support. The CDC will coordinate with the SAAO/ANG flying unit to confirm the capability to fly those hours. CDC will ensure that counterdrug staff calculations of flight hours expended, and related costs, are reconciled with those of supporting units/AASFs and ANG units/facilities.

b. **CD C-26 Program Manager.** The CD C-26 program manager is responsible for executing operational CD missions as tasked by the CDC and the daily management and current year budget execution of the CD C-26 program. The Wizard Manager will develop standardized local operating procedures and rules of engagement for the CD C-26 operation IAW NGR 500-2/ANGI 10-801, and other applicable Air Force and ANG instructions, state and local laws.

c. **CD C-26 funding.** Funding provided for the CD C-26 program may only be utilized on the C-26 program and cannot be diverted to other state CD programs. CD C-26 funding (ESP Code DM) is separate from state plans funding (ESP Code DI). Each fiscal year, NGB-CDO will provide the program manager with the funding for the year via the unit comptroller and it will be the responsibility of the program manager to execute that budget. Shortfalls will be forwarded to NGB-CDO for redistribution to other CD C-26 programs.

d. **LEA requests.** Requests by LEAs for use of aircraft, or any operation involving aircraft, will be initially directed to CDCs in accordance with paragraph 3-1.

e. **Aircraft safety.** CDC staff, Army Aviation personnel and LEAs will coordinate planning to ensure that permission to land in selected landing zones has been obtained where necessary, and that the landing zones are free of hazards. LEAs will be responsible for clearing areas of potentially hostile persons prior to landings. Everyone concerned will take appropriate action to ensure that hazards to National Guard members, LEAs and civilians, are

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minimized in operations involving aircraft. Pilots in Command (PIC) are responsible for the aircraft and the security of passengers and crew. PICs will not fly into or land in known hostile areas and will ensure that passengers are instructed in the principles of aircraft safety. Aircraft will maintain a safe distance from any known hostile elements when inserting LEAs or National Guard personnel into the operational area.

**f. Guidance.** National Guard Training Circular (NGTC) 1-500 serves as regulatory and doctrinal guidance for the employment of ARNG Aviation assets in the Counterdrug support role. All states and territories involved with or supporting counterdrug operations will adhere to the standards and requirements of NGTC 1-500.

**g. Reporting Procedures.** CD RAID personnel/CD ARNG AVN Ops personnel will track and report monthly via the Counterdrug Management Information System (CMIS) all ARNG Air OPTEMPO (MAMSCO 130G89.A0), POL, Consumables and Depot Level Repairs expenditures.

### **3-19. Counterdrug Reconnaissance and Interdiction Detachments (CD RAIDs).**

**a.** The Counterdrug Directorate authorizes CD RAIDs to support counterdrug operations in selected states. CD RAID aircraft equipment includes aircraft equipped with special thermal imaging, communications and navigation equipment.

**b.** NGB-CD will specify addition/reduction of detachments, authorized manning, equipping and numbers of aircraft for CD RAIDs each fiscal year. Detachment members normally serve on extended orders in FTNGDCD status.

**c.** CD RAID Table of Distribution and Allowances (TDA) assets will only be employed in counterdrug support activities and are not authorized for any other purposes. Exception: State and National emergencies IAW paragraph 6-14.

**d.** CD RAID TDA assigned aircraft will not be consolidated with MTOE aircraft to support Non - CD RAID TDA OH-58 aviator currency. Exception: Marijuana Eradication Operations, IAW NGTC 1-500, paragraph 3-4.

### **3-20. SPIES, FRIES, STABO, HELOCAST, Rappelling and Paratroop Operations.**

Training requirements for Standard Tactical Egress Operations are noted in Chapter 5 of this regulation/instruction.

### **3-21. Use of Counterdrug-equipped Aircraft for Non-counterdrug Missions.**

See "Use of counterdrug assets for non-counterdrug missions" in Chapter 6 of this regulation/instruction.

### **3-22. Counterdrug Program Evaluations.**

The Counterdrug Office will periodically send Counterdrug Program Evaluation teams to visit CDCs and their staff members to evaluate the state's compliance with laws, regulations, management controls and NGB Counterdrug Support Program policies. The team will assist the states and territories in achieving and maintaining compliance through a partnership process between them and NGB-CD. They will provide the Chief, NGB-CD and the TAG, with insight and information, to familiarize their staffs with issues, problems and perspectives of state counterdrug personnel. Their report will also address ways in which NGB-CD can improve service and support to the states. Counterdrug Coordinators will conduct a self-evaluation of their program on an annual basis (in the month of May) using the Counterdrug Checklist and submit a copy of DA Form 11-2R to the Counterdrug Program Evaluation Office. The Counterdrug Program Evaluation Office will provide the Counterdrug Checklist in written and electronic form to the CDCs.

### **3-23. Public Affairs.**

**a.** Information about National Guard Counterdrug Support is subject to the provisions of DoDD 5122.5 (Assistant Secretary of Defense for Public Affairs (ASD(PA))), AFI 35-101 (Public Affairs Policies and Procedures), AR 360-5 (Public Information), AR 360-81 (Command Information Program), NGB Pam 360-5/ANGP 190-9 (National Guard Public Affairs Guidelines).

**b.** The decision to release individual or program information should be made at the State National Guard level, by means of conducting a joint risk-analysis between the state counterdrug coordinator, the state Public Affairs Officer (PAO) and the affected lead law enforcement or community based organization point of contact.

**c.** Information will be made fully and readily available, consistent with statutory requirements, unless its release is precluded by current and valid security classification. The provisions of the Freedom of Information Act will be supported in both letter and spirit.

**d.** News media travel with National Guard units, activities and programs are regulated by NGB Pam 360-5, and may require state PAO coordination with NGB-PA. Counterdrug Support media travel plans should be coordinated between the state CDC, the state PAO and the LEA/CBO, prior to state PAO coordination with NGB-PA.

## **Chapter 4**

### **Safety and Accident Prevention**

#### **4-1. General.**

*a.* The safety of National Guard counterdrug personnel is the primary concern of the counterdrug staff and will be emphasized in planning and during all operations. Accident prevention in counterdrug activities is based upon the philosophy that accidents can be prevented. Accident prevention is everyone's responsibility and an inherent function of leadership. CDCs will ensure that safety baselines are incorporated throughout the Counterdrug Standing Operations Procedures (SOP), and that the SOP encourages the use of Risk Management tools for all missions. The CDC will ensure establishment of a Safety Program customized to local needs and circumstances. All counterdrug personnel will be informed of the responsibilities, instructions, goals and methods outlined therein. The SOP will conform to DoD, Army, Air Force and National Guard regulations/instructions and state policies/ procedures.

*b.* The successful accomplishment of all counterdrug support missions and activities with the minimum of risk will be the main thrust of the program. The safety goals of the Counterdrug Support Program are:

(1) To enhance the total counterdrug mission effectiveness by eliminating/minimizing risks.

(2) To always provide a safe and healthy environment for all counterdrug personnel and others exposed to counterdrug activities.

*c.* The safety goals will be achieved through the following safety program objectives:

(1) Preventing injuries on or off duty.

(2) Detecting and eliminating the causes of accidents.

(3) Identifying and controlling risks.

(4) Complying with all federal, state, and local safety/environmental requirements.

#### **4-2. Air National Guard Mishap Prevention Program.**

*a.* This program, as described in DoD Instruction 6055.1 (Safety and Occupational Health Program), AFI 91-202 (The US Air Force Mishap Prevention Program) and AFI 91-202/ANGSUP 1 (The US Air National Guard Mishap Prevention Program), complies with the intent of this regulation/instruction. ANG units will continue to abide by established ANG directives and procedures when conducting counterdrug operations, with the exception that reporting procedures will be amended to include the CDC as an information copy addressee on all counterdrug-related matters. The Counterdrug Safety Officer will coordinate with each ANG unit Chief of Safety to ensure the Counterdrug SOP and related directives do not conflict with the ANG Mishap Prevention Program. Published ANG directives and procedures take precedence for ANG units.

*b.* See also AFI 91-204/ANGSUP 1 (Safety Investigations and Reports), AFI 91-213 (Operational Risk Management (ORM) Program) and AFI 91-301/ANGSUP 1 (Air Force Occupational and Environmental Safety, Fire Prevention and Health (AFOSH)).

#### **4-3. Responsibilities.**

*a.* Counterdrug accident prevention and reporting is everyone's responsibility. Policies, objectives and standards must be established, supported by commanders and understood by everyone to ensure effective accident prevention.

*b.* The CDC has the overall responsibility for the health, welfare and safety of counterdrug personnel and therefore the state counterdrug accident prevention program. Special attention will be given to aircraft and vehicle safety, with careful consideration of the unique requirements of each state (i.e., weather, geography, legal matters, etc.). The CDC will coordinate with appropriate safety and environmental officers/agencies to ensure that the SOP conforms to legal and regulatory requirements. The CDC will ensure that:

(1) A Counterdrug Safety Officer or NCO is appointed and trained.

(2) Risk assessments are conducted to ensure that the appropriate controls are utilized, that assignments are within personnel and equipment capabilities and that the most appropriate assets, consistent with operational success and safety goals, are utilized.

(3) Risk management principles and standardized procedures are followed for all operations regardless of mission urgency.

(4) A risk assessment is completed for all missions. Mission briefings will include the controls that will be utilized to reduce identified mission risks. An annual risk assessment is sufficient for operations that continue year round in one location with relatively stable routines. When circumstances change and new risk factors are present, new assessments will be prepared.

(5) All risk assessments made are filed in the related operations record.



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(6) Safety principles/procedures will be integrated into Counterdrug Program Standing Operations Procedures (SOPs), Operations Orders (OPORDs), Operation Plans (OPLANs) and other directives. Topics to address include, but are not limited to:

- (a) Safety issues relevant to particular Mission Categories
  - (b) Risk management procedures
  - (c) Pre-operation and post-operation briefings
  - (d) Training and operation rehearsals
  - (e) Safety Council
  - (f) Lessons learned
  - (g) Air/Ground Accident Prevention Plans
  - (h) Medical response planning
  - (i) General ground safety principles/procedures
  - (j) General air safety principles/procedures
  - (k) Environmental regulations
  - (l) Local Area Hazard Safety Briefing (DoD Instruction 6055.1, paragraph E3.3.1.7)
- c. The Counterdrug Safety Officer/NCO will:
- (1) Manage the Counterdrug Safety Program for the CDC.
  - (2) Ensure that execution of duties and performance of accident prevention surveys are in accordance with AR 385-95 (Army Aviation Accident Prevention), AR 385-10 (Army Safety Program), NGR 385-10 (Army National Guard Safety & Occupational Health Program) and applicable ANG directives.
  - (3) Ensure that safety files, statistics and literature are maintained in accordance with AR 385-10, NGR 385-10 and applicable ANG directives.
  - (4) Ensure that mishap reports are submitted and reviewed, and that corrective actions are implemented. ANG mishap/injury reports will be completed by the safety representative at the site. Representative will forward/transmit a copy to the unit where the member/equipment is permanently assigned.
  - (5) Assist, when requested, personnel in learning about or implementing Risk Management into their duties, mission and tasks.
  - (6) Ensure risk management addresses safety, occupational and environmental health at all levels with respect to counterdrug operations and not as an add-on consideration (DoDI 6055.1, paragraph E3.2.3)
  - (7) Ensure that all personnel receive a local area hazard safety briefing. Included will be any unique local area conditions, potential health problems or hazardous conditions which may be encountered.
- d. Counterdrug personnel will:
- (1) Correct all known deficiencies. Everyone, regardless of rank, will make immediate on-the-spot corrections when unsafe practices or conditions are observed.
  - (2) Report all unsafe conditions to the CDC/ Counterdrug Safety Officer/NCO when on-the-spot corrections cannot be made.
  - (3) Immediately report all safety incidents/ accidents through the chain of command to the Counterdrug Safety Officer/NCO. ANG mishap/injury reports will be completed by the safety representative at the site. Representative will forward/transmit a copy to the unit where the member/equipment is permanently assigned.

#### 4-4. Inquiries on Safety Issues.

Counterdrug personnel may direct inquiries on safety issues to the Counterdrug Office, ATTN: NGB-CDO.

### Chapter 5 Training

#### 5-1. Training Responsibilities of CDC.

a. The CDC will ensure that all personnel authorized to carry firearms have received qualification training and testing on the type of firearm to be carried, in accordance with current regulations. Training will include instruction on safety functions, capabilities, limitations and maintenance of the firearms. Testing will include qualification firing in accordance with current qualification standards. See paragraph 3-7 of this regulation/instruction.

b. The CDC will manage training of National Guard members and LEAs (Authorized Missions, Mission Category 4).

#### 5-2. Restrictions on Advanced Military Training.

*a.* Advanced Military Training is defined as high intensity training which focuses on the tactics, techniques and procedures required to apprehend, arrest, detain, search for, or seize a criminal suspect when the potential for a violent confrontation exists.

*b.* Examples are:

- (1) Advanced Marksmanship (including sniper training).
- (2) Military Operations in Urban Terrain (MOUT).
- (3) Advanced MOUT.
- (4) Close Quarters Battle/Close Quarters Combat (CQB/CQC).

*c.* Advanced Military Training does not include basic military skills such as basic marksmanship, patrolling, mission planning, medical skills and survival skills.

*d.* National Guard personnel will not provide Advanced Military Training to United States civilian law enforcement agency personnel unless authorized and approved by the Director of NGB-CD

### **5-3. Funding Restriction on Training LEAs from Other Nations.**

32 USC 112 counterdrug funds may be used for training of United States LEAs only in conduct of Mission 4 (see paragraphs 2-7, Mission 4, and 2-10j). Training will not be conducted for the primary purpose of training LEAs from other countries, but they may attend courses scheduled for domestic LEAs, providing no 32 USC 112 funds are expended for their costs.

### **5-4. Initial Orientation, Counterdrug Support Program Doctrine.**

*a.* At entry on counterdrug duty, National Guard members will be taught Counterdrug Support Program doctrine and policy, to include:

- (1) Legal restrictions and limitations.
- (2) Avoiding direct involvement in law enforcement activities.
- (3) Chain of command.
- (4) Avoiding violation of Intelligence Oversight restrictions.
- (5) Rules of engagement.
- (6) Rules of evidence.
- (7) Use of force.
- (8) Safety.
- (9) Force protection.
- (10) Duty status.
- (11) Tort protection.
- (12) Standards of conduct.
- (13) Pay, allowances and leave.
- (14) Medical, dental, commissary and exchange benefits.

*b.* Contents of Counterdrug Support Program doctrinal training will be prepared and kept on file and will be reviewed by the State JAG at least every two years, or more frequently when the need is recognized.

*c.* Refresher doctrinal training will be given at least annually to personnel on extended orders. Individuals who miss group training will be provided briefing content for review, supplemented by discussion with supervisors, as appropriate.

### **5-5. Standards of Conduct.**

*a.* National Guard members participating in the Counterdrug Support Program are required to comply with DoD 5500.7-R, Joint Ethics Regulation (JER), and with conflict of interest policies. They are required to uphold the highest standards of conduct.

*b.* Training on Standards of Conduct will be given concurrently with other doctrinal training. Training will conform to requirements of DoD 5500.7-R.

### **5-6. Mission-Oriented Training.**

Counterdrug Support Program personnel may receive training specific to the types of activities being planned or to familiarize them with LEA or CBO procedures and methods of operation. When the need for special training is identified, the "train the trainer" concept will be utilized as appropriate.

### **5-7. MOS/AFSC Related Training.**

The use of Counterdrug Support Program funds for qualification in Military Occupational Specialties (MOSs) or Air Force Specialty Codes (AFSCs), or for training which enhances MOS/AFSC skills (i.e., airborne, air-assault, ranger,

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etc.) must have prior approval by the Director, NGB Counterdrug Directorate, in addition to approvals which may be required by applicable regulations/instructions.

### **5-8. Aerial Observer/Marijuana Training for LEAs.**

Will be conducted IAW NGTC 1-500, paragraph 2-13.

### **5-9. CD RAID Training.**

The Western Army Aviation Training Site (WAATS) has the responsibility for qualification and standardization of Counterdrug Reconnaissance and Interdiction Detachment (CD RAID) aviators and is the designated executive agent for all tactics techniques and procedures for CD AVN operations training. Candidates for CD RAID qualification must meet course prerequisites as defined in the aviation training site flight training guide. The US Army Department of Evaluation and Standards (DES) designees will conduct Counterdrug Operations Standardization and Evaluation Inspections for Standardization and Safety compliance every twenty-four months. The WAATS CD RAID Section has the authority to designate Regional CD RAID Standardization Instructor Pilots (using existing resources), who will ensure proficiency and currency requirements are maintained by CD RAID units.

### **5-10. SPIES, FRIES, STABO, HELOCAST, Rappelling and Paratroop Operations.**

Special Operations Patrol Infiltration/Exfiltration (SPIES), Fast Rope Infiltration/Exfiltration (FRIES), Stability Airborne Operations (STABO), Rappelling and Helicopter Cast and Recover (HELOCAST). These operations are specifically addressed in NGR (AR) 95-210 and considered high risk mission tasks, which are only performed by designated ARNG Aviation Units which have these tasks annotated on Aircrew Member Commanders Task List - in support of the units Mission Essential Task List. Due to the inherent danger and possibility of injury or loss of life in the performance of these operations, CD mission support requiring these techniques may be approved by the Chief, National Guard Bureau (or his designee) on a case by case basis through NGB-CD. In addition, the state must have a training program approved by the Aviation and Safety Directorate (NGB-AVN) and must be completed prior to conducting such operations. This NGB directive only applies to ARNG Aviation Units and is not applicable to other DoD service components. National Guard personnel, Jump Masters, Rappel Masters, Cast Masters, etc. must be qualified and current IAW the appropriate regulation/s to conduct these missions.

### **5-11. ANG Counterdrug (CD) C-26 Training.**

Counterdrug mission and crew training for Air National Guard Counterdrug C-26 aircraft operations will be conducted as directed by NGB-CDO.

### **5-12. Training in Use of Sensory Enhancing Equipment.**

*a.* Counterdrug personnel supporting operations which employ sensory enhancing equipment will be trained in the use of the devices. Scheduling and selection of personnel for training is the responsibility of the CDC.

*b.* The CDC will coordinate ARNG aviation training requirements with the SAAO, and coordinate with flying unit commanders in regard to ANG aviation training requirements.

### **5-13. Intelligence Oversight Training.**

Intelligence oversight training will be conducted for all counterdrug personnel, in accordance with applicable NGRs. It will be included in initial and annual doctrinal orientations (See paragraph 3-14).

### **5-14. ARNG Individual Weapons Qualification.**

*a.* ARNG rifle qualification will be in accordance with DA Pam 350-38/39 (Standards in Weapons Training/Standards in Weapons Training (Special Operations Forces)), Table 5-31, TRC C and Table 5-37, TRC C (MP Standards, not CID).

*b.* ARNG pistol qualification will be in accordance with tables in DA Pam 350-38/39.

*c.* Ammunition for weapons qualification and operations will be ordered from the Operations, Training and Readiness Directorate, Training Division, Training Support Branch, (NGB-ART-S), using the following procedure. The CDC will submit ammunition requirements to the State Ammunition Managers (STAM) as part of the total STATE training requirement for roll up under the "FF" UIC account under Automated Training Ammunition Management System (ATAMS) or the appropriate state parent account when Training Ammunition Management Information System – Redesign (TAMIS-R) is brought on-line.

### **5-15. ANG Individual Weapons Qualification.**

*a.* ANG M-16 rifle qualification will be in accordance with AFI 36-2227, Volume 2 (Combat Arms Training and Maintenance Rifle, Handgun, Shotgun, Grenade Launcher, M72 Light Antitank Weapon, Submachine Gun, and M249 Squad Automatic Weapon Training Program) Chapter 1.

*b.* ANG 9mm pistol qualification will be in accordance with AFI 36-2227, Volume 2, Chapter 2.

#### **5-16. Additional ARNG/ANG Weapons Training.**

Ammunition to support additional training of ARNG and ANG members may be authorized, provided that:

*a.* Quantities requested are based on a valid LEA Program of Instruction which National Guard members are directed to undergo.

*b.* Request is approved by the Counterdrug Office, State Plans (NGB-CDS).

*c.* Requests are forwarded through the State Ammunition Manager to NGB-ART-S.

*d.* Ammunition will be used for training purposes only. The State Ammunition Manager is responsible for ensuring compliance with AR 5-13 (Training Ammunition Management System). The Manager forecasts quantities, monitors issue, consumption and returns, and ensures appropriate UICs are credited.

#### **5-17 Mission 5a Training.**

*a.* All states performing Mission 5a that is approved in their State Plan, will ensure at least one qualified person directly involved in the operation or training of Mission 5a has attended the National Counterdrug Civil-Military Institute (NICI) Mission 5a developed course. The Mission 5a course developed at NICI has established the minimum training requirements and all states will develop training programs tailored to their state mission (i.e. Legal Review, Armed Mission vs. Non Armed Missions) to at least meet the minimum requirements.

*b.* The CDC will ensure through the individual(s) who attended the NICI developed course that all individuals performing Mission 5a have received the minimum training and briefings prior to performing Mission 5a operations. This training will be supported through Program Of Instructions (P.O.I.) or Lesson Guides. Validation of all Mission 5a related training will be in the form of sign-in rosters or individual training records that will be kept on file at the CD Headquarters.

*c.* The CDC will manage and become familiar with the minimum requirements, which include but are not limited to:

- (1) Mission 5a Course Overview
- (2) Mission 5a Overview
- (3) Legal (POSSE COMITATUS) Review
- (4) Legal / Rules of Engagement Review
- (5) Public Affairs
- (6) Mission 5a Rules of Engagement
- (7) Risk Management
- (8) Operations Order
- (9) Case Study (The Redford Incident)
- (10) Serious Incident Report
- (11) LP/OP Employment
- (12) Medical/Safety Procedures
- (13) Situational Training (Action Drills)

*d.* The CDC will ensure these minimum requirements are met by each individual as initial training, and sustainment/refresher training is conducted and recorded annually.

#### **5-18. Training Development.**

*a.* Training conducted on any military topic by a state's CD personnel for LEA's, CBO's or military personnel should be based upon, and consistent with, the appropriate military training manuals.

*b.* States that anticipate teaching standard military topics should identify the training by course title in the annual state plan.

*c.* Training on non-standard military topics (with the exception of topics stated in paragraph 5-2) should be developed in accordance with the following structure and identified in the state plan.

- (1) Needs Assessment Statement
  - (a) CD nexus
  - (b) Source/requesting agency (military, law enforcement, community based organizations)
  - (c) Geographic area of training – interstate/intrastate
  - (d) Target audience
- (2) Program of Instruction (POI) Course title

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- (a) Training environment (i.e. classroom, field environment, tactical training facility)
- (b) Objective
- (c) Course synopsis
- (d) Pre-requisites
- (e) Special requirements (instructor qualifications)
- (3) Course Administrative Data
  - (a) Course length
  - (b) Maximum, optimum and minimum class size
  - (c) Academic hours
- (4) Risk Assessment (as per NGR 500-2/ANGI 10-801)
- (5) Evaluation (generic statement) i.e. program of instruction must have an evaluation and quality assurance for both instruction and instructor
- (6) Testing- all courses will be required to have a testing mechanism. This method can either be written or performance oriented.

### 5-19. Training Approval.

States providing training to LEAs, CBOs or military personnel on non-military topics will develop a training plan in accordance with the structure in paragraph 5-18. Training plans will be submitted to the Counterdrug Training Advisory Council (CTAC) through one of the regional representatives for review at a quarterly meeting. CDCs will maintain plans sanctioned by the CTAC for review and verification.

## Chapter 6

### Equipment Procurement, Accountability and Utilization

#### 6-1. Applicability of ARNG/ANG Supply Directives.

- a. State Adjutants General may conduct counterdrug operations with federal property issued to the Army and Air National Guard.
- b. Counterdrug ARNG equipment is subject to Army National Guard supply directives. Paragraph 06Z of HQ STARC TDA or an applicable Common Table of Allowance (CTA) are the normal authorization documents for nonexpendable property (see paragraphs 6-5 and 6-6).
- c. Air National Guard fiscal and supply directives are applicable to equipment purchased with ANG 32 USC 112 funds.

#### 6-2. Hand Receipt Accounts for Counterdrug Equipment.

- a. ARNG equipment will be accounted for through hand receipt issue from the HQ STARC PBO to the CDC.
- b. ANG accounts: see paragraphs 6-8 thru 6-10.

#### 6-3. Central Procurement.

- a. States will not procure equipment already marked for central procurement by the National Guard Bureau, unless authorized to do so by NGB-CD.
- b. Central procurement includes:
  - (1) The Total Package Fielding Program (TPFP), in which the ARNG and ANG Directorates obtain equipment for the states.
  - (2) Purchase of equipment by NGB-CD for issue to all or some of the states. NGB-CD will advise the states periodically of new technology, test results and anticipated purchases.

#### 6-4. Delegation of Approving Authority for OMNG Expenditures.

In accordance with authority delegated by the Chief, National Guard Bureau, the Chief, Counterdrug Office, further delegates to USPFOs the authority to approve expenditure of counterdrug OMNG funds. State counterdrug and USPFO staff will evaluate proposed expenditures and ensure that 32 USC 112 funds are utilized only for counterdrug purposes. Providing this rule is obeyed and the state has adequate OMNG funds, NGB-CD action as an approving authority is not required by the Counterdrug Office. The following guidelines are applicable:

- a. All OMNG purchases must comply with the Competition in Contracting Act of 1984 (CICA-84) and satisfy requirements of the Federal Acquisition Regulation (FAR), Defense Acquisition Regulation Supplement (DFARS) and Army Federal Acquisition Regulation Supplement (AFARS), as applicable.

- b.* Computer equipment purchases will be coordinated through the state Director of Information Management (DOIM), and must meet Reserve Component Automation System (RCAS) requirements.
- c.* Automation equipment and software purchases must be in accordance with Elements of Resource (EOR) as indicated in the 37 series, DFAS regulations.
- d.* In some cases, USPFO staff or other state personnel may request the concurrence of NGB-CD for OMNG expenditures, despite the delegated authority noted above. Regional Coordination teams will assist states in expediting such transactions.

#### **6-5. Authorizations for Nonexpendable ARNG Property.**

- a.* ARNG nonexpendable property will be authorized by one of the following:
  - (1)* Paragraph 06Z, HQ STARC TDA. Additions to this paragraph are executed by the Force Management Division (NGB-ARF), acting in response to requests from the Logistics Division, Logistics Management Branch (NGB-ARL-S). Paragraph 06Z may include non-standard commercial equipment as well as military issue.
  - (2)* Common Tables of Allowances (CTAs).
- b.* NGB-CD grants permission for states to deal directly with NGB-ARL-S to secure authorizations, in accordance with the delegation described in paragraph 6-4.
- c.* Regional Coordinators, when asked to assist, will act as expeditors of procurement decisions made at state level.
- d.* AR 71-13 (Department of the Army Equipment Authorization and Usage Program) is applicable to counterdrug programs.

#### **6-6. Computers Purchased with ARNG Counterdrug Funds.**

- a.* Computers are normally CTA items. CDCs will coordinate computer purchases with the state DOIM, and will select only equipment which meet RCAS requirements. Purchase of computers by state counterdrug staff or issue of computers initiated by NGB-CD may result in exceeding CTA allowances. In that event, the authorization process is as follows:
  - b.* When the state has initiated the action, the CDC will request a special authorization from NGB-ARL-S, which will issue the appropriate written authority. NGB-CD delegates authority to CDCs, in conjunction with Property Book Officers and USPFO personnel, to deal directly with NGB-ARL-S.
  - c.* When computers are issued via action originating with NGB-CD, special instructions will be provided.
  - d.* Computer equipment, though usually non-expendable, will not be listed in the counterdrug O6Z paragraph of the HQ STARC TDA. CDC staff will retain authorization documents issued by NGB-ARL-S for as long as the equipment concerned is on hand, and ensure that computers are included in hand receipt accounts.

#### **6-7. ARNG and ANG Equipment Procedures and Accountability.**

Counterdrug funds are "fenced" by Congressional mandate. Equipment purchased with such funds cannot be reallocated to other organizations and, by law, must be identified as counterdrug equipment and maintained under counterdrug control.

#### **6-8. ANG Procedures, Support Equipment/ Automated Data Processors.**

ANG organizations will submit requests for support equipment and automated data processing systems (for use in support of state counterdrug operations) in accordance with this chapter. Compliance with these procedures will help maintain uniformity of document flow, minimize potential confusion/delay in document processing, and insure asset accountability.

#### **6-9. ANG Information Processing Management System (IPMS).**

- a.* IPMS is the standard Air Force inventory system for Automated Data Processing Equipment (ADPE). All ADPE, with the exception of some Table of Allowance (TA) equipment, must be entered in IPMS. Follow unit policy/directives for procurement of ADPE (i.e. submission of AF Form 9 and AF Form 3215). The Communications Flight will enter counterdrug automated data processing equipment in IPMS in PN "11". This PN must be created in IPMS. The Project Element Code (PEC) identifying counterdrug equipment is 52889F.
- b.* Counterdrug equipment custodians will ensure that automated data processors are listed on the unit CA/CRL, after entry of equipment data in IPMS in PN 11.

#### **6-10. ANG Equipment Procedures and Accountability.**

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*a.* All equipment, non-accountable items (NF1 items - calculators or furniture) and automated data processors will be listed on the R15 Organizational Visibility List to track counterdrug funds, in accordance with AFMAN 23-110 part two, chapter 22, page 22-26, paragraph 22.31.3.

*b.* Counterdrug equipment custodians of requesting organizations will submit requests through AFEMS, specifying Force Activity Designator two (FAD II), and Allowance Source Code (ASC) 054DRUG. Justification statement through AFEMS will indicate whether equipment is requested for execution of the existing Governor's State Plan, or pertains to a pending revision of the plan. The specific mission (see authorized missions, Chapter 2 of this regulation/instruction) will be indicated.

*c.* The Equipment Management Section (EMS) of Base Supply will review the request, assign a base control number, maintain a suspense copy and forward a copy of the AFEMS request to the USPFO. USPFO personnel will review the request and State Plan with the CDC, and other staff if appropriate, and forward it to ANG/LG (Directorate of Logistics). ANG/LG will forward the AFEMS request to NGB-CDS for approval. EMS, upon receipt of an approval, will clear the suspense copy, and process the request. Copies of the AFEMS approval will be provided to the requesting unit and the CDC.

*d.* EMS will not request counterdrug support equipment without AFEMS approval. When security concerns preclude listing specific mission data on the AFEMS request, included information will indicate that a separate classified message detailing the justification will be sent to NGB-CDS by facsimile.

*e.* The above "dual tracking" procedures will be followed. Accountability is established by the Base; the responsibility for use and reallocation of counterdrug assets rests solely with the CDC.

### **6-11. Loan and Lease of Equipment.**

*a.* States may coordinate directly with other states for the temporary loan of additional federal property needed to support counterdrug operations. Lease of property to Law Enforcement Agencies (LEAs) and Community Based Organizations (CBOs) will be in accordance with 32 USC 112, AR 700-131 (Loan and Lease of Army Material) or AFMAN 23-110 and DoDD 1225.6 (Equipping the Reserve Forces) as applicable. All leases of federal property to LEAs must be in return for fair market value. Agreements will be coordinated with the USPFO, to ensure requirements for approval by, or reporting to, higher headquarters are observed.

*b.* Requests by state or local agencies/organizations will be directed initially to the CDC.

### **6-12. Restricted Use of 32 USC 112 Equipment/ Services.**

*a.* All equipment/services purchased, loaned, leased, or otherwise obtained using 32 USC 112 funds will be used for the Counterdrug Support Program except as specified in paragraph 6-14.

*b.* CDCs will avoid commingling of counterdrug and non-counterdrug equipment in storage wherever possible, and take measures as needed to prevent deliberate or unintentional transfer or misuse of counterdrug equipment. Normal supply procedures may be supplemented by special markings, special procedures and whatever additional management controls are necessary to enforce policies concerning use of equipment purchased with fenced funds.

*c.* Restricted use originates with the fiscal principle of "fenced funds" and applies to both ARNG and ANG equipment or services.

### **6-13. Disposition of Excess Equipment.**

*a.* Policy is applicable to both ARNG and ANG equipment.

*b.* "Excess equipment" in this context means any property (nonexpendable or durable expendable equipment) which was purchased with 32 USC 112 funds and is no longer needed by the state program concerned. The purpose of the excess equipment policy is to ensure, as far as is practical, that property purchased with fenced funds remains in the service of the Counterdrug Support Program by transferring it to a state where it may be needed, once it is identified as excess in the state which purchased it.

*c.* NGB-CDS is the clearing house to assist CDCs in determining if their excess property can be used in another state.

*d.* Counterdrug staff will contact NGB-CDS when an item has been identified as excess. Regional Coordinator personnel will contact other states and determine if the equipment can be used elsewhere. Upon identifying a need, NGB-CDS will contact CDCs of gaining and losing states and lateral transfer procedures will be initiated in accordance with normal ARNG/ANG procedure for interstate transfer.

*e.* When NGB-CDS finds no need for the item in other states, the CDC will be given permission to release the item for disposal as excess property in accordance with applicable directives.

**6-14. Use of Counterdrug Assets for Non-counterdrug Missions.**

*a.* Counterdrug-equipped assets, including CD RAID aircraft, C-26 aircraft and Light Armored Vehicles (LAVs), are funded by 32 USC 112 appropriations and intended for primary use in counterdrug operations. NGB-CD acknowledges that requests will be made for the use of the assets to take advantage of thermal imaging and/or communications capabilities, etc. Allowances must be made for use of resources outside counterdrug activities. Assets may be used in a life/death emergency situation which meets the following criteria:

(1) Equipment and/or personnel are needed to search for a lost person(s), where without this support a high probability exists that the person(s) will not survive inclement weather or other perilous circumstances/conditions.

(2) Equipment and/or personnel are needed to search for escapees or suspected dangerous felons, who, if not quickly apprehended, will likely endanger the welfare of innocent persons.

(3) Equipment and/or personnel are needed for support during civil disturbances, disasters or weapons of mass destruction support.

*b.* A request must be made by an LEA, Office of Emergency Services or equivalent agency to the National Guard. Flying hour costs, vehicle costs, fuel costs and personnel costs must be reimbursed by other ARNG/ANG funding or by the agency making the request.

*c.* CDCs will verify requests and ensure that all available alternate sources of support (such as requests through MSCA in the example of escaped felons or search/rescue, or use of SAD for civil disturbances or natural disasters) are considered as possible alternatives to the use of counterdrug assets.

*d.* CDCs will coordinate with supported agencies to ensure that use does not interfere with counterdrug LEA operations except in valid life/death emergency situations.

*e.* CDCs may refer situations not meeting the above criteria to NGB-CD. The Counterdrug Office will consider them on a case-by-case basis.

*f.* Counterdrug personnel may take leave and perform State Active Duty simultaneously with concurrence of the CDC and when supporting operations covered under NGR 500-1/ANGI 10-8101 (Military Support to Civil Authorities).

**Chapter 7****Light Armored Vehicle (LAV) Program**

*a.* NGB-CD will appoint a Program Manager (PM) from within the NGB-CD organization to provide overall program oversight functions to include but will not be limited to: Training, Operations, Maintenance, Budget and Future Program Expansion.

*b.* The guidance for the above listed areas will be provided in the NGB-CD LAV Standing Operating Procedures document. This document will address: mission, operational, maintenance, organization and standardization guidelines; training report requirements/format and basic program operating material. The SOP will be reviewed annually and will be supplemented by a State LAV Annex to cover state program unique materials and procedures. Counterdrug Program Evaluations will include the review of the State LAV Annex.

*c.* The state annex will delineate mission procedures IAW approved state plans. The annex will also include coordination and documentation procedures to cover all deviations, proposals or revisions to state plans ensuring state staff coordination. Documentation will include all intrastate support.

*d.* All LAV operations must be IAW NGR 500-2/ANGI 10-801, local state and federal statutes. The NGB-CD PM should be contacted for assistance and/or clarification when operations/actions are not covered in the guidelines listed

**Chapter 8****Personnel and Administration****8-1. Duty Status.**

*a.* National Guard members may participate in the Counterdrug Support Program in the following paid duty statuses:

(1) *Full-time National Guard Duty (FTNGD).*

Orders will cite Title 32 USC Sec.502f as authority. National Guard members in FTNGDCD status must have Counterdrug Support Program duties as their primary mission. Duties must be in accordance with the funding citation (MAMSCO) and Type Duty Code (TDC) specified on the orders.



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(2) **State Active Duty (SAD).** State funded SAD personnel may provide counterdrug support and will be employed in accordance with state regulations. SAD personnel will conduct counterdrug missions in accordance with this regulation/instruction, but pay, allowances and benefits will be provided by state law.

(3) **IDT/IAD or AT, incidental to training.** National Guard personnel may support LEAs and/or other activities in the Counterdrug Support Program in an IDT/IAD/AT status if the performance of that duty is incidental to the training already scheduled. National Guard units may perform their period of AT in support of counterdrug missions which meet the Mission Essential Task List (METL) or readiness requirements of the unit, under authority of Public Law 101-510, Section 1004 (Defense Authorization Act, FY 91, Additional Support for Counterdrug Activities). Prior approval of the Chief, Operations, Training and Readiness Directorate (NGB-ARO) or the Director, Operations, Plans and Programs (ANG/XO), is required.

b. Soldiers and airmen will be ordered to FTNGDCD for the duration of the duty to which they are assigned; duty periods will not be broken or exclude weekends for the sole purpose of avoiding the costs of pay and allowances and associated entitlements/benefits.

c. Contract employees, Civil Service employees or other civilian employees cannot be funded using Sec 112, Title 32 funds.

### 8-2. Utilization of Title 32 AGR Personnel, State Employees and Civilian Personnel.

a. State employees will be utilized in FTNGDCD status only after confirmation by appropriate state authority that such duty does not violate state law, regulations or policy.

b. It is the Department of Defense's policy that no federal or state civilian employees, military technicians, or "personnel service" contract personnel are authorized to perform counterdrug duty pursuant to 32 USC 112.

### 8-3. OCONUS Counterdrug Duty.

This regulation/instruction addresses only Title 32 counterdrug duty. National Guard OCONUS counterdrug duty is performed in a Title 10 status. Requests for approval of OCONUS duty in support of Army/Air Force OCONUS counterdrug missions will be sent to NGB-CDO.

### 8-4. Attendance at IDT/IAD and Annual Training (AT).

National Guard members participating in the Counterdrug Support Program in Full-time National Guard Duty Counterdrug (FTNGDCD) status will train with their units at monthly IDT/IAD assemblies and Annual Training (AT); they will remain in FTNGDCD status while so doing. Training with their units for all monthly IDT/IAD assemblies and AT is required for all National Guard personnel on FTNGDCD. National Guard units will carry individuals in the Counterdrug Program in a "constructive attendance" category for purposes of pay and accountability during IDT/IAD and AT.

### 8-5. Leave.

Soldiers and airmen accrue leave on FTNGDCD status. Leave is managed in accordance with AR 600-8-10 (Leave and Passes) and AFI 36-3003 (Military Leave Program). Leave registers, to include control numbers, will be maintained internally by counterdrug staff where pay systems do not provide an automated accounting on Leave and Earnings Statements (LESS). CDC's will manage leave procedures and should encourage counterdrug personnel to use accrued leave during the duration of the tour order.

### 8-6. End Strength Exemptions.

a. The number of soldiers and airmen serving on FTNGDCD tours for the Counterdrug Support Program will not impact allowable end strengths of personnel supporting reserve components. Neither will they count against authorizations outlined in Title 10 USC, Sections 12012 (Authorized Strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard) and 12011 (Authorized Strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard).

b. Soldiers and airmen serving on FTNGDCD in the Counterdrug Support Program are exempt from end strength reporting and limitations on the number of FTNGDCD days members may perform in a fiscal year under NGR 37-111 (Administration of Training and Special Work), and/or ANGI 36-2001 (Management of Training and Operational Support within the Air National Guard).

### 8-7. Counterdrug Coordinator (CDC) Positions.

*a.* The Counterdrug Office funds a Title 32 Counterdrug Coordinator position for each state. States that accept this position must utilize the incumbent as the principal manager and administrator of the state Counterdrug Support Program.

*b.* This position is not included in inventories or quotas for normal full-time support positions (see paragraph 8-6, above). Individuals selected by states must meet normal selection criteria for ARNG/ANG Title 32 AGR status.

*c.* CDCs may have supervisory responsibilities in ADAPCP and/or the ANG Drug Abuse Testing Program, if so directed by the Adjutant General. Such duties must conform to provisions of AR 600-85, AFI 44-120 and NGR (AR) 600-85, as applicable.

#### **8-8. Personnel Screening.**

*a.* Selection of personnel for counterdrug duty (in both paid and unpaid statuses) must include screening which provides reasonable certainty that the volunteer is of good character, well motivated and an appropriate representative of the National Guard in duties subject to high profile scrutiny by LEAs, National Guard senior commanders, news media and the general public.

*b.* National Guard members pending disciplinary action, under civilian court orders or awaiting adjudication, or involved in other potentially negative situations will be carefully screened to ensure that they are not assigned in situations where their legal or personal affairs might reflect unfavorably on the Counterdrug Support Program, the National Guard or the state.

*c.* All volunteers will be screened. See paragraph 8-9, for screening of unpaid mission 6 volunteers. All other screening instructions of this chapter apply to duty in a pay status.

#### **8-9. Screening of Mission 6 Volunteers in Non-pay Status.**

The CDC will establish screening procedures for unpaid National Guard volunteers participating in mission 6 activities. It is recommended that this screening, as a minimum, include securing a favorable letter of recommendation from each applicant's unit commander. Mission 6 participants in a pay status will be screened in the same manner as other paid personnel.

#### **8-10. Early Notice of Special Requirements for Counterdrug Duty.**

*a.* CDCs will ensure that applicants for Counterdrug Support Program duty are well informed about the unique requirements for counterdrug duty.

*b.* It is recommended that applicants be provided written information sheets which detail prerequisites. Such documents should, as a minimum, include unique requirements such as:

(1) Drug testing (urinalysis) prior to entry on active duty, and periodic testing while on active duty. These requirements are in addition to testing by units of assignment during IDT/IAD under ADAPCP or the ANG Drug Abuse Testing Program.

(2) Requirement to continue attendance at IDT/IAD and AT while on FTNGDCD.

(3) Status of funding from year to year.

(4) Probability of criminal records checks, and/or security screening by LEAs of applicants serving in LEA offices or in positions where they are privy to operational information of LEAs. Applicants will be informed that such inquiries are likely to be completed after entry on duty and that rejection by LEAs could result in their removal from the counterdrug program.

(5) Standards of Conduct.

(a) Members are required to uphold the highest standards of conduct and personal appearance. Outside employment, associations and off-duty conduct/activities must be consistent with federal directives on ethics and with state and federal conflict of interest policies.

(b) National Guard members participating in the Counterdrug Support Program are required to comply with state laws and with DoD 5500.7-R. They are required to uphold the highest standards of conduct and personal appearance.

*c.* The above conditions of service will be clearly stated in announcements and advertisements for counterdrug positions.

#### **8-11. Screening for Duty of 30 or fewer Consecutive Days.**

*a.* Applicant must be eligible for FTNGDCD in accordance with normal ARNG or ANG requirements.

*b.* Applicant must be recommended by unit commander.

*c.* Applicant must have a current Report of Physical Examination (SF 88) in accordance with AR 40-501 on file in health records and must complete a DA Form 7349-R (Initial Medical Review/Annual Medical Certificate)

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(ARNG applicants) or AF Form 895 (Annual Medical Certificate) (ANG applicants). DA Form 7349-R may be found in AR 40-501, Reproducible Forms section.

*d.* DA Form 7349-R/AF Form 895 and health records (including SF 88, medical histories and cardiovascular risk screening reports, if any) will be screened to ensure there are no permanent or temporary medical profiles or health conditions which indicate inability to perform the required duties satisfactorily or indicate the duty might be hazardous to the individual's health or well-being.

*e.* Applicant will normally undergo drug testing upon entry to Counterdrug duty. However, for periods of 30 days or less only, CDCs have discretionary authority to waive the urinalysis requirement.

*f.* CDCs may delegate execution of the screening process to organization/major command headquarters (ARNG) or to base/organization/unit commanders (ANG), when large numbers are involved or when time considerations justify it.

### **8-12. Screening of Duty for 31 or More Consecutive Days.**

*a.* Meet all requirements of paragraph 8-11 *a-d*.

*b.* Favorable interview by CDC or representative.

*c.* Favorable Entrance National Agency Check/ National Agency Check (ENTNAC/NAC) within past 15 years (security clearance is not required).

*d.* Favorable investigation/security check by LEA (if required by the specific LEA concerned).

*e.* Favorable drug testing upon entry on active duty.

*f.* Meet the medical qualification under initial procurement standards of ARNG (AR 40-501, Chapter 2) (Standards of Medical Fitness) or ANG (AFI 48-123, Attachment 2) (Medical Examination and Standards).

*g.* Army National Guard personnel must meet the HIV testing requirements of AR 600-110 (Identification, Surveillance and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV) ).

*h.* Air National Guard members must have a periodic medical examination within 24 months prior to entry and a current HIV test within 180 days prior to entry. ANG members age 40 or older must have an exercise tolerance treadmill test if the Cardiac Risk Index (CRI) is 10,000 or greater.

### **8-13. Procedures for Personnel Screening.**

*a.* CDC staff will coordinate with commanders, records custodians and State Security Managers to review records and determine that the applicant is eligible for FTNGDCD in accordance with normal ARNG/ANG standards and if any of the considerations noted in paragraph 8-9 *b*, above, are applicable. Commander's written recommendation will be secured. CDC or an authorized representative will conduct a personal interview. State Security Managers (ARNG and ANG) will verify ENTNAC/NAC status of applicants.

*b.* When duty positions are advertised competitively by HRO, CDC staff will coordinate closely with HRO to ensure that program requirements are correctly advertised and that all the screening requirements of this chapter are met.

*c.* Successful completion of personnel and medical screening may be considered qualification for reentry to counterdrug duty for one year if a break in duty is less than 90 days. CDCs may require a complete new screening if they see fit to do so. ANG member must meet worldwide duty standards as outlined in AFI 48-123 attach 2. An AF Form 895 must be completed and reviewed prior to reentry.

### **8-14. Special Considerations Regarding ENTNAC, NAC and LEA Investigations.**

*a.* State ARNG/ANG security managers will verify that applicants have had a favorable Entrance National Agency Check or National Agency Check (ENTNAC/ NAC) in the last 15 years (security clearance is not required). The CDC will appoint a security manager for the state counterdrug program to assist with personnel and physical security.

*b.* There is no statutory/regulatory authority for the National Guard to conduct criminal background investigations to qualify members for counterdrug duty. The CD security manager must conduct a Police Records Check on each applicant prior to their receiving orders for duty. Applicants may also be subject to investigation by LEAs to meet agency security requirements for working in their offices or having access to LEA information, files or databases, in accordance with legal authority possessed by the LEA.

*c.* CDC staff not assigned to LEAs but privy to sensitive LEA operational information (for example, CDC administrative or operations personnel who review requests for support or maintain operations files) may be subject to the same security requirements. As in *b.*, above, this is a determination to be made by LEAs and/or CDCs.

*d.* When LEAs require investigation of supporting Guard members, the CDC will refer applicants to the LEAs, who will be responsible for the entire process, including privacy act statements. The CDC staff and state full-time

support personnel will not participate in the process, with the exception of National Guard members assigned to LEA support whose normal duties include participating in such inquiries.

*e.* When an LEA determines that a military security clearance meets their security requirements, CDC staff may confirm existing security status with the help of the state level ARNG or ANG Security Managers, but any new inquiries must be made by LEAs in accordance with their own legal authority.

*f.* Applicants not acceptable to LEAs may be rejected from the program or relieved from duty.

#### **8-15. Drug Testing Upon Entry on Duty.**

*a.* All applicants ordered to duty of 31 or more consecutive days will be given drug & alcohol urinalysis testing upon entry on active duty.

*b.* If unfavorable test results are received orders will be terminated immediately.

*c.* Favorable ADAPCP/SAP test results may be substituted for testing scheduled specifically to qualify for counterdrug duty, providing the test was conducted within 30 days prior to entry on duty.

*d.* At the discretion of the CDC, members who leave the Counterdrug Support Program for less than ninety days and apply for reentry may be excused from drug testing. Otherwise, applicants for reentry will be tested in accordance with a. thru c., above.

#### **8-16. Medical Standards.**

Applicants must qualify under ARNG or ANG worldwide duty/initial enlistment or appointment standards prescribed by AR 40-501, Chapter 2, or AFI 48-123, attachment 2 for duty over 30 days. Eligibility can be determined by:

*a.* Applicants may qualify by successfully undergoing a new physical examination under standards of AR 40-501, Chapter 2, or AFI 48-123, attachment 2. Examination may be through a Military Entrance Processing Station (MEPS) or active component military treatment facility authorized to conduct such examinations. This regulation/instruction will be cited as authority.

*b.* Entry into FTNGDCD, other than AGR Title 10/32 program, for a period greater than 30 days requires the applicant to meet the standards of AR 40-501, Chapter 2.

#### **8-17. Procedure for Determination by State Army Surgeon.**

*a.* Applicants who will be over 40 years of age by the anticipated entry on duty must have passed Cardiovascular Screening (Phase I or II as appropriate), as prescribed in AR 40-501 and NGR 40-501, within two years prior to consideration for counterdrug duty. DA Form 4970-E (Medical Screening Summary-Cardiovascular Risk Screening Program) is the record of such screening. Repeat screening will be necessary for over-40 applicants who have not been screened in the last two years.

*b.* If a Chapter 2 physical was completed more than 1 year ago but is within 2 years the Surgeon will review the applicant's current SF 88, DA Form 7349-R, DA Form 4970-E and other health records as appropriate. CDC staff will assist the Surgeon as necessary in procuring records and arranging interviews with applicants.

*c.* If fully qualified and no waiver required, the State Army Surgeon will forward written confirmation of the eligibility or ineligibility of the applicant to the CDC.

#### **8-18. Procedure for Determination by State Air Surgeon.**

*a.* All applicants will execute an AF Form 895 (Medical Screening Form) within 30 days prior to review by the local ANG medical clinic and the State Air Surgeon.

*b.* The CDC staff will assist the State Air Surgeon as necessary in procuring records and arranging interviews with applicants.

*c.* The State Air Surgeon will certify the SF 88 qualified for CD duty valid for 1 year.

#### **8-19. Medical Waivers.**

*a.* When an applicant fails to meet standards, the State Army Surgeon, State Air Surgeon or examining physician may elect to declare the individual unqualified with reasonable cause. The individual found unqualified may submit the records, to include an appropriate current clinical evaluation, through the CDC and NGB-CD to the Army or Air Surgeon for a waiver.

*b.* ARNG waiver requests and supporting papers will be forwarded by the CDC through NGB-CD to the Chief Surgeon, Health Services Division (NGB-ARS). The decision of NGB-ARS is final.

*c.* Since soldiers can perform counterdrug duty for extended periods (i.e. 3 year tours) with the possibility of achieving an active duty retirement, use of Chapter 2, AR 40-501 standards are required. Soldier on active duty

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orders for less than 30 days, must meet AR 40-501 Chapter 3 retention standards and may only have a permanent 2 as their highest PULHES numerical indicator. To be considered for a waiver soldiers must meet retention standards under AR 40-501. Numerical PULHES indicators of permanent 3 and 4 will disqualify a soldier for the purpose of accession into the counterdrug program.

*d.* ANG waiver requests and documents will be forwarded by the State Air Surgeon to the NGB Air Surgeon (ANG/SG). The decision of ANG/SG is final.

### 8-20. Conditional Duty.

*a.* When delays in medical screening of applicants for duty of 31 or more consecutive days occur, the CDC may permit applicants to serve under orders for 30 or fewer consecutive days until medical qualifications for the intended longer duty are confirmed. If medical qualifications are not received by the end of 30 day orders the applicant must have a 31 day break before any new order may be issued. Upon confirmation of medical qualifications, and if the applicant fully qualifies under personnel screening requirements orders for the desired period may be issued.

*b.* Authorization of short-term orders under a., above, is at the discretion of the CDC. The CDC should give first consideration to the interests of the Counterdrug Support Program and the National Guard when considering this option.

### 8-21. Medical Standards/Drug Testing Subsequent to Entry on Duty.

*a.* ARNG/ANG personnel who serve on counterdrug duty for 31 or more consecutive days are subject thereafter to retention standards of AR 40-501 or AFI 48-123 while they remain on duty.

*b.* National Guard members are subject to unannounced testing while on duty in the Counterdrug Support Program. CDCs will ensure that personnel on extended orders are tested at least annually. This is in addition to testing by units of assignment under ADAPCP and the ANG Drug Abuse Testing Program during IDT/IAD.

### 8-22. Retaining a Record of the Screening Process.

CDC staff will record names/ranks/titles/dates of personnel verifying applicant's qualifications (applicants for duty of 31 or more consecutive days only) on a checklist and retain it for the duration of the member's counterdrug service plus one year. All applicants must meet all regulatory requirements and a semi-annual review of records will be conducted to verify regulatory requirements are met. At the discretion of the CDC, a checklist confirming successful screening can be used as authority for reentry on counterdrug duty after a break not to exceed one year, with the exception that drug testing will be in accordance with paragraph 8-15. The checklist will include:

- a.* Applicant's rank, name and Social Security Number (SSN).
- b.* Unit of assignment, indicating ARNG or ANG as applicable.
- c.* Rank and name of unit commander recommending individual, and date recommended.
- d.* Date of interview; rank, name and title of interviewer.
- e.* Rank, name and title of individual reviewing personnel records and date review conducted.
- f.* Rank, name and title of individual confirming ENTNAC/NAC status, and date status confirmed.
- g.* Date urinalysis conducted; date results confirmed; rank, name and title of individuals confirming results.
- h.* Date qualifying medical examination conducted and name of agency performing examination, or rank and name of Army/Air Surgeon confirming qualifications and date confirmed. Annual review of DA Form 7349-R or AF Form 895 must be conducted to ensure personnel meet requirements for duty.
- i.* Waiver information, if applicable (date waiver granted, name of NGB staff element granting waiver).
- j.* Reasons for rejection of an applicant if applicable (enclose related correspondence, explanatory Memorandum for Record or other documentation). In such cases, the checklist will be retained for two years after the close of the fiscal year in which rejection occurred (see paragraph 8-23c).
- k.* All personnel on duty in the CD program must meet the requirements of AR 350-41 (Training in Units) or AFI 40-501 and AFI 40-501, ANG SUP1 40-501 (Air Force Fitness Program). The CDC staff will maintain a record of the date and score of the last two tests on record to verify personnel are in compliance with regulatory requirements.
- l.* Personnel on duty in the Counterdrug Program will be terminated from the program if they do not meet regulatory requirements. Termination procedures will be IAW the appropriate regulation that disqualifies them for duty.

### 8-23. Personnel and Health Records.

*a.* CDC staff will ensure that original Reports of Medical Examination (SF 88) conducted to qualify for counterdrug duty, as well as originals of DA Forms 4970-E, DA Form 7349-R and AF Form 895, are forwarded to official health records custodians. CDC staff will coordinate with health records/personnel records custodians to

determine if other documents generated in the selection process, such as medical waiver correspondence and supporting documents, should be placed in official records.

*b.* Documents containing sensitive personal or medical information, such as medical histories, examinations and related documents, will not be retained once the screening process is complete.

*c.* As an exception to *b.*, above, counterdrug staff will retain any documents, however personal in nature, if they are necessary to explain or justify rejection of an applicant or relief from duty for cause, when the probability exists that they would otherwise not be available in response to future inquiries by higher headquarters. Retain such documents for two years after close of the fiscal year in which rejection or relief from duty occurred.

#### **8-24. Injury in Line of Duty.**

*a.* National Guard members on counterdrug orders who are injured in the line of duty are entitled to benefits under 10 USC 1074(a) during the period of their active duty. The CDC will ensure a line of duty status is determined for all personnel who become ill or who are injured while on any form of counterdrug duty.

*b.* Members on tours for over 30 days may be extended on active duty, with their consent, for medical treatment of a disability. Members on tours of 30 days or less may be extended when it is determined that the member is being treated for (or recovering from) an injury, illness or disease incurred or aggravated in the line of duty.

#### **8-25. Report of Separation from Active Duty (DD Form 214).**

DD Form 214 will be issued to personnel performing qualifying counterdrug duties in accordance with DoD Instruction 1336.1 Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series), and Army and Air Force regulations/instructions.

#### **8-26. Personnel Evaluations.**

*a.* Counterdrug supervisors may be required by applicable Army and Air personnel regulation/ instructions to provide input to the official raters of counterdrug personnel in units of assignment.

*b.* Soldiers/airmen on counterdrug duty will in many instances spend more duty days in that status than in normal drill, AT or training status, and should receive proper recognition for their contributions. CDCs will coordinate with state level ARNG and ANG personnel staff to ensure compliance with applicable regulations/instructions.

#### **8-27. Records Identifying Individuals by Name and SSN.**

*a.* CDC staff will retain documents identifying individuals by name and social security number (SSN) only as necessary to perform counterdrug missions and protect the interests of soldiers and airmen.

*b.* When it is necessary to acquire, receive or forward personal, confidential or sensitive documents, or any documents identifying members by name and social security number, they will be retained only as long as necessary. Documents will be forwarded to records custodians or to individuals concerned, as appropriate.

#### **8-28. Privacy Act/Freedom of Information Act Review.**

CDCs will periodically request a review by state ARNG and ANG staff, to ensure that internal procedures comply with The Privacy Act of 1974 (implemented by AR 340-21 (The Army Privacy Program) and AFI 33-332 (Air Force Privacy Act Program)) and the Freedom of Information Act (FOIA) (implemented by AR 25-55 and DoDD 5400.7R, AFSUP1.

### **Chapter 9 Records and Reports**

#### **9-1. Counterdrug Management Information System (CMIS) Reports.**

CMIS reports will be prepared and submitted IAW the CMIS Operational Manual. CMIS policies and procedures will be updated using All States Memorandums as reporting requirements change. The primary management control for the Counterdrug Program and states will be CMIS.

#### **9-2. Organization Files.**

*a.* CDCs will ensure that current and historical files of the Counterdrug Support Program are established in accordance with AR 25-400-2 (The Modern Army Recordkeeping System (MARKS)).

*b.* Files will be maintained by the CDC staff in a central location. As an exception, mission 6 files may be maintained separately when the Adjutant General has directed supervision of mission 6 operations by someone other

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than the CDC. Such files will be maintained in accordance with this regulation/instruction and will be periodically integrated into historical files of the Counterdrug Support Program.

### 9-3. Documenting Intelligence Oversight Training.

- a. See paragraphs 3-14 and 5-13 of this regulation/ instruction.
- b. Training records will include documentation of Intelligence Oversight training, to include briefing content used and rosters or statements confirming attendance.
- c. When Intelligence Oversight training is conducted by other than the CDC staff, copies of documentation described in b., above, will be obtained for Counterdrug Support Program files.

### 9-4. Counterdrug Support Program Operations Files.

- a. The CDC will ensure that a file is established for every operation conducted, in all mission categories. Files will be closed at the end of the fiscal year. New files will be initiated at the start of the fiscal year for operations continued from the previous fiscal year.
- b. Separate files will ordinarily be prepared for each agency or organization supported. When a given agency/organization is supported in different locations, a file will ordinarily be maintained for each location. CDCs may at their discretion make exception to this rule, providing that files clearly indicate what dates, names and other significant data apply to what location.

### 9-5. Typical Contents of Operations Files.

This list is not all-inclusive in nature. The intent is to have an audit trail and clear history of operations and significant incidents. Operations files reinforce memory, help inform staff internally and contribute to lessons learned and future planning. They provide an important audit trail for higher headquarters and protect the counterdrug staff in the event of investigations or legal action.

- a. Operations files will include, as a minimum at the CD Headquarters:
  - (1) The LEA or CBO request which initiated the operation. When continuous support operations are renewed from year to year with the same agency, a request for continuation will be secured annually, before the start of the new fiscal year.
  - (2) Risk assessments. An annual risk assessment is sufficient for operations which continue year round in one location with relatively stable routines. When circumstances change and new risk factors are present, new assessments will be prepared.
  - (3) Documents generated by Army Aviation or ANG flight operations procedures (i.e. DA 2408-12 and AF 781), such as flight reports, flight checklists, documents pertaining to number of flight hours flown, fuel costs, etc.
  - (4) MOU/MOA (IAW 28/2-9)
  - (5) An Operations Plan (OPLAN), Operations Order (OPORD) or SOP outlining the nature of the operation. The essential requirement is that an outside party, unfamiliar with the operation, would be able to understand the nature of the operation. For instance, daily routine duty in an LEA office should be distinguishable from a remote field operation; continuous year round support should be distinguishable from short term or intermittent support.
- b. The following items will be included where applicable, at the discretion of the CDC:
  - (1) Copies of reports and news media articles pertaining to arrests and seizures associated with the operation.
  - (2) Copies of initial reports of major accidents or injuries, or reports of serious incidents or immediate action situations.
  - (3) Cross-references to appropriate accident reports, when major accidents, injuries or property loss occurs.
  - (4) After action reports or special reports of lessons learned.
  - (5) SOPs, checklists, evaluations, job descriptions, etc., developed for particular operations, situations, locations or agencies and which may be useful for future reference.
  - (6) Mission 6 files, in order to indicate the nature of operations, participants, purposes, etc., may include letters, memos, announcements, letters of instruction (LOIs) or other materials not normally found in supply reduction operations files.
  - (7) Copies of orders of individuals serving in the operation. When mission 6 operations are performed by volunteers not on orders, a listing by name and rank will suffice.
- c. Files should not include operation-specific information that LEAs may consider confidential or sensitive, unless the information is necessary for protecting the interests of the National Guard.

### 9-6. Safety Related Files.

See Chapter 4 of this regulation/instruction.

**9-7. Retention Periods for Counterdrug Records.**

*a.* Generally, records on hand will include those of the current fiscal year and the two immediate previous fiscal years. In the event this guideline conflicts with other USA/USAF/ARNG/ANG regulations/ instructions, the other directives will take precedence, except that documents which may bear upon legal action under the Federal Tort Claims Act (FTCA) must be retained for at least two years subsequent to the incidents concerned.

*b.* Files should not include operational-specific information, which LEAs may consider confidential or sensitive, unless the information is necessary for protecting the interests of the National Guard.

*c.* Documents generated by the applicant screening process will be retained in accordance with paragraphs 8-22 and 8-23 of this regulation/instruction.

**Chapter 10****Substance Abuse Programs****10-1. General.**

The Army National Guard Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) is conducted in accordance with AR 600-85 and NGR (AR) 600-85. The Air National Guard Drug Abuse Testing Program is conducted in accordance with AFI 44-120 and ANGR 30-2 (Social Actions NGB-Program). This regulation/instruction refers to these programs collectively as Substance Abuse (SA) programs. This regulation/instruction does not apply to military technician assistance programs established pursuant to Technician Personnel Regulation.

**10-2. Responsibilities.**

*a.* The Director, Counterdrug Directorate (NGB-CD) is the National Guard Bureau program manager for the Army and Air National Guard Substance Abuse programs. The Counterdrug Office point of contact for state personnel is the Chief, Substance Abuse Programs section (NGB-CDS-SA).

*b.* Adjutants General will designate state program managers for ADAPCP and the ANG Drug Abuse Testing Program. Designations must not conflict with requirements of AR 600-85 and NGR (AR) 600-85 or AFI 44-120 and ANGR 30-2, as applicable.

**10-3. Annual Plans and Budgets.**

*a.* Plans and budget requests must be submitted as directed by AR 600-85, NGR (AR) 600-85 and in accordance with guidance from NGB-CDS-SA.

*b.* Plans/requests for Substance Abuse programs are not part of the Governor's State Plan for the Counterdrug Support Program.

**10-4. Funding for Substance Abuse Programs.**

*a.* Funding for Substance Abuse programs is issued to the states within the Counterdrug Support Program budget. These funds are fenced within that budget, and may be utilized only for the ADAPCP or ANG Drug Abuse Testing Program, as indicated in fund citations.

*b.* ADAPCP:

(1) ADAPCP Operations and Maintenance (O&M) funds are used to purchase supplies to support the collection and shipment of urine specimens to the toxicology laboratory designated by NGB-CDS.

(2) The cost of ARNG litigation support packages (LSPs) is borne by NGB. The state Judge Advocate General (JAG) or Alcohol and Drug Control Officer (ADCO) will submit requests for the LSP to the appropriate toxicology laboratory and will provide a copy of the request to NGB-CDS. The LSP must be ordered by a JAG or ADCO/NCO. These same procedures will be utilized for payment of expert witness and telephone consultation fees for drug boards, after coordination and approval from NGB-CDS.

(3) ADAPCP O&M funds may be used to purchase education, prevention, and training materials and equipment which convey a drug abuse prevention and/or educational message for National Guard members and their families. O&M funds may not be used to purchase promotional items.

(4) Budgeting and payment to laboratories for all drug urinalysis testing is executed by NGB.

(5) ADAPCP Pay and Allowance (P&A) funds are used for training personnel to conduct drug urinalysis collection, and for administrative support of the ADAPCP.



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*c.* ANG Drug Abuse Testing Program:

(1) The ANG uses counterdrug funds (O&M) to purchase supplies to support collection and shipment of specimens.

(2) ANG Drug Abuse Testing Program O&M funds may be used to purchase education, prevention, and training materials and equipment which convey a drug abuse prevention and/or educational message for National Guard members and their families. O&M funds may not be used to purchase promotional items.

(3) Counterdrug funds (Milpers) are used by the ANG for training personnel in drug urinalysis collection and for administrative support of the ANG Drug Abuse Testing Program.

### **10-5. Drug Urinalysis Collection.**

National Guard personnel performing drug urinalysis collection procedures will receive training as directed by NGB-CDS-SA, in accordance with Army/Air Force regulations/instructions. State level responsibilities for training in these procedures are as follows:

*a.* ADAPCP coordinators/program managers must be trained as Alcohol and Drug Control Officers (ADCOs), as directed by Chief, NGB-CDS-SA, in coordination with the United States Army Drug and Alcohol Operations Agency (USADAOA).

*b.* The ADAPCP coordinator will conduct further training of ARNG personnel as necessary.

*c.* Air National Guard personnel are trained by NGB-CDS-SA or other trainees designated by NGB-CDS-SA IAW ANG/USAF Testing Regulations.

### **10-6. Records and Reports.**

Records and reports will be prepared and submitted in accordance with AR 600-85 and NGR (AR) 600-85 or AFI 44-120 and ANGR 30-2, supplemented by periodic instructions from NGB-CDS-SA.

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*Source:* <http://www.ngbpdc.ngb.army.mil/pubfiles/10/10801.pdf>

**APPENDIX 3-11: MEMORANDUM, DEPUTY SECRETARY OF DEFENSE, SUBJECT:  
DEPARTMENT OF DEFENSE COUNTERNARCOTICS POLICY (31 JUL 2002)**



**DEPUTY SECRETARY OF DEFENSE**

1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

31 JUL 2002



MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARY OF DEFENSE FOR POLICY  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
COMMANDERS OF THE COMBATANT  
COMMANDS  
DIRECTOR OF ADMINISTRATION AND  
MANAGEMENT  
DIRECTOR, DEFENSE SECURITY COOPERATION  
AGENCY  
DIRECTOR, DEFENSE INTELLIGENCE AGENCY  
DIRECTOR, NATIONAL SECURITY AGENCY

000.5

**SUBJECT:** Department of Defense Counternarcotics Policy

As the consequence of the changed national security environment, the corresponding shift in the Department's budget and other priorities and evolving support requirements, the Department carefully reviewed its existing counternarcotics policies. Attached reflects the current DoD counternarcotics policy. Detailed implementing instructions for counternarcotics policy and support operations will follow.

*Paul Wolfowitz*

Attachment  
As stated

31Jul02

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### DoD Counternarcotics Policy

I. The Department of Defense will execute drug demand and supply reduction programs consistent with statutory responsibilities, Presidential direction, and Department priorities. The Department will implement:

- *Demand reduction* programs that promote the readiness of the Armed Forces and the Department's civilian personnel and that reduce illegal drug use within the Department's communities; and
- *Supply reduction* programs that collect, analyze and disseminate intelligence, support interdiction operations, and train host nation counternarcotics forces.

**A. Demand Reduction.** The Department will expand its testing, education, and prevention programs. The Department's demand reduction programs shall include:

- Active-duty and civilian drug testing;
- Expanded testing of the Reserves and National Guard;
- Consistent Service Department and Defense Agency policies regarding drug use;
- Community outreach programs for Department dependents; and the
- Expanded use of the Reserves and National Guard in demand reduction programs.

**B. Supply Reduction.** The Department will execute:

- **Detection and Monitoring** programs that integrate military, United States law enforcement agency, and foreign capabilities against illegal air and maritime drug shipments to the United States. These programs will use:
  - (1) Military command, control, communications and intelligence resources; and
  - (2) Military operational planning capabilities that support the interdiction of suspected drug shipments.

- **Other Programs that:**

- (1) Support foreign military and law enforcement counternarcotics activities; and

- (2) Benefit the Department.

II. The Department will focus its counternarcotics activities on programs that:

- Enhance the readiness of the Department of Defense;
- Satisfy the Department's statutory detection and monitoring responsibilities;
- Contribute to the war on terrorism;
- Advance the Department's security cooperation goals; or
- Enhance national security.

III. The Department will review counternarcotics activities and transfer functions to law enforcement agencies, where appropriate, to ensure the efficient and effective use of resources and to complement efforts that combat transnational threats to the United States.

IV. Program Execution

The Deputy Assistant Secretary of Defense for Counternarcotics, reporting through the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict to the Under Secretary of Defense (Policy), shall:

- Develop and implement the Department's counternarcotics policy, conduct analyses, make recommendations and issue guidance regarding the Department's counternarcotics plans and programs;
- Coordinate and monitor the Department's counternarcotics plans and programs to ensure adherence to this policy; and
- Direct and oversee the planning, programming, and budget formulation, justification, and execution for the Department's counternarcotics programs.

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- Work with the Joint Staff, Unified Commanders, and Chiefs of the Reserve and National Guard on all issues and actions relating to the execution of the Department's counternarcotics program and their missions.

## APPENDIX 3-12: CALIFORNIA NATIONAL GUARD COUNTERDRUG TASK FORCE STANDING RULES OF ENGAGEMENT

### STANDING RULES OF ENGAGEMENT (CONTINUED)

1. CD Personnel serve in a support role to LEAs and will not directly engage in law enforcement duties. CD Personnel at all levels will ensure that a risk assessment analysis of potential threats to personnel and equipment is conducted during the planning stage of any operation.
2. Investigative Case and Analyst Support.
  - a. Independent intelligence activities are prohibited. Intelligence information may not be maintained or stored in National Guard facilities or databases. CD Personnel can assist LEAs in the establishment of counterdrug intelligence system databases and may come into temporary possession of criminal intelligence information while in a support role.
  - b. CD Personnel will not participate in active/real time conversation monitoring or directly participate in interrogations activities. CD Personnel can provide transcription/translation of audio/video tapes, seized documents and other information media.
3. Arrests, searches and seizures.
  - a. Unless specifically authorized or exigent circumstances exist, CD personnel will not directly participate in the arrest of suspects, conduct searches that include direct contact with suspects or the general public or become involved in the chain of custody for any evidence. Law Enforcement Officers (LEOs) should seize, handle, and/or maintain custody of potential evidentiary items.
  - b. Restraining, detaining, subduing are examples of the appropriate level of force that can be used in exigent circumstances to protect property, prevent loss/destruction of evidence, or prevent the escape of a suspect in custody. The use of deadly force is not authorized to protect property, prevent the loss of evidence, or prevent the escape of a suspect unless it is immediately necessary to protect against unlawful deadly force.
- c. Exigent circumstances exist when:
  - (1) Immediate action is necessary to protect LEOs, National Guard personnel or others from death or injury.
  - (2) Immediate action is necessary to prevent the loss or destruction of evidence.
  - (3) Immediate action is necessary to prevent escape of a suspect already in custody.
4. Surface/Aerial Reconnaissance
  - a. During approved reconnaissance/observation missions by mobile patrol, listening posts/observation posts (LPs/OPs) or CD RAID/C-26/FLIR aerial missions:
    - (1) LEO must be present or in direct contact with the CD Personnel.
    - (2) CD Personnel are prohibited from pursuing or targeting specific persons for surveillance.

VERSION 00-01

# CALIFORNIA NATIONAL GUARD COUNTERDRUG TASK FORCE



# STANDING RULES OF ENGAGEMENT

1. **MINIMUM FORCE:** All counterdrug personnel (CD Personnel) in the California National Guard Counterdrug Task Force (CD Task Force) will use minimum force to accomplish the mission. Minimum force is lowest level of force required under the circumstances.
  2. **SELF-DEFENSE:** Nothing in these Rules of Engagement shall limit a commander's inherent duty to safeguard his or her force or an individual soldier's or airman's inherent right of self-defense.
  3. **DEADLY FORCE:** Deadly force refers to the use of any type of physical force in a manner, which could reasonably be expected to result in death whether or not death is the intent. Before resorting to deadly force, all the following conditions must be met:
    - a. All other means have been exhausted or not readily available, including but not limited to restraining, detaining, and subduing.
    - b. The use of deadly force does not significantly increase the risk of death or serious bodily harm to innocent persons.
    - c. It is used for one or more of the following circumstances:
      - (1) Self-defense to avoid death or serious bodily harm. The threat of harm is not restricted to firearms, but may include assault with bricks, pipes or other heavy missiles, incendiary and explosive devices, or any other material which could be reasonably expected to cause death or serious bodily harm.
      - (2) Prevention of crime that involves a substantial risk of death or very serious bodily harm, including the defense of others (e.g., arson, sniping, and assault).
  - (3) Detention or prevention of the escape of a person who during detention or in the act of escape presents a clear threat of loss of life or serious bodily harm to another person. Attempt to escape by itself does not justify the use of deadly force. Use of deadly force is justified only when it is immediately necessary to protect against unlawful deadly force.
    - d. If the need to fire a weapon occurs, the individual will shoot to stop. No warning shots will be fired. No blanks are authorized. The discharge of a firearm is always considered to be deadly force.
  4. **ARMING ORDERS:**
    - a. CD Personnel will be armed only in coordination with the supported law enforcement agency (LEA) and with appropriate approval delegated from The Adjutant General through the Commander, Joint Task Force-Domestic Support, to CD Task Force Commander and the subordinate chain of command.
    - b. CD Personnel shall be armed only for force protection with only military issued weapons and ammunition.
    - c. CD Personnel who are armed must be trained, qualified, and tested on the type of weapon issued, IAW current qualification standards.
    - d. Arms and ammunition will be secured at all times IAW appropriate regulations and policies. Military weapons will not be secured in private dwellings at anytime.
    - e. Rounds will be chambered only on order of the commander/senior officer/senior NCO present, in coordination and conjunction with the supported LEAs, except in cases of exigent circumstances.
  - f. When the M16/16A1/16A2 rifle is employed, a lock plate must be installed to prevent automatic firing.
  - g. Subject to the above limitations, Team/mission commanders will determine which of the following will be used based on mission requirements.
    - h. Arming order matrix:
- | RIFLE • PISTOL MAGAZINE CHAMBER |            |           |               |
|---------------------------------|------------|-----------|---------------|
| AO-1 SLING                      | IN HOLSTER | IN POUCH  | EMPTY         |
| AO-2 PORT                       | IN HOLSTER | IN POUCH  | EMPTY         |
| AO-3 PORT                       | IN HOLSTER | IN WEAPON | EMPTY         |
| AO-4 PORT                       | IN HAND    | IN WEAPON | LOCKED/LOADED |
- Port arms is defined as having the rifle at the ready.
5. **WEAPON LIMITATION:** There will be no deployment of automatic weapons (e.g., M60, squad automatic weapons), shotguns, riot batons, or riot control agents, except upon express order of The Adjutant General.
  6. **AIRCRAFT & VEHICLE OPERATIONS:**
    - a. Firing of weapons from aircraft is not authorized under any circumstances.
    - b. Pilots in Command (PC) of aircraft have the authority to override an order to chamber rounds while onboard the aircraft.
    - c. Firing of weapons from moving vehicles is not authorized unless exigent circumstances exist for self defense or defense of others in a life threatening situation.
    - d. PC have the authority to prohibit passengers from carrying any CS gas onboard the aircraft.
  7. **CHANGES TO ROE:** The CD Task Force Commander will approve changes to these Standing Rules of Engagement should timely changes be required by mission, terrain, troops, time or security of the force. The Commander will report such changes to Commander, Joint Task Force-Domestic Support as soon as practicable.

## APPENDIX 3-13: JP 3-07.4, APPENDIX E, LEDETS

## APPENDIX E

### LAW ENFORCEMENT DETACHMENTS

**1. General**

USN ships contribute significantly to the D&M phase of CD operations, as they are frequently in a position to intercept and apprehend maritime drug smugglers. However, since the Department of Defense does not participate in drug apprehensions, USCG personnel (who are authorized to perform law enforcement activities) are frequently embarked in USN ships to act in this capacity (as prescribed in 10 USC section 379).

**2. Command Relationships**

The USN Fleet Commanders and the USCG area commanders for the Atlantic and Pacific areas have drafted memorandums of agreement (MOAs) to govern LEDET procedures. Under these MOAs the Navy fleet commanders, and occasionally the USCG commanders, provide ships and cutters to operate under JIATF TACON when engaged in the D&M mission. The USCG deploys LEDETs aboard USN combatants to perform law enforcement activities. The JIATFs hold periodic scheduling conferences to match JIATF D&M requirements, Navy ships, and USCG LEDETs. While under JIATF TACON, any surface vessel with a LEDET aboard will coordinate to shift TACON to either USCG area or district TACON when it detects a target deemed suitable for interception and boarding. Boardings are conducted in accordance with USCG law enforcement procedures and policy, including Use of Force Policy. USN ships carrying LEDETs must display the USCG ensign. The ensign also must be illuminated at night when engaged in law enforcement operations.

**3. Availability of Ships**

Geographic combatant commanders make USN ships available in support of USCG law enforcement operations. These ships are categorized as either "specially designated," or "ships of opportunity."

a. **Specially Designated.** Specially designated (or dedicated) ships are ones under JIATF TACON being used in direct support of CD operations, and which conduct the interception and/or apprehension phase of law enforcement operations under USCG TACON.

b. **Ships of Opportunity.** USN ships of opportunity are ones that are operating in or transiting through possible drug trafficking areas and are not under the control of a CD JIATF and/or USCG command. These ships may be diverted for a law enforcement role after TACON has been shifted to the USCG.

**4. Assignments**

A LEDET is normally a seven-person team assigned on a temporary basis to US or foreign military vessels. The LEDET consists of an officer in charge (E-7 through O-3) assigned to serve as the command maritime law enforcement advisor for the host commanding officer; a boarding officer (E-5 or above); and boarding team members. While assigned to a USN ship, LEDET activities are governed by the MOAs signed between the USCG area commanders and the respective Navy fleet CINC.



## Appendix E

a. **Officer in Charge (OIC).** The team leader advises the Navy Commanding Officer on USCG policies and maritime law enforcement procedures. His duties are similar to those of an operations officer aboard a medium or high endurance cutter in regards to law enforcement. During boardings, the OIC directs all searches and makes all law enforcement decisions. The OIC coordinates USN vessel support for the boarding party during boarding operations, provides guidance for the boarding officer, and is responsible for all law enforcement message traffic. The team leader will be a graduate of maritime law enforcement (MLE) school at Reserve Training Center, Yorktown, Virginia, be a qualified boarding officer, and possess at least a SECRET clearance.

b. **Boarding Officer.** The duties of a LEDET boarding officer are the same as any other USCG boarding officer. The boarding officer is responsible to the OIC for the safety and conduct of the boarding party, and will be guided by current USCG policies in executing these responsibilities. The boarding officer will be a graduate of MLE school, be qualified by the group or district commander, and have at least a CONFIDENTIAL clearance.

c. **Boarding Team Members.** The remainder of the LEDET will be comprised of five qualified boarding team members. Ideally, all boarding team members should be graduates of either the boarding officer course at the MLE school or the boarding team member course at Training Center, Petaluma, California.

d. **Specialty Billets.** Each LEDET will have at least one person designated as a Spanish linguist and at least two personnel qualified in accordance with current Naval Air Training Operating Procedures Standards requirements as helicopter special mission

passengers (including 9D5 multiple egress Navy "Dunker" training).

## 5. Boarding Procedures

The following paragraphs provide an overview of LEDET boarding procedures. More detailed guidance for the LEDETs themselves are found in COMDTINST M16240.1, "Law Enforcement Detachment (LEDET) Administrative and Operating Guidelines."

a. Boarding parties consist of at least two members and are armed and equipped as required. Utilizing the appropriate boarding kit and the USCG boarding checklist, the boarding party will expeditiously carry out their assigned duties.

b. The boarding party will approach a vessel of interest and note its location, activities, and identifying characteristics. While maintaining continuous surveillance of the vessel and in an *enhanced state of readiness*, the boarding party will hail the vessel.

c. If the determination is made to board the vessel, the master will be instructed to heave to and prepare for boarding. The vessel is boarded and, in cases where a felony violation is suspected or when it is believed that there is a potential threat to the boarding party's safety, the vessel's crew will be instructed to move to a single open location such as the vessel's fantail. The boarding party will secure any weapons found on board and conduct a personnel security sweep for hidden or missing crewmembers.

d. Once the boarding party's safety is deemed secure, the accuracy of any information provided by the vessel's crew is verified. The vessel is inspected and any arrests or seizures are made. Debriefings and documentation of the boarding are completed after debarking the suspect vessel.

**APPENDIX 3-14: SAMPLE LEDET MOA**

**AGREEMENT BETWEEN  
THE GOVERNMENT OF [STATE ONE]  
AND  
THE GOVERNMENT OF [STATE TWO]  
CONCERNING COOPERATION TO SUPPRESS ILLICIT TRAFFIC**

**Preamble**

The Government of [STATE ONE] and the Government of [STATE TWO] (hereinafter, "the Parties");

Bearing in mind the complex nature of the problem of illicit traffic by sea;

Having regard to the urgent need for international cooperation in suppressing illicit traffic by sea, which is recognized in the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, in the 1971 Convention on Psychotropic Substances, in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereinafter, "the 1988 UN Convention"), and in the 1982 United Nations Convention on the Law of the Sea;

Recalling that the 1988 UN Convention requires the Parties to consider entering into bilateral agreements to carry out, or to enhance the effectiveness of, its provisions;  
Desiring to promote greater cooperation between the Parties, and thereby enhance their effectiveness, in combating illicit traffic by sea;

Conscious of the fact that, in order to combat drug-related activities effectively and efficiently, the active participation of all States affected is needed, that is, consumer and producer States, States whose territories are used as transshipment points for narcotic drugs, and States used to launder the proceeds of drug trafficking;

Conscious of the fact that [STATE TWO] is experiencing increased use of its maritime zones for the transshipment of drugs;  
Have agreed as follows:

**I. DEFINITIONS**

In this Agreement, it shall be understood that:

1. "Illicit traffic" has the same meaning as in Article 1(m) of the 1988 UN Convention.
2. "[STATE TWO]'s waters and airspace" means the territorial sea and internal waters of [STATE TWO], and the air space over [STATE TWO].
3. "Law enforcement vessels" means warships of the Parties and other ships of the Parties clearly marked and identifiable as being on government non-commercial service and authorized to that effect, including any boat and aircraft embarked on such ships, aboard which law enforcement officials are embarked.
4. "Law enforcement aircraft" means military aircraft of the Parties and other aircraft of the Parties engaged in law enforcement operations or operations in support of law enforcement activities clearly marked and identifiable as being on government non-commercial service and authorized to that effect.

## APPENDIX 3: COUNTERDRUG OPERATIONS

5. "Law enforcement authorities" means for the Government of [STATE TWO], the \_\_\_\_\_, without prejudice to the powers of the appropriate judicial authorities, and, for the Government of [STATE ONE], the [STATE TWO] \_\_\_\_\_.

6. "Law enforcement officials" means, for the Government of [STATE ONE], uniformed members of the [STATE TWO] \_\_\_\_\_, and for the Government of [STATE TWO], uniformed members of the \_\_\_\_\_.

7. "Shiprider" means one or more law enforcement officials, including boarding teams, of one Party authorized to embark on a law enforcement vessel of the other Party.

8. "Suspect vessel or aircraft" means a vessel or aircraft used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is involved in illicit traffic.

### II. NATURE AND SCOPE OF AGREEMENT

1. The Parties shall cooperate in combating illicit traffic by sea to the fullest extent possible, consistent with available law enforcement resources and related priorities.

2. The Government of [STATE ONE] shall continue to provide the Government of [STATE TWO] with available information collected by electronic, air and maritime surveillance means, on the presence of suspect vessels or aircraft in or over [STATE TWO]'s waters or airspace, so that the law enforcement authorities of [STATE TWO] may take appropriate control measures. The Parties undertake to agree on procedures for improving intelligence sharing.

### III. OPERATIONS IN AND OVER NATIONAL WATERS

Operations to suppress illicit traffic in and over the waters of a Party are subject to the authority of that Party.

### IV. PROGRAM FOR LAW ENFORCEMENT OFFICIALS ABOARD THE OTHER PARTY'S VESSELS

1. The Parties shall establish a joint law enforcement shiprider program between their law enforcement authorities. Each Party may designate a coordinator to organize its program activities and to notify the other Party of the types of vessels and officials involved in the program.

2. The Government of [STATE TWO] may designate qualified law enforcement officials to act as law enforcement shipriders. The Government of [STATE TWO] may assign boarding teams to conduct boardings, searches and detentions from [STATE ONE] law enforcement vessels under the flag of [STATE TWO] of suspect [STATE TWO]'s vessels and other suspect vessels located in [STATE TWO]'s waters in accordance with paragraph 5, subject to subparagraphs b and c of paragraph 6. Subject to [STATE TWO]'s law, these shipriders may, in appropriate circumstances:

a. embark on [STATE TWO] law enforcement vessels;

b. authorize the pursuit, by the [STATE ONE] law enforcement vessels on which they are embarked, of suspect vessels and aircraft fleeing into [STATE TWO]'s waters;

c. authorize the [STATE ONE] law enforcement vessels on which they are embarked to conduct patrols to suppress illicit traffic in [STATE TWO]'s waters; and

d. enforce the laws of [STATE TWO] in [STATE TWO]'s waters, or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law.

## DOPLAW HANDBOOK

3. The Government of [STATE ONE] may designate qualified law enforcement officials to act as law enforcement shipriders. Subject to [STATE TWO] law, these shipriders may, in appropriate circumstances:

- a. embark on [STATE TWO]'s law enforcement vessels;
- b. advise [STATE TWO]'s law enforcement officials in the conduct of boardings of vessels to enforce the laws of [STATE TWO];
- c. enforce, seaward of the territorial sea of [STATE TWO], the laws of the [STATE TWO] where authorized to do so, in accordance with the principles of international law; and
- d. authorize the [STATE TWO]'s vessels on which they are embarked to assist in the enforcement of the laws of the [STATE TWO] seaward of the territorial sea of [STATE TWO], in accordance with the principles of international law.

4. The Government of [STATE ONE] shall, whenever feasible, assign as shipriders persons fluent in \_\_\_\_\_, and to have liaison officials fluent in \_\_\_\_\_ on board [STATE ONE] law enforcement vessels on which [STATE TWO]'s shipriders are embarked.

5. When a shiprider is embarked on the other Party's vessel, and the enforcement action being carried out is pursuant to the shiprider's authority, any search or seizure of property, any detention of a person, and any use of force pursuant to this Agreement, whether or not involving weapons, shall be carried out by the shiprider, except as follows:

- a. crewmembers of the other Party's vessel may assist in any such action if expressly requested to do so by the shiprider and only to the extent and in the manner requested. Such request may only be made, agreed to, and acted upon in accordance with the applicable laws and policies; and
- b. such crewmembers may use force in self-defense, in accordance with the applicable laws and policies.

6. The Government of [STATE ONE] may only conduct operations to suppress illicit traffic in [STATE TWO]'s waters and airspace with the permission of the Government of [STATE TWO] in any of the following circumstances:

- a. an embarked [STATE TWO]'s shiprider so authorizes;
- b. In those exceptional occasions when a suspect vessel, detected seaward of [STATE TWO]'s waters, enters [STATE TWO]'s waters and no [STATE TWO]'s shiprider is embarked in a [STATE ONE] law enforcement vessel, and no [STATE TWO]'s law enforcement vessel is immediately available to investigate, the [STATE ONE] law enforcement vessel may follow the suspect vessel into [STATE TWO]'s waters, in order to board the suspect vessel and secure the scene, while awaiting expeditious instructions from [STATE TWO]'s law enforcement authorities and the arrival of [STATE TWO]'s law enforcement officials.
- c. In those equally exceptional occasions when a suspect vessel is detected within [STATE TWO]'s waters, and no [STATE TWO]'s shiprider is embarked in a [STATE ONE] law enforcement vessel, and no [STATE TWO]'s law enforcement vessel is immediately available to investigate, the [STATE ONE] law enforcement vessel may enter [STATE TWO]'s waters, in order to board the suspect vessel and secure the scene, while awaiting expeditious instructions from [STATE TWO]'s law enforcement authorities and the arrival of [STATE TWO]'s law enforcement officials.

The [STATE TWO] shall provide prior notice to the [STATE TWO]'s law enforcement authority of action to be taken under subparagraphs (b) and (c) of this paragraph, unless not operationally feasible to do so. In any case, notice of the action shall be provided to the [STATE TWO]'s law enforcement authority without delay.

## APPENDIX 3: COUNTERDRUG OPERATIONS

7. Law enforcement vessels of a Party operating with the authorization of the other Party pursuant to Section IV of this Agreement shall, during such operations, fly, in the case of [STATE ONE], [STATE TWO]'s flag, and in the case of [STATE TWO], the [STATE TWO] \_\_\_\_\_ flag.

8. The Government of [STATE TWO] shall permit the mooring or stay of law enforcement vessels of [STATE ONE] at national ports, after authorization by the Minister of Public Security, on the occasions and for the time necessary for the proper performance of the operations required under this Agreement.

9. The Government of [STATE TWO] reserves the right to authorize, in accordance with the laws of [STATE TWO], other operations to suppress illicit traffic not otherwise foreseen in this Agreement.

10. When aircraft of the Government of [STATE ONE] (hereafter, "[STATE ONE] aircraft") are operating to suppress illicit traffic or supporting such operations, the Government of [STATE TWO] shall permit those [STATE ONE] aircraft:

a. to overfly its territory and waters with due regard for the laws and regulations of [STATE TWO] for the flight and maneuver of aircraft, subject to paragraph 11 of this section;

b. to land and remain in national airports, after receiving authorization from \_\_\_\_\_, on the occasions and for the time necessary for proper performance of the operations necessary under this Agreement; and

c. to transmit orders from competent [STATE TWO]'s authorities to suspect aircraft to land in the territory of [STATE TWO], subject to the laws of each Party.

11. The Government of [STATE ONE] shall, in the interest of flight safety, observe the following procedures for facilitating flights within [STATE TWO]'s airspace by [STATE ONE] aircraft:

a. In the event of planned law enforcement operations, the [STATE TWO] shall provide reasonable notice and communications frequencies to the appropriate [STATE TWO]'s aviation authorities responsible for air traffic control of planned flights by its aircraft over [STATE TWO]'s territory or waters.

b. In the event of unplanned operations, which may include the pursuit of suspect aircraft into [STATE TWO]'s airspace pursuant to this Agreement, the Parties shall exchange information concerning the appropriate communications frequencies and other information pertinent to flight safety.

c. Any aircraft engaged in law enforcement operations or operations in support of law enforcement activities in accordance with this Agreement shall comply with such air navigation and flight safety directions as may be required by [STATE TWO]'s aviation authorities, and with any written operating procedures developed for flight operations within its airspace under this Agreement.

### V. OPERATIONS SEAWARD OF THE TERRITORIAL SEA

1. Whenever [STATE ONE] law enforcement officials encounter a suspect vessel flying the [STATE TWO]'s flag or claiming to be registered in [STATE TWO], located seaward of any State's territorial sea, this Agreement constitutes the authorization of the Government of [STATE TWO] for the boarding and search of the suspect vessel and the persons found on board by such officials. If evidence of illicit traffic is found, [STATE ONE] law enforcement officials may detain the vessel and persons on board pending expeditious disposition instructions from the Government of [STATE TWO].

2. Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels seaward of any State's territorial sea, conducted by either Party in accordance with international law, whether based, *inter alia*, on the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, the consent of the vessel master, or an authorization from the flag State to take law enforcement action.

## VI. JURISDICTION OVER DETAINED VESSELS

1. In all cases arising in [STATE TWO]'s waters, or concerning [STATE TWO]'s flag vessels seaward of any State's territorial sea, the Government of [STATE TWO] shall have the primary right to exercise jurisdiction over a detained vessel, cargo and/or persons on board (including seizure, forfeiture, arrest, and prosecution), provided, however, that the Government of [STATE TWO] may, subject to its Constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of [STATE TWO] law against the vessel, cargo and/or persons on board.
2. Instructions as to the exercise of jurisdiction pursuant to paragraph 1 shall be given without delay.

## VII. IMPLEMENTATION

1. Operations to suppress illicit traffic pursuant to this Agreement shall be carried out only against suspect vessels and aircraft, including vessels and aircraft without nationality, and vessels assimilated to vessels without nationality.
2. A Party conducting a boarding and search pursuant to this Agreement shall promptly notify the other Party of the results thereof. The relevant Party shall timely report to the other Party, consistent with its laws, on the status of all investigations, prosecutions and judicial proceedings resulting from enforcement action taken pursuant to this Agreement where evidence of illicit traffic was found.
3. Each Party shall ensure that its law enforcement officials, when conducting boardings and searches and air interception activities pursuant to this Agreement, act in accordance with the applicable national laws and policies of that Party and with the applicable international law and accepted international practices.
4. Boardings and searches pursuant to this Agreement shall be carried out by law enforcement officials from law enforcement vessels or aircraft. The boarding and search teams may operate from such ships and aircraft of the Parties, and seaward of the territorial sea of any State, from such ships of other States as may be agreed upon by the Parties. The boarding and search team may carry standard law enforcement small arms.
5. While conducting air intercept activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board and the safety of civil aircraft.
6. All use of force pursuant to this Agreement shall be in strict accordance with the applicable laws and policies and shall in all cases be the minimum reasonably necessary under the circumstances, except that neither Party shall use force against civil aircraft in flight. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either Party.
7. When carrying out operations pursuant to this Agreement, in accordance with the 1988 UN Convention, the Parties shall take due account of the possible advantage of conducting boarding and search operations in safer conditions at the closest [STATE TWO]'s port to minimize any prejudice to the legitimate commercial activities of the suspect vessel or aircraft, or its flag State or any other interested State; the need not to delay unduly the suspect aircraft or vessel; the need not to endanger the safety of life at sea without endangering the safety of the law enforcement officials or their vessels or aircraft; and the need not to endanger the security of the suspect vessel, aircraft or cargo.
8. To facilitate implementation of this Agreement, each Party shall ensure the other Party is fully informed of its respective applicable laws and policies, particularly those pertaining to the use of force. Each Party shall ensure that all of its law enforcement officials are knowledgeable concerning the applicable laws and policies of both Parties.
9. Assets seized in consequence of any operation undertaken in [STATE TWO]'s waters pursuant to this Agreement shall be disposed of in accordance with the laws of [STATE TWO]. Assets seized in

## APPENDIX 3: COUNTERDRUG OPERATIONS

consequence of any operation undertaken seaward of the territorial sea of [STATE TWO] pursuant to this Agreement shall be disposed of in accordance with the laws of the seizing Party. To the extent permitted by its laws and upon such terms as it deems appropriate, a Party may, in any case, transfer forfeited assets or proceeds of their sale to the other Party. Each transfer generally will reflect the contribution of the other Party to facilitating or effecting the forfeiture of such assets or proceeds.

10. The law enforcement authority of one Party (the "first Party") may request, and the law enforcement authority of the other Party may authorize, law enforcement officials of the other Party to provide technical assistance to law enforcement officials of the first Party in their boarding and investigation of suspect vessels located in the territory or waters of the first Party.

11. Any injury to or loss of life of a law enforcement official of a Party shall normally be remedied in accordance with the laws of that Party. Any other claim submitted for damage, injury, death or loss resulting from an operation carried out under this Agreement shall be processed, considered, and if merited, resolved in favor of the claimant by the Party whose officials conducted the operation, in accordance with the domestic law of that Party, and in a manner consistent with international law. If any loss, injury or death is suffered as a result of any action taken by the law enforcement or other officials of one Party in contravention of this Agreement, or any improper or unreasonable action is taken by a Party pursuant thereto, the Parties shall, without prejudice to any other legal rights which may be available, consult at the request of either Party to resolve the matter and decide any questions relating to compensation.

12. Disputes arising from the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

13. The Parties agree to consult, on at least an annual basis, to evaluate the implementation of this Agreement and to consider enhancing its effectiveness, including the preparation of amendments to this Agreement that take into account increased operational capacity of the [STATE TWO]'s law enforcement authorities and officials. In case a difficulty arises concerning the operation of this Agreement, either Party may request consultations with the other Party to resolve the matter.

14. Nothing in this Agreement is intended to alter the rights and privileges due any individual in any legal proceeding.

15. Nothing in this Agreement shall prejudice the position of either Party with regard to the international law of the sea.

### VIII. ENTRY INTO FORCE AND DURATION

1. This Agreement shall enter into force upon exchange of notes indicating that the necessary internal procedures of each Party have been completed.

2. This Agreement shall be registered with the Secretary-General of the United Nations for purposes of publication in accordance with article 102 of the Charter of the United Nations.

3. This Agreement may be terminated at any time by either Party upon written notification to the other Party through the diplomatic channel. Such termination shall take effect one year from the date of notification.

4. This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement during the time that it was in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE AT \_\_\_\_\_, [STATE TWO], this first day of \_\_\_\_\_, 20\_\_, in duplicate in the \_\_\_\_\_ and \_\_\_\_\_ languages, each text being equally authentic.

## DOPLAW HANDBOOK

FOR THE GOVERNMENT OF THE  
[STATE ONE] :

/s/  
Ambassador  
[STATE ONE]

FOR THE GOVERNMENT OF  
[STATE TWO]:

/s/  
Minister of Government,  
[STATE TWO]



## APPENDIX 3: COUNTERDRUG OPERATIONS



## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

### APPENDIX 4 MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

#### APPENDIX 4-1: 10 U.S.C. §§ 331-335 - THE INSURRECTION ACT

10 USC CHAPTER 15 - 01/05/99  
TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

CHAPTER REFERRED TO IN OTHER SECTIONS  
This chapter is referred to in sections 101, 115 of this title; title 38  
section 4312.

10 USC Sec. 331 01/05/99

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 331. Federal aid for State governments

Whenever there is an insurrection in any State against its government,  
the President may, upon the request of its legislature or of its  
governor if the legislature cannot be convened, call into Federal  
service such of the militia of the other States, in the number  
requested by that State, and use such of the armed forces,  
as he considers necessary to suppress the insurrection.

CROSS REFERENCES

Army National Guard in Federal service, call, see section 12406 of this  
title.

Use of Army and Air Force as posse comitatus, see section 1385 of Title  
18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323.

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# DOPLAW HANDBOOK

10 USC Sec. 332 01/05/99

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 332. Use of militia and armed forces to enforce Federal authority

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323.

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10 USC Sec. 333 01/05/99

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 333. Interference with State and Federal law

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it -

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect

that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323.

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

10 USC Sec. 334 01/05/99

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 334. Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2662 of this title.

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10 USC Sec. 335 01/26/98

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 335. Guam and Virgin Islands included as "State" For purposes of this chapter, the term "State" includes the unincorporated territories of Guam and the Virgin Islands.

SOURCE (Added Pub. L. 90-497, Sec. 11, Sept. 11, 1968, 82 Stat. 847; amended Pub. L. 96-513, title V, Sec. 511(11)(A), Dec. 12, 1980, 94 Stat. 2920.)

### **APPENDIX 4-2: 10 U.S.C. § 2667 - LEASES: NON-EXCESS PROPERTY OF MILITARY DEPARTMENTS**

**TITLE 10--ARMED FORCES**

**Subtitle A--General Military Law**

**PART IV--SERVICE, SUPPLY, AND PROCUREMENT**

**CHAPTER 159--REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF  
NON-EXCESS PROPERTY**

**SEC. 2667. LEASES: NON-EXCESS PROPERTY OF MILITARY DEPARTMENTS**

## DOPLAW HANDBOOK

(a) Whenever the Secretary of a military department considers it advantageous to the United States, he may lease to such lessee and upon such terms as he considers will promote the national defense or be in the public interest, real or personal property that is--

- (1) under the control of that department;
- (2) not for the time needed for public use; and
- (3) not excess property, as defined by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) A lease under subsection (a)-

- (1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;
- (2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;
- (3) shall permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;
- (4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary; and
- (5) may provide, notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), or any other provision of law, for the improvement, maintenance, protection, repair, or restoration, by the lessee, of the property leased, or of the entire unit or installation where a substantial part of it is leased, as the payment of part or all of the consideration for the lease.

(c) This section does not apply to oil, mineral, or phosphate lands.

(d)(1)(A) All money rentals received pursuant to leases entered into by the Secretary of a military department under this section shall be deposited in a special account in the Treasury established for such military department, except--

- (i) amounts paid for utilities and services furnished lessees by the Secretary; and
- (ii) money rentals referred to in paragraph (4) or (5).

(B) Sums deposited in a military department's special account pursuant to subparagraph (A) shall be available to such military department, as provided in appropriation Acts, as follows:

- (i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the leased property is located.
- (ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department concerned.

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(2) Payments for utilities and services furnished lessees pursuant to leases entered into under this section shall be credited to the appropriation account or working capital fund from which the cost of furnishing the utilities and services was paid.

(3) As part of the request for authorizations of appropriations submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives for each fiscal year, the Secretary of Defense shall include--

(A) an accounting of the receipt and use of all money rentals that were deposited and expended under this subsection during the fiscal year preceding the fiscal year in which the request is made; and

(B) a detailed explanation of each lease entered into, and of each amendment made to existing leases, during such preceding fiscal year.

(4) Money rentals received by the United States directly from a lease under this section for agricultural or grazing purposes of lands under the control of the Secretary of a military department (other than lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power) may be retained and spent by the Secretary concerned in such amounts as the Secretary considers necessary to cover the administrative expenses of leasing for such purposes and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary.

(5) Money rentals received by the United States from a lease under subsection (f) shall be deposited into the account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(e) The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.

(f)(1) Notwithstanding subsection (a)(3), pending the final disposition of real property and personal property located at a military installation to be closed or realigned under a base closure law, the Secretary of the military department concerned may lease the property to any individual or entity under this subsection if the Secretary determines that such a lease would facilitate State or local economic adjustment efforts.

(2) Notwithstanding subsection (b)(4), the Secretary concerned may accept consideration in an amount that is less than the fair market value of the lease interest if the Secretary concerned determines that--

(A) a public interest will be served as a result of the lease; and

(B) the fair market value of the lease is (i) unobtainable, or (ii) not compatible with such public benefit.

(3) Before entering into any lease under this subsection, the Secretary shall consult with the Administrator of the Environmental Protection Agency in order to determine whether the environmental condition of the property proposed for leasing is such that the lease of the property is advisable. The Secretary and the Administrator shall enter into a memorandum of understanding setting forth procedures for carrying out the determinations under this paragraph.

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(4) The Secretary concerned may accept under subsection (b)(5) services of a lessee for an entire installation to be closed or realigned under a base closure law, or for any part of such installation, without regard to the requirement in subsection (b)(5) that a substantial part of the installation be leased.

(5)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would--

(i) significantly affect the quality of the human environment; or

(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.

(g)(1) If a proposed lease under subsection (a) involves only personal property, the lease term exceeds one year, and the fair market value of the lease interest exceeds \$100,000, as determined by the Secretary concerned, the Secretary shall use competitive procedures to select the lessee.

(2) Not later than 45 days before entering into a lease described in paragraph (1), the Secretary concerned shall submit to Congress written notice describing the terms of the proposed lease and the competitive procedures used to select the lessee.

(h) In this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) Section 2687 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 150; Oct. 7, 1975, Pub. L. 94-107, title VI, Sec. 607(7), 89 Stat. 566; Sept. 14, 1976, Pub. L. 94-412, title V, Sec. 501(b), 90 Stat. 1258; Dec. 12, 1980, Pub. L. 96-513, title V, Sec. 511(92), 94 Stat. 2928; Oct. 12, 1982, Pub. L. 97-295, Sec. 1(34), 96 Stat. 1296; Oct. 15, 1982, Pub. L. 97-321, title VIII, Sec. 803, 96 Stat. 1572; Nov. 5, 1990, Pub. L. 101-510, div. B, title XXVIII, Sec. 2806, 104 Stat. 1787; Dec. 5, 1991, Pub. L. 102-190, div. B, title XXVIII, Sec. 2862, 105 Stat. 1559; Oct. 23, 1992, Pub. L. 102-484, div. B, title XXVIII, Sec. 2851, 106 Stat. 2625; Nov. 30, 1993, Pub. L. 103-160, div. B, title XXIX, Sec. 2906, 107 Stat. 1920; Feb. 10, 1996, Pub. L. 104-106, div. B, title XXVIII, Sec. 2831, 110 Stat. 558; Feb. 10, 1996, Pub. L. 104-106, div. B, title XXVIII, Sec. 2832, 110 Stat. 559; Feb. 10, 1996, Pub. L. 104-106, div. B, title XXVIII, Sec. 2833, 110 Stat. 559.)



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### Historical and Revision Notes

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2667(a)	5:626s-3 (1st sentence). 10:1270 (1st sentence). 34:522a (1st sentence).	Aug. 5, 1947, ch. 493, Secs. 1, 6, 61 Stat. 774, 775; Sept. 28, 1951, ch. 434, Sec. 605 (as applicable to Act of Aug. 5, 1947, ch. 493, Sec. 1), 65 Stat. 366.
2667(b)	5:626s-3 (2d through 6th sentences). 10:1270 (2d through 6th sentences). 34:522a (2d through 6th sentences).	
2667(c)	5:626s-3 (last sentence). 10:1270 (last sentence). 34:522a (last sentence).	
2667(d)	5:626s-3 (less 1st 6 sentences). 10:1270 (less 1st 6 sentences). 34:522a (less 1st 6 sentences).	
2667(e)	5:626s-6. 10:1270d. 34:522e.	

In subsection (a), the words ``considers \* \* \* United States" are substituted for the words ``shall deem \* \* \* Government". The words ``and conditions" are omitted as surplusage. The words ``he considers" are substituted for the words ``in his judgment".

In subsection (a)(3), the words ``excess property, as defined by section 472 of title 40" are substituted for the words ``surplus to the needs of the Department within the meaning of the Surplus Property Act of 1944 [Act of October 3, 1944 (58 Stat. 765)]", in 5:626s-3, 10:1270, and 34:522a, since the words ``excess property" are so defined by the Federal Property and Administrative Services Act of 1949.

In subsection (b)(2), the words ``may give" are substituted for the first 12 words of the third sentence of 5:626s-3, 10:1270, and 34:522a.

The words ``if the lease is revoked to allow the United States to sell the property" are substituted for the words ``in the event of the revocation of the lease in order to permit sale thereof by the Government". The words ``under any other provision of law" are inserted for clarity. The words ``the first right to buy" are substituted for the words ``a right of first refusal". The words ``but this section shall not be construed as authorizing the sale of any property unless the sale thereof is otherwise authorized by law" are omitted as surplusage, since the revised section deals only with leases of property.

In subsection (b)(3), the words ``must permit" are substituted for the words ``Each such lease shall contain a provision permitting". The words ``from the lease" are omitted as surplusage.

In subsection (b)(5), the words ``any such lease" and ``of such property" are omitted as surplusage.

In subsection (c), the words ``This section does" are substituted for the words ``The authority herein granted shall".

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In subsection (e), the words "of property" are inserted for clarity. The words "leased under" are substituted for the words "made or created pursuant to". The words "may be taxed by State or local governments" are substituted for the words "shall be made subject to State or local taxation". The last sentence is substituted for the last sentence of 5:626s-6, 10:1270d, and 34:522e.

## Amendments

1993-Subsec. (f). Pub. L. 103-160, Sec. 2906(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

"Notwithstanding clause (3) of subsection (a), real property and associated personal property, which have been determined excess as the result of a defense installation realignment or closure, may be leased to State or local governments pending final disposition of such property if--

"(1) the Secretary concerned determines that such action would facilitate State or local economic adjustment efforts, and

"(2) the Administrator of General Services concurs in the action."

Subsec. (g). Pub. L. 103-160, Sec. 2906(b), added subsec. (g).

1992-Subsec. (b)(4). Pub. L. 102-484 inserted "in the case of the lease of real property," after "shall provide".

1991-Subsec. (b)(3). Pub. L. 102-190, Sec. 2862(a)(1), substituted "shall permit" for "must permit" and struck out "and" at end.

Subsec. (b)(4). Pub. L. 102-190, Sec. 2862(a)(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(5). Pub. L. 102-190, Sec. 2862(a)(2), (4), redesignated par. (4) as (5) and inserted "improvement," before "maintenance" and "the payment of" before "part or all".

Subsec. (d)(3). Pub. L. 102-190, Sec. 2862(b), redesignated subpar. (B) as par. (3), substituted "As part of the request for authorizations of appropriations submitted to the Committees on Armed Services of the Senate and House of Representatives for each fiscal year" for "As part of the request for authorizations of appropriations to such Committees for each fiscal year after fiscal year 1992", redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and struck out former subpar. (A) which read as follows: "As part of the request for authorizations of appropriations for fiscal year 1992 to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an explanation of each lease from which money rentals will be received and deposited under this subsection during fiscal year 1991, together with an estimate of the amount to be received from each such lease and an explanation of the anticipated expenditures of such receipts."

1990-Subsec. (d). Pub. L. 101-510 added pars. (1) to (3), redesignated former par. (2) as (4), and struck out former par. (1) which read as follows: "Except as provided in paragraph (2), money rentals received by the United States directly from a lease under this section shall be covered into the Treasury as miscellaneous receipts. Payments for utilities or services furnished to the lessee under such a lease by the department concerned may be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid."

1982-Subsec. (b)(4). Pub. L. 97-295 substituted "of" for "entitled `An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved" after "section 321 of the Act".

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Subsec. (d). Pub. L. 97-321 designated existing provisions as par. (1), substituted ``Except as provided in paragraph (2), money" for ``Money", and added par. (2).

1980-Subsec. (a)(3). Pub. L. 96-513, Sec. 511(92)(A), substituted ``section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)" for ``section 472 of title 40".

Subsec. (b)(4). Pub. L. 96-513, Sec. 511(92)(B), substituted ``section 321 of the Act entitled `An act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b)," for ``section 303b of title 40".

Subsec. (e). Pub. L. 96-513, Sec. 511(92)(C), substituted ``Act" for ``act".

Subsec. (f). Pub. L. 96-513, Sec. 511(92)(D), substituted ``the Secretary" for ``The Secretary", and substituted ``the Administrator of General Services" for ``The Administrator of the General Services Administration".

1976-Subsec. (b)(4), (5). Pub. L. 94-412 struck out par. (4) which required leases of nonexcess property of a military department include a provision making the lease revocable during a national emergency declared by the President, and redesignated par. (5) as (4).

1975-Subsec. (f). Pub. L. 94-107 added subsec. (f).

### **Change of Name**

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

### **Effective Date of 1980 Amendment**

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

### **Savings Provision**

Amendment by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of amendment, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

### **Leasing of Defense Property; Notification of Congress; Waiver; Report to Congress; Definition**

Pub. L. 96-533, title I, Sec. 109(a)-(e), Dec. 16, 1980, 94 Stat. 3137, which provided that before the Secretary of a military department exercised his authority under section 2667 of title 10, United States Code, in order to lease defense property to a foreign government for a period of more than six months, the President had to transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a written notification of the particulars of the proposed lease, was repealed by Pub. L. 97-113, title I, Sec. 109(d)(1), Dec. 29, 1981, 95 Stat. 1526. See section 2795 et seq. of Title 22, Foreign Relations and Intercourse.

### **Section Referred to in Other Sections**

This section is referred to in title 16 section 670a; title 22 section 2796.

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## **SEC. 2667a. Leases: non-excess property of Defense Agencies**

(a) **LEASE AUTHORITY.**—Whenever the Secretary of Defense considers it advantageous to the United States, the Secretary may lease to such lessee and upon such terms as the Secretary considers will promote the national defense or to be in the public interest, personal property that is—

- (1) under the control of a Defense Agency;
- (2) not for the time needed for public use; and
- (3) not excess property, as defined by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) **LIMITATION, TERMS, AND CONDITIONS.**—A lease under subsection (a)—

- (1) may not be for more than five years unless the Secretary of Defense determines that a lease for a longer period will promote the national defense or be in the public interest;
- (2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;
- (3) shall permit the Secretary to revoke the lease at any time, unless the Secretary determines that the omission of such a provision will promote the national defense or be in the public interest;
- (4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary; and
- (5) may provide, notwithstanding any other provision of law, for the improvement, maintenance, protection, repair, restoration, or replacement by the lessee, of the property leased as the payment of part or all of the consideration for the lease.

(c) **COMPETITIVE SELECTION.**—(1) If the term of a proposed lease under subsection (a) exceeds one year and the fair market value of the lease interest exceeds \$100,000, as determined by the Secretary of Defense, the Secretary shall use competitive procedures to select the lessee.

(2) Not later than 45 days before entering into a lease described in paragraph (1), the Secretary shall submit to Congress a written notice describing the terms of the proposed lease and the competitive procedures used to select the lessee.

(d) **DISPOSITION OF MONEY RENT.**—Money rentals received pursuant to a lease entered into by the Secretary of Defense under subsection (a) shall be deposited in a special account in the Treasury established for the Defense Agency whose property is subject to the lease. Amounts in a Defense Agency's special account shall be available, to the extent provided in appropriations Acts, solely for the maintenance, repair, restoration, or replacement of the leased property.

## **APPENDIX 4-3: 18 U.S.C. § 231 - CIVIL DISORDERS**

### **Sec. 231. - Civil disorders**

(a)

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(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function –

Shall be fined under this title or imprisoned not more than five years, or both.

(b) Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his official duties

### **APPENDIX 4-4: 18 U.S.C. § 1382 - ENTERING MILITARY, NAVAL, OR COAST GUARD PROPERTY**

#### **Sec. 1382. - Entering military, naval, or Coast Guard property**

Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof -

Shall be fined under this title or imprisoned not more than six months, or both

### **APPENDIX 4-5: 18 U.S.C. § 1385 - THE POSSE COMITATUS ACT (PCA)**

*See Appendix 2-1*

### **APPENDIX 4-6: 28 U.S.C. § 1346, 2671-2680 - FEDERAL TORT CLAIMS ACT**

**28 U.S.C. §1346, 2002**  
United States as Defendant

*Sec. 1346. United States as defendant*

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(a) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;

(2) Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

(b)(1) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.

(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 6226, 6228(a), 7426, or 7428 (in the case of the United States district court for the District of Columbia) or section 7429 of the Internal Revenue Code of 1986.

(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.

(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title.

### *SOURCE*

(June 25, 1948, ch. 646, 62 Stat. 933; Apr. 25, 1949, ch. 92, Sec. 2(a), 63 Stat. 62; May 24, 1949, ch. 139, Sec. 80(a), (b), 63 Stat. 101; Oct. 31, 1951, ch. 655, Sec. 50(b), 65 Stat. 727; July 30, 1954, ch. 648, Sec. 1, 68 Stat. 589; Pub. L. 85-508, Sec. 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 88-519, Aug. 30, 1964, 78 Stat. 699; Pub. L. 89-719, title II, Sec. 202(a), Nov. 2, 1966, 80 Stat. 1148; Pub. L. 91-350, Sec. 1(a), July 23, 1970, 84 Stat. 449; Pub. L. 92-562, Sec. 1, Oct. 25, 1972, 86 Stat. 1176; Pub. L. 94-455, title XII, Sec. 1204(c)(1), title XIII, Sec. 1306(b)(7), Oct. 4, 1976, 90 Stat. 1697, 1719; Pub. L. 95-563, Sec. 14(a), Nov. 1, 1978, 92 Stat. 2389; Pub. L. 97-164, title I, Sec. 129, Apr. 2, 1982, 96 Stat. 39; Pub. L. 97-248, title IV, Sec. 402(c)(17), Sept. 3, 1982, 96 Stat. 669; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102-572, title IX, Sec. 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104-134, title I, Sec. 101((a)) (title

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VIII, Sec. 806), Apr. 26, 1996, 110 Stat. 1321, 1321-75; renumbered title I, Pub. L. 104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-331, Sec. 3(b)(1), Oct. 26, 1996, 110 Stat. 4069.)

### *HISTORICAL AND REVISION NOTES*

#### 1948 ACT

Based on title 28, U.S.C., 1940 ed., Sec. 41(20), 931(a), 932 (Mar. 3, 1911, ch. 231, Sec. 24, par. 20, 36 Stat. 1093; Nov. 23,

1921, ch. 136, Sec. 1310(c), 42 Stat. 311; June 2, 1924, ch. 234, Sec. 1025(c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, Sec. 1122(c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, Sec. 410(a), 411, 60 Stat. 843).

Section consolidates provisions of section 41(20) conferring jurisdiction upon the district court, in civil actions against the United States, with the first sentence of section 931(a) relating to jurisdiction of the district courts in tort claims cases, and those provisions of section 932 making the provisions of said section 41(20), relating to counterclaim and set-off, applicable to tort claims cases, all of title 28, U.S.C., 1940 ed. Provision in section 931(a) of title 28, U.S.C., 1940 ed., for trials without a jury, is incorporated in section 2402 of this revised title. For other provisions thereof, see Distribution Table.

Words "commencing an action under this section" in subsec. (c) of this revised section cover the provision in section 932 of title 28, U.S.C., 1940 ed., requiring that the same provisions "for counterclaim and set-off" shall apply to tort claims cases brought in the district courts.

The phrase in section 931(a) of title 28, U.S.C., 1940 ed., "accruing on and after January 1, 1945" was omitted because

executed as of the date of the enactment of this revised title. Provisions in section 41(20) of title 28, U.S.C., 1940 ed., relating to time for commencing action against United States and jury trial constitute sections 2401 and 2402 of this title. (See reviser's notes under said sections.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., "commenced after passage of the Revenue Act of 1921" were not

included in revised subsection (a)(1) because obsolete and superfluous. Actions under this section involving erroneous or

illegal assessments by the collector of taxes would be barred unless filed within the 5-year limitation period of section 1113(a) of the Revenue Act of 1926, 44 Stat. 9, 116. (See *United States v. A. S. Kreider Co.*, 1941, 61 S.Ct. 1007, 313 U.S. 443, 85 L.Ed. 1447.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., "if the collector of internal revenue is dead or is not in office at the

time such action or proceeding is commenced" were omitted. The revised section retains the language of section 41(20) of

title 28, U.S.C., 1940 ed., with respect to actions against the United States if the collector is dead or not in office when action is commenced, and consequently maintains the long existing distinctions in practice between actions against the United States and actions against the collector who made the assessment or collection. In the latter class of actions either party may demand a jury trial while jury trial is denied in actions against the United States. See section 2402 of this title. In reality all such actions are against the United States and not against local collectors. (See *Lowe v. United States*, 1938, 58 S.Ct. 896, 304 U.S. 302, 82 L.Ed. 1362; *Manseau v. United States*, D.C.Mich. 1943, 52 F.Supp. 395, and *Combined Metals Reduction Co. v. United States*, D.C.Utah 1943, 53 F.Supp. 739.)

The revised subsection (c)(1) omitted clause: "but no suit pending on the 27th day of June 1898 shall abate or be affected by this provision," contained in section 41(20) of title 28, U.S.C., 1940 ed., as obsolete and superfluous. The words contained in section 41(20) of title 28, U.S.C., 1940 ed., "claims growing out of the Civil War, and commonly known as 'war-claims,' or to hear and determine other claims which had been reported adversely prior to the 3d day of March 1887 by any court, department, or commission authorized to have and determine the same," were omitted for the same reason.

The words "in a civil action or in admiralty," in subsection (a)(2), were substituted for "either in a court of law, equity, or admiralty" to conform to Rule 2 of the Federal Rules of Civil Procedure.

Words in section 41(20) "in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable" were omitted

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from subsection (a)(2) of this revised section as unnecessary. See reviser's note under section 1491 of this title.

For jurisdiction of The Tax Court to review claims for refunds of processing taxes collected under the unconstitutional Agriculture Adjustment Act, see sections 644-659 of title 7, U.S.C., 1940 ed., Agriculture, and the 1942 Revenue Act, Act Oct. 21, 1942, ch. 610, title V, Sec. 510(a), (c), (d), 56 Stat. 667. (See, also, *Lamborn v. United States*, C.C.P.A. 1939, 104 F.2d 75, certiorari denied 60 S.Ct. 115, 308 U.S. 589, 84 L.Ed. 493.) See, also, reviser's note under section 1491 of this title as to jurisdiction of the Court of Claims in suits against the United

States generally. For venue of actions under this section, see section 1402 of this title and reviser's note thereunder. Minor changes were made in phraseology.

## SENATE REVISION AMENDMENT

The provision of title 28, U.S.C., Sec. 932, which related to application of the Federal Rules of Civil Procedure, were originally set out in section 2676 of this revised title, but such section 2676 was eliminated by Senate amendment. See 80th Congress Senate Report No. 1559, amendment No. 61.

## 1949 ACT

This section corrects typographical errors in section 1346(a)(1) of title 28, U.S.C., and in section 1346(b) of such title.

## REFERENCES IN TEXT

The internal-revenue laws, referred to in subsec. (a)(1), are classified generally to Title 26, Internal Revenue Code. Sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978, referred to in subsec. (a)(2), are classified to sections 607(g)(1) and 609(a)(1) of Title 41, Public Contracts. Sections 6226, 6228(a), 7426, 7428, and 7429 of the Internal Revenue Code of 1986, referred to in subsec. (e), are classified to sections 6226, 6228(a), 7426, 7428, and 7429, respectively, of Title 26, Internal Revenue Code.

## AMENDMENTS

1996 - Subsec. (b). Pub. L. 104-134 designated existing provisions as par. (1) and added par. (2). Subsec. (g). Pub. L. 104-331 added subsec. (g).

1992 - Subsec. (a). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1986 - Subsec. (e). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1982 - Subsec. (a). Pub. L. 97-164 substituted "United States Claims Court" for "Court of Claims". Subsec. (e). Pub. L. 97-248 substituted "section 6226, 6228(a), 7426, or" for "section 7426 or section".

1978 - Subsec. (a)(2). Pub. L. 95-563 excluded from the jurisdiction of district courts civil actions or claims against the United States founded upon any express or implied contract with the United States or for damages in cases not sounding in tort subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978.

1976 - Subsec. (e). Pub. L. 94-455 inserted "or section 7429" and "or section 7428 (in the case of the United States district court for the District of Columbia)", after "section 7426".

1972 - Subsec. (f). Pub. L. 92-562 added subsec. (f).

1970 - Subsec. (a)(2). Pub. L. 91-350 specified that the term "express or implied contracts with the United States" includes express or implied contracts with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration.

1966 - Subsec. (e). Pub. L. 89-719 added subsec. (e).

1964 - Subsec. (d). Pub. L. 88-519 struck out provisions which prohibited district courts from exercising jurisdiction of civil actions or claims to recover fees, salary, or compensation for official services of officers or employees of the United States.

1958 - Subsec. (b). Pub. L. 85-508 struck out reference to District Court for Territory of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1954 - Subsec. (a)(1). Act July 30, 1954, struck out language imposing jurisdictional limitation of \$10,000 on suits to recover taxes.

1951 - Subsec. (d). Act Oct. 31, 1951, inserted references to "claim" and "employees".



## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

1949 - Subsec. (a)(1). Act May 24, 1949, Sec. 80(a), inserted ", (i) if the claim does not exceed \$10,000 or (ii)".

Subsec. (b). Acts Apr. 25, 1949, and May 24, 1949, Sec. 80(b), made a technical change to correct "chapter 173" to read "chapter 171", and inserted "on and after January 1, 1945" after "for money damages".

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-331 effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as an Effective Date note under section 1296 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

### EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as an Effective Date note under section 6221 of Title 26, Internal Revenue Code. Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

### EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91-350 provided that:

"(a) In addition to granting jurisdiction over suits brought after the date of enactment of this Act (July 23, 1970), the provisions of this Act (amending this section and section 1491 of this title and section 724a of former Title 31, Money and Finance) shall also apply to claims and civil actions dismissed before or pending on the date of enactment of this Act if the claim or civil action is based upon a transaction, omission, or breach that occurred not more than six years prior to the date of enactment of this Act (July 23, 1970).

"(b) The provisions of subsection (a) of this section shall apply notwithstanding a determination or judgment made prior to the date of enactment of this Act that the United States district courts or the United States Court of Claims did not have jurisdiction to entertain a suit on an express or implied contract with a nonappropriated fund instrumentality of the United States described in section 1 of this Act."

### EFFECTIVE DATE OF 1966 AMENDMENT

Section 203 of title II of Pub. L. 89-719 provided that: "The amendments made by this title (amending this section and sections 1402 and 2410 of this title) shall apply after the date of the enactment of this Act (Nov. 2, 1966)."

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

### TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

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For termination of the United States District Court for the District of the Canal Zone at end of the "transition period", being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 995, 1295, 1402, 1413, 2402, 2409a, 2671, 2676, 2677, 2678, 2679, 2680, 3901, 3902, 3903, 3905 of this title; title 2 section 190g; title 3 sections 435, 451, 453; title 5 sections 3373, 3374, 8477; title 10 sections 1054, 1089; title 14 sections 821, 823a; title 16 sections 450ss-3, 698v-5; title 18 section 2712; title 22 sections 2702, 3761, 4606; title 25 sections 640d-17, 1680c; title 26 section 7422; title 29 section 938; title 32 section 509; title 38 sections 515, 1151, 7316; title 41 sections 113, 602; title 42 sections 233, 238q, 405, 2212, 2221, 2223, 2458a, 4654, 5055, 7142c; title 43 section 1737; title 46 App. section 1242; title 47 section 606; title 48 section 1905; title 49 section 44309; title 50 App. sections 9, 2410.

*Source:* <http://uscode.house.gov/usc.htm>

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## UPDATE: None

### **28 U.S.C. §2671, et seq., 2002**

Federal Tort Claims Act

#### *Section 2671. Definitions*

As used in this chapter and sections 1346(b) and 2401(b) of this title, the term "Federal agency" includes the executive departments, the judicial and legislative branches, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States.

"Employee of the government" includes officers or employees of any federal agency, members of the military or naval forces of the United States, members of the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

"Acting within the scope of his office or employment", in the case of a member of the military or naval forces of the United States or a member of the National Guard as defined in section 101(3) of title 32, means acting in line of duty.

#### *Section 2672. Administrative adjustment of claims*

The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred: Provided, That any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee.

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award, compromise, or settlement in an amount in excess of \$2,500 made pursuant to this section or made by the Attorney General in any amount

pursuant to section 2677 of this title shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments and compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter.

The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the government whose act or omission gave rise to the claim, by reason of the same subject matter.

### *Section 2673. Reports to Congress*

The head of each federal agency shall report annually to Congress all claims paid by it under section 2672 of this title, stating the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim.

### *Section 2674. Liability of United States*

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.

With respect to any claim under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.

With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter.

### *Section 2675. Disposition by federal agency as prerequisite; evidence*

(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified

or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim.

(b) Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered

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evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages.

### *Section 2676. Judgment as bar*

The judgment in an action under section 1346(b) of this title shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the government whose act or omission gave rise to the claim.

### *Section 2677. Compromise*

The Attorney General or his designee may arbitrate, compromise, or settle any claim cognizable under section 1346(b) of this title, after the commencement of an action thereon.

### *Section 2678. Attorney fees; penalty*

No attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 25 per centum of any judgment rendered pursuant to section 1346(b) of this title or any settlement made pursuant to section 2677 of this title, or in excess of 20 per centum of any award, compromise, or settlement made pursuant to section 2672 of this title.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

### *Section 2679. Exclusiveness of remedy*

(a) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

(b)(1) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a civil action against an employee of the Government--

(A) which is brought for a violation of the Constitution of the United States, or

(B) which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized.

(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

(d)(1) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. A copy of the petition shall be served upon the United States in accordance with the provisions of Rule 4(d)(4) of the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Attorney General to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any action or proceeding subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of this title and shall be subject to the limitations and exceptions applicable to those actions.

(5) Whenever an action or proceeding in which the United States is substituted as the party defendant under this subsection is dismissed for failure first to present a claim pursuant to section 2675(a) of this title, such a claim shall be deemed to be timely presented under section 2401(b) of this title if--

- (A) the claim would have been timely had it been filed on the date the underlying civil action was commenced, and
- (B) the claim is presented to the appropriate Federal agency within 60 days after dismissal of the civil action.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.

### *Section 2680. Exceptions*

The provisions of this chapter and section 1346(b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.

(d) Any claim for which a remedy is provided by sections 741-752, 781-790 of Title 46, relating to claims or suits in admiralty against the United States.

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- (e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1-31 of Title 50, Appendix.
- (f) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.
- [(g) Repealed. Sept. 26, 1950, c. 1049, § 13(5), 64 Stat. 1043.]
- (h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights: Provided, That, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this chapter and section 1346(b) of this title shall apply to any claim arising, on or after the date of the enactment of this proviso, out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. For the purpose of this subsection, "investigative or law enforcement officer" means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.
- (i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.
- (j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.
- (k) Any claim arising in a foreign country.
- (l) Any claim arising from the activities of the Tennessee Valley Authority.
- (m) Any claim arising from the activities of the Panama Canal Company.
- (n) Any claim arising from the activities of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives.
- Source:* <http://uscode.house.gov/usc.htm>

### **APPENDIX 4-7: 31 U.S.C. § 1535 - AGENCY AGREEMENTS**

#### **Sec. 1535. - Agency agreements**

- (a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if -
- (1) amounts are available;
  - (2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;
  - (3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
  - (4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.
- (b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(c) A condition or limitation applicable to amounts for procurement of an agency or unit placing an order or making a contract under this section applies to the placing of the order or the making of the contract.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in -

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not -

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds

### APPENDIX 4-8: DODD 3025.12 - MILITARY ASSISTANCE FOR CIVIL DISTURBANCES

*See Appendix 2-4*

### APPENDIX 4-9: DODD 3025.15 - MILITARY ASSISTANCE TO CIVIL AUTHORITIES

#### Department of Defense DIRECTIVE

NUMBER 3025.15  
February 18, 1997

ASD(SO/LIC)

SUBJECT: Military Assistance to Civil Authorities

References:

- (a) Secretary of Defense Memorandum, "Military Assistance to Civil Authorities," December 12, 1995 (hereby canceled)
- (b) Deputy Secretary of Defense Memorandum, "Support of Civil Authorities in Airplane Hijacking Emergencies," July 29, 1972 (hereby canceled)
- (c) AR 385-70/AFR 55-13/OPNAVINST 3710.18B, "Unmanned Free Balloons and Kites, and Unmanned Rockets," December 13, 1965 (hereby canceled)
- (d) DoD Directive S-5210.36, "Provision of DoD Sensitive Support to DoD Components and Other Departments and Agencies of the U.S. Government," June 10, 1986
- (e) through (q), see enclosure 1

#### 1. PURPOSE

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This Directive:

1.1. Establishes DoD policy and assigns responsibilities for providing military assistance to civil authorities.

1.2. Supersedes reference (a).

1.3. Cancels references (b) and (c).

## 2. APPLICABILITY AND SCOPE

This Directive:

2.1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating, or planning for operations, as a Service in the Navy).

2.2. Governs all DoD military assistance provided to civil authorities within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof, including sensitive support requests under reference (d), civil disturbances under DoD Directive 3025.12, protection of key assets under DoD Directive 5160.54, DoD responses to civil emergencies under DoD Directive 3025.1, acts or threats of terrorism under DoD Directive 2000.12, and requests for aid to civil law enforcement authorities under DoD Directive 5525.5 (references (e) through (i)).

2.3. Does not apply to military service community affairs programs or innovative readiness training (formerly called "civil-military cooperative action programs"). 2.4. Does not apply to the Inspector General of the Department of Defense, the Defense Criminal Investigative Service, or the military criminal investigative organizations (MCIOs) when they are conducting joint investigations with civil law enforcement agencies of matters within their respective jurisdictions, using their own forces and equipment. Support by other components of the Department to such joint investigations is covered by this Directive.

## 3. DEFINITIONS

Definitions used in this Directive are defined in enclosure 2.

## 4. POLICY

It is DoD policy that:

4.1. The Department of Defense shall cooperate with and provide military assistance to civil authorities as directed by and consistent with applicable law, Presidential Directives, Executive Orders, and this Directive.

4.2. All requests by civil authorities for DoD military assistance shall be evaluated by DoD approval authorities against the following criteria:

4.2.1. Legality (compliance with laws).

4.2.2. Lethality (potential use of lethal force by or against DoD forces).

4.2.3. Risk (safety of DoD forces).



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4.2.4. Cost (who pays, impact on DoD budget).

4.2.5. Appropriateness (whether the requested mission is in the interest of the Department to conduct).

4.2.6. Readiness (impact on the DoD's ability to perform its primary mission).

4.3. The Secretary of the Army is approval authority for emergency support in response to natural or man-made disasters, as specified by this Directive.

4.4. The Secretary of Defense retains approval authority for support to civil authorities involving: use of Commander in Chief (CINC)-assigned forces (personnel, units, and equipment) when required under subsection 4.5., below; DoD support to civil disturbances; DoD responses to acts of terrorism; and DoD support that will result in a planned event with the potential for confrontation with specifically identified individuals and/or groups or will result in the use of lethal force. Nothing in this Directive prevents a commander from exercising his or her immediate emergency response authority as outlined in DoD Directive 3025.1 (reference (g)).

4.5. With the exception of immediate responses under imminently serious conditions, as provided in paragraph 4.7.1., below, any support that requires the deployment of forces or equipment assigned to a Combatant Command by Secretary of Defense Memorandum (reference (j)), must be coordinated with the Chairman of the Joint Chiefs of Staff. The Chairman shall evaluate each request to use Combatant Command forces or equipment to determine if there is a significant issue requiring Secretary of Defense approval. Orders providing assistance to civil authorities that are approved by the Secretary of Defense involving the use of Combatant Command forces or equipment shall be issued through the Chairman of the Joint Chiefs of Staff. Upon Secretary of Defense approval, the Secretary of the Army, when designated "the DoD Executive Agent," shall implement and oversee DoD support in accordance with such approved orders.

4.6. This Directive does not address non-Federalized National Guard assets in support of local and/or State civil agencies approved by the Governor. However, there exists potential for such deployments to result in confrontation, use of lethal force, or national media attention. Therefore, the Director of Military Support (DOMS) shall keep the Chairman of the Joint Chiefs of Staff and the Secretary of Defense informed of such support.

4.7. Requests for military assistance should be made and approved in the following ways:

4.7.1. Immediate Response. Requests for an immediate response (i.e., any form of immediate action taken by a DoD Component or military commander to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions) may be made to any Component or Command. The DoD Components that receive verbal requests from civil authorities for support in an exigent emergency may initiate informal planning and, if required, immediately respond as authorized in DoD Directive 3025.1 (reference (g)). Civil authorities shall be informed that verbal requests for support in an emergency must be followed by a written request. As soon as practical, the Component or Command rendering assistance shall report the fact of the request, the nature of the response, and any other pertinent information through the chain of command to the DoD Executive Secretary, who shall notify the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and any other appropriate officials. If the report does not include a copy of the civil authorities' written request, that request shall be forwarded to the DoD Executive Secretary as soon as it is available.

4.7.2. Loans of Equipment, Facilities, or Personnel to Law Enforcement. Requests for loans of equipment, facilities, or personnel made by law enforcement agencies, including the Coast Guard when not acting as part of the Navy, other than requests made under paragraph 4.7.1., above, shall be made and approved in accordance with DoD Directive 5525.5 (reference (i)), but at a level no lower than a flag or general officer, or equivalent civilian, with the following exceptions:

4.7.2.1. The Secretary of Defense is the approval authority for any requests for potentially lethal support (i.e., lethal to the public, a member of law enforcement, or a Service member) made by law enforcement agencies. Lethal support includes: loans of arms; combat and tactical vehicles, vessels or aircraft; or ammunition. It also includes: all requests for support under 10 U.S.C. 382 and 18 U.S.C. 831 (references (k) and (l)); all support to counterterrorism operations; and all support to law enforcement when there is a potential for confrontation between law enforcement and specifically identified civilian individuals or groups.

4.7.2.2. The Secretary of Defense is the approval authority for all assistance with the potential for confrontation between Department personnel and civilian individuals or groups.

4.7.2.3. If a DoD Component has a question on the appropriateness or legality of providing requested support, such requests shall be forwarded to the Secretary of Defense for review and approval.

4.7.2.4. Orders approved by the Secretary of Defense under this paragraph shall be processed, as prescribed in paragraph 4.7.3.5., below.

### 4.7.3. Support for Civil Disasters

4.7.3.1. When the Department of Defense is called upon to respond to civil emergencies (i.e., natural or man-made disasters) other than terrorism, and subject to subsection 4.5., above, the Secretary of the Army, as the DoD Executive Agent for the Secretary of Defense, is the approval authority for emergency support, as provided in DoD Directive 3025.1 (reference (g)).

4.7.3.2. A request for civil disaster support shall be made to the DOMS.

4.7.3.3. The DOMS, in coordination with the Director of Operations of the Joint Staff, shall review a support request to determine recommended courses of action that may be taken in response to the request. If approval of the Secretary of Defense is not required under subsection 4.5. or paragraph 4.7.2., above, or because support can be met by the Military Services or Defense Agency assets, DOMS shall submit the request for assistance, with recommended execute orders, to the Secretary of the Army for approval and subsequent tasking of the appropriate DoD Components, in accordance with DoD Directive 3025.1 (reference (g)). If based on initial coordination with the Director of Operations, Joint Staff, Secretary of Defense approval is required (as provided in subsection 4.5., above), DOMS shall develop and staff recommended execute orders and obtain concurrences or comments from appropriate DoD offices and the Secretary of the Army before forwarding the request, through the Chairman of the Joint Chiefs of Staff, to the Secretary of Defense for approval.

4.7.3.4. Requests for loans of equipment, facilities, or personnel by law enforcement agencies shall be processed under paragraph 4.7.2., above. 4.7.3.5. All orders approved by the Secretary of Defense shall be issued by DOMS upon the Chairman of the Joint Chiefs of Staff verification of such approval, and all orders approved by the Secretary of the Army acting as Executive Agent for the Secretary of Defense shall be issued through the DOMS to the appropriate DoD Component for execution, in accordance with DoD Directive 3025.1 (reference (g)). Such orders shall provide for post-deployment management of the Department's response by the Secretary of the Army, as the DoD Executive Agent for the Secretary of Defense.

4.7.4. Support for Domestic Civil Disturbances. The employment of active duty military forces in domestic civil disturbances may be requested only by the President or Attorney General and authorized only by the President. When requested by the Attorney General and approved by the Secretary of Defense or when authorized by the President, the Secretary of Defense shall employ active federal military forces under rules of engagement approved by General Counsel of the Department of Defense (GC,DoD) and the Attorney General. The Secretary of the Army, as Executive Agent for the Secretary of Defense, and with the advice and assistance of the Chairman of the Joint Chiefs of Staff, and the DOMS,

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shall direct the required DoD assistance, in accordance with DoD Directive 3025.12 (reference (e)), DoD Directive 5160.54 (reference (f)), and DoD Directive 3025.1 (reference(g)), unless otherwise directed by the Secretary of Defense. The Secretary of the Army, in coordination with the Chairman of the Joint Chiefs of Staff, shall at all times maintain contingency plans, with rules of engagement approved by the Department of Justice, for use in civil disturbance situations.

4.7.5. Support for Domestic Counterterrorism Operations. The employment of U.S. military forces in response to acts or threats of domestic terrorism may be requested only by the President (or in accordance with Presidential Decision Directives) and must be authorized by the President. All requests for assistance in responding to acts or threats of domestic terrorism must also be approved by the Secretary of Defense.

4.7.5.1. Informal action on counterterrorist support requests shall normally be requested by contacting the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD(SO/LIC)), who shall review such requests or actions from a policy perspective. Following the policy review, the informal request will be passed to the Joint Staff for operational analysis. Any requests requiring consequence management preparation shall be coordinated between the Joint Staff and DOMS staff.

4.7.5.2. When a formal or informal request for support is made, or the ASD (SO/LIC) determines that such a request is imminent, the ASD (SO/LIC) shall establish a Crisis Coordination Group (consisting of, at a minimum, representatives from the Office of the ASD (SO/LIC), Office of the Under Secretary of Defense (Comptroller) (USD (C)), Department of the Army, Joint Staff, and the office of the GC, DoD, to coordinate and integrate all aspects of the DoD response actions. Before submission of a request to the Secretary of Defense for approval, all crisis management requests shall be coordinated by the ASD (SO/LIC) with the GC, DoD and the USD (C), and shall be submitted to the Under Secretary of Defense for Policy (USD (P)) for a policy review.

4.7.5.3. The Secretary of Defense shall manage the DoD's response to any acts or threats of terrorism.

4.7.5.4. The Chairman of the Joint Chiefs of Staff shall assist the Secretary of Defense when he or she is implementing the DoD operational response to acts or threats of terrorism. The Chairman of the Joint Chiefs of Staff shall at all times maintain contingency plans for use in counterterrorism situations.

4.7.5.5. The Secretary of the Army, as the DoD Executive Agent of the Secretary of Defense for civil emergencies, shall direct and execute DoD consequence management assistance, in accordance with DoD Directive 3025.1 (reference (g)) and applicable Presidential Decision Directives, unless otherwise directed by the Secretary of Defense. The Secretary of the Army shall be assisted by the DOMS.

4.7.6. Sensitive Support Operations. Requests for sensitive support to civil authorities shall be governed by DoD Directive S-5210.36 (reference (d)).

4.7.7. Counterdrug Operational Support. Counterdrug operational support is not covered by this Directive.

4.8. Requests for any support that may require the approval of the Secretary of Defense shall be made in writing to the DoD Executive Secretary. Exceptions to this general rule are, as follows:

4.8.1. Requests made by the Federal Emergency Management Agency for disaster support (other than support required by a response to a terrorist event) shall be made to the DOMS, who shall promptly notify the Executive Secretary.

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4.8.2. Requests for sensitive support shall be made in accordance with DoD Directive S-5210.36 (reference (d)).

4.8.3. Requests for immediate support under imminently serious conditions made under paragraph 4.7.1., above may be made to the nearest DoD Component or military commander. Verbal requests shall be reduced to writing, and the DoD Component or military commander who approved the support shall forward that request to the DoD Executive Secretary of the Department of Defense as soon as possible after receipt.

4.9. Requests for support that are received by a DoD Component, other than the approval authority specified in section 4., above, shall be promptly forwarded by the receiving DoD Component to the approval authority or, if the approval authority cannot be determined, to the DoD Executive Secretary of the Department of Defense.

4.10. All requests for support from other Federal Agencies must be in writing. Each request for nonreimbursable support must provide a legal and factual justification for a waiver of reimbursement. All other requests must be accompanied by a fund citation pursuant to the "Economy Act" (reference (m)) or other reimbursement mechanism.

4.11. All requests for nonreimbursable support made by another Federal Agency must be approved by the Secretary of Defense. Upon receipt of such a request, the DoD Executive Secretary shall notify the Secretary of Defense and shall also forward copies to the USD (P), the USD (C), and the GC, DoD.

4.12. All requests for support from State and local agencies must be in writing. Each request for nonreimbursable support must provide a legal and factual justification for a waiver of reimbursement. All other requests must be accompanied by a statement that reimbursement will be made. Requests for nonreimbursable support made by state or local civil authorities shall be approved as provided in DoD Directive 5525.5 (reference (i)).

## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Develop, coordinate, and oversee the implementation of policy for DoD assistance to civil authorities; and, in coordination with the GC, DoD, shall ensure that such assistance is in compliance with applicable law, Presidential Directives, Executive Orders, and DoD Directives and CONPLANS and/or functional plans.

5.1.2. Ensure that the Deputy to the USD (P) for Policy Support shall:

5.1.2.1. Provide policy oversight for DoD responses to civil disturbances and civil emergencies pursuant to DoD Directive 5160.54 (reference (f)) and DoD Directive 3025.1 (reference (g)), respectively.

5.1.2.2. Coordinate with the ASD (SO/LIC) on matters covered by paragraph 5.1.3.1., below, as appropriate.

5.1.3. Ensure that the ASD (SO/LIC) shall:

5.1.3.1. Exercise policy oversight for and make recommendations on the use of U.S. counterterrorism special mission units, pursuant to DoD Directive 3025.12 (reference (e)).

5.1.3.2. Serve as the primary informal DoD entry point and coordination and policy review office for all actions dealing with counterterrorism crisis management, to include DoD responses to terrorism incidents, including weapons of mass destruction (WMD).

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5.1.3.3. Serve as the DoD coordination and policy review office for all actions dealing with domestic civil authorities on matters that involve combating terrorism.

5.2. The Under Secretary of Defense for Personnel and Readiness shall:

5.2.1. In coordination with the GC, DoD, develop, coordinate, and oversee the implementation of policy for all DoD noncounterdrug support to civil law enforcement authorities in accordance with DoD Directive 5525.5 (reference (i)) and as prescribed herein.

5.2.2. Coordinate long-range policies and procedures that govern the provision of nonemergency, noncounterdrug support to civilian law enforcement agencies or authorities in order to further DoD cooperation with public safety agencies under reference (i).

5.3. The Under Secretary of Defense (Comptroller) shall issue guidance for the funding of all DoD training and exercises involving DoD support to civil authorities, and shall designate the appropriate DoD office and/or command to consolidate DoD costs associated with DoD responses under the provisions of this and supporting DoD Directives.

5.4. The General Counsel of the Department of Defense shall coordinate with and advise the USD (P), the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Chairman of the Joint Chiefs of Staff, and other DoD officials, as appropriate, to ensure DoD military assistance to civil authorities is consistent with applicable law, Presidential Directives, Executive Orders, and DoD Directives.

5.5. The Under Secretary of Defense for Acquisition and Technology shall ensure that the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall:

5.5.1. Serve as the technological advisor to the Secretary of Defense, OSD Principal Staff Assistants, and the Secretary of the Army when designated as the DoD Executive Agent, on radiological accidents and WMD incidents, and terrorist incidents involving chemical and biological agents; system characteristics, composition, and safety features; interdepartmental technical responsibilities and the Federal radiological emergency response system; and technical capabilities of the various Federal response elements.

5.5.2. Ensure that all technological support provided under the Joint Chemical and/or Biological Defense Program and by the Defense Special Weapons Agency is coordinated with responsible Federal consequence and crisis management agencies and the GC, DoD, and is in compliance with applicable law, Presidential Directives, Executive Orders, and DoD Directives and CONPLANS and/or functional plans.

5.6. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, shall exercise policy oversight and provide coordination or recommendations concerning the use of DoD intelligence, information systems, and telecommunications assets in response to requests for assistance from civil authorities.

5.7. The DoD Executive Secretary shall be the principal OSD official responsible for keeping the Secretary of Defense and cognizant senior OSD officials informed of emergency and routine DoD military assistance requests from civil authorities, and shall be the DoD office of record for all such assistance, to include all relevant memoranda of understanding or agreement negotiated between the DoD Components and any external agency under DoD Instruction 4000.19 (reference (n)). The DoD Executive Secretary shall establish specific procedures to carry out those responsibilities.

5.8. The Secretary of the Army shall:

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5.8.1. Serve as DoD Executive Agent and act for the Secretary of Defense for the development of planning guidance, implementation, and procedures as delineated in DoD Directives 3025.12, 3025.1 (references (e) and (g)), and this Directive. In the event Combatant Command-assigned forces or equipment are not required, the Secretary of the Army, as the DoD Executive Agent, may task the DoD Components directly to provide support. For requests of forces assigned to the Combatant Commands, DOMS, as directed by the DoD Executive Agent, shall develop an execute order for submission through the Joint Staff to the Chairman of the Joint Chiefs of Staff to the Secretary of Defense, if required under subsection 4.5. or paragraph 4.7.2., above, for approval. Upon such approval, the Secretary of the Army shall direct and implement DoD support, in accordance with such approved orders.

5.8.2. Maintain a dedicated staff, established under the DOMS, to assist in carrying out assigned DoD Executive Agent responsibilities for responding to any of the following: civil disturbances, and civil emergencies, including disasters resulting from terrorism incidents involving WMD. Identify, in coordination with the Chairman of the Joint Chiefs of Staff, full time positions in the DOMS staff that are designated joint critical and necessary augmentation from the Joint Staff to reinforce the DOMS staff in the event such is needed during a crisis.

5.8.3. When forces assigned to the Combatant Commands are required for responses to civil disturbances and civil emergencies (natural or man-made disasters), provide, through the DOMS, to the Chairman of the Joint Chiefs of Staff all initial orders and subsequent orders modifying the forces required or rules of engagement to determine if Secretary of Defense approval is required under subsection 4.5. or paragraph 4.7.2., above. After approval by either the Secretary of Defense or the Secretary of the Army, direct and implement such orders. Nothing in this Directive shall prevent a commander from exercising his or her immediate emergency response authority, as outlined in reference (g).

5.8.4. Approve the deployment and employment of Military Department, Defense Agency, and DoD Field Activity resources, and transmit appropriate orders directing such deployment and employment in DoD responses to natural or man-made disasters that do not include forces assigned to the Combatant Commands.

5.8.5. Assist the Secretary of Defense as the DoD Executive Agent for civil emergencies (disaster consequence management) during the consequence management phase of terrorist incidents.

5.9. The Secretaries of the Military Departments shall:

5.9.1. Provide military support to civil authorities, in accordance with this Directive.

5.9.2. Ensure internal compliance with the approval authorities and execution procedures contained in this Directive when providing military assistance to civil law enforcement authorities.

5.9.3. Inform the Chairman of the Joint Chiefs of Staff and the USD(P&R) of any military support provided to civil authorities that affects readiness of military forces.

5.9.4. Ensure that all technological support provided to civil authorities is coordinated with responsible DoD offices of primary responsibility within OSD.

5.10. The Chairman of the Joint Chiefs of Staff shall:

5.10.1. Advise the Secretary of Defense on operational policies, responsibilities, and programs on the provision of military assistance to civil authorities.

5.10.2. Review all requests or proposals for DoD military assistance to civil authorities that involve the operational deployment and employment of forces (personnel and equipment), assigned to the Combatant Commands, as defined in Secretary of Defense Memorandum (reference (j)).

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5.10.3. Forward, if required under subsection 4.5. or paragraph 4.7.2., above, for Secretary of Defense approval, all requests for support, operational deployment and execution orders for the deployment and employment of forces assigned to the Combatant Commands to assist civil authorities.

5.10.4. Assist the Secretary of Defense when he or she is implementing DoD operational responses to threats or acts of terrorism.

5.10.5. Coordinate with the GC, DoD, and the USD(P) to ensure that DoD operational procedures for responding to threats or acts of terrorism comply with applicable law, Presidential Directives, Executive Orders, this Directive and other DoD guidance.

5.10.6. Assist the Secretary of the Army, in his or her DoD Executive Agent responsibilities for civil disturbance and disaster support and management, in developing planning guidance for providing military assistance to civil authorities under all conditions of war or attacks on the United States or its territories. Facilitate communications on such matters with the Commanders of the Combatant Commands, as appropriate; such communications will normally be transmitted through the DOMS, unless the Secretary of Defense directs otherwise.

5.10.7. To the extent feasible, ensure that the plans and operations for military support to civil authorities are compatible with other military plans. Inform the Secretary of Defense when such compatibility cannot be achieved or when plans and operations for military support to civil authorities will adversely affect military readiness. Adverse affects on military readiness shall also be reported to the USD (P&R).

5.10.8. Assist Commanders of the Combatant Commands to meet their operational requirements for providing military assistance to civil authorities that has been approved and directed by the Secretary of Defense.

5.10.9. Assist the Secretary of the Army in identifying select full-time positions as joint critical and designating Joint Staff members to augment the DOMS staff during a crisis to ensure the DOMS staff has adequate joint and Joint Staff expertise. In coordination with the DOMS, establish procedures for gaining approval for and directing the execution of DoD assistance to civil authorities by forces assigned to the Combatant Commands.

5.10.10. As part of the Chairman of the Joint Chiefs of Staff Exercise Evaluation Program, assess combatant command exercises that focus on military operational support for civil authorities to ensure that joint doctrinal and interoperability issues and appropriate lessons learned are captured.

5.11. The Heads of the DoD Components responsible for related DoD issuances, concept plans, and memoranda of understanding or agreement with external agencies shall ensure that such documents are in full compliance with this Directive.

### 6. INFORMATION REQUIREMENTS

6.1. The USD (C) shall establish procedures to capture financial costs and types and/or amount of support provided to civil authorities. Procedures shall include methods to obtain reimbursement from civil authorities, as appropriate.

6.2. Quarterly reports of support provided or denied shall be forwarded to the Executive Secretary for information. Support provided to civilian law enforcement authorities and agencies by the DoD Criminal Investigative Organizations under DoD Directive 5525.7 (reference (o)) shall be reported annually to the DoD Executive Secretary. Readiness issues shall be forwarded to the Chairman of the Joint Chiefs of Staff and the USD(P&R) for assessment and to the DoD Executive Secretary for information.

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6.3. DoD Directive 8910.1 (reference (p)) establishes policy for managing and controlling information requirements. DoD 8910.1-M (reference (q)) provides procedures for establishing, revising, and canceling information requirements; obtaining information from the public, non-DoD Federal Agencies, and the DoD Components; and operating reports management programs.

## 7. EFFECTIVE DATE

This Directive is effective immediately.

/S/  
John P. White  
Deputy Secretary of Defense

Enclosures - 2

1. References
2. Definitions

### E1. ENCLOSURE 1 REFERENCES, continued

- (e) DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," February 4, 1994
- (f) DoD Directive 5160.54, "DoD Key Assets Protection Program (KAPP)," June 10, 1994
- (g) DoD Directive 3025.1, "Military Support to Civil Authorities (MSCA)," January 15, 1993
- (h) [DoD Directive 2000.12](#), "DoD Combating Terrorism Program," September 15, 1996
- (i) DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (j) Secretary of Defense Memorandum, "Forces for Unified Command – FY 1996," November 18, 1995
- (k) Sections 382 and 1416 of title 10, United States Code
- (l) Section 831 of title 18, United States Code
- (m) Section 377 of title 10, United States Code, "Economy Act"
- (n) [DoD Instruction 4000.19](#), "Interservice and Intragovernmental Support," August 9, 1995
- (o) DoD Directive 5525.7, "Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," January 22, 1985
- (p) DoD Directive 8910.1, "Management and Control of Information Requirements," June 11, 1993
- (q) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 1986, authorized by DoD Directive 8910.1, June 11, 1993

### E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Civil Authorities. Nonmilitary Federal, State, or local government agencies.

E2.1.2. Civil Disturbances. Group acts of violence and disorders prejudicial to public law and order in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof.

E2.1.3. Civil Emergency. Any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure, as defined in DoD Directive 3025.1 (reference (g)).

E2.1.4. CINC-assigned forces. Any and all personnel and equipment of units assigned to the Combatant Commands by the Secretary of Defense Memorandum (reference (j)), or assets determined by the Chairman of the Joint Chiefs of Staff to have an impact on operational requirements or readiness. A list of assets not covered in reference (j) that have an impact on operations or readiness shall be provided by the Chairman of the Joint Chiefs of Staff to the DoD Components and updated on a periodic basis.



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E2.1.5. Consequence Management. Comprises those essential services and activities required to manage and mitigate problems resulting from disasters and catastrophes. Such services and activities may include transportation, communications, public works and engineering, fire fighting, information planning, mass care, resources support, health and medical services, urban search and rescue, hazardous materials, food, and energy.

E2.1.6. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in DoD Directive 3025.1 (reference (g)).

E2.1.7. Immediate Response. Any form of immediate action taken by a DoD Component or military commander, under the authorities outlined in DoD Directive 3025.12 (reference (e)), to assist civil authorities or the public to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions occurring where there has not been any declaration of major disaster or emergency by the President or attack.

E2.1.8. Military Assistance to Civil Authorities. Those DoD activities and measures covered under MSCA (natural and manmade disasters, see definition 9.) plus DoD assistance for civil disturbances, counterdrug, sensitive support, counterterrorism, and law enforcement.

E2.1.9. Military Support to Civil Authorities (MSCA). Those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

E2.1.10. Terrorism. The calculated use of violence or threat of violence to inculcate fear; intended to coerce; or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.

### APPENDIX 4-10: DODD 5525.5 - DOD COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS

*See Appendix 2-3*

### APPENDIX 4-11: EXECUTIVE ORDER 12656 - ASSIGNMENT OF EMERGENCY PREPAREDNESS RESPONSIBILITIES

#### **Executive Order 12656, November 18, 1988, Assignment of Emergency Preparedness Responsibilities**

Source: The provisions of Executive Order 12656 of Nov. 18, 1988, appear at 53 FR 47491, 3 CFR, 1988 Comp., p. 585, unless otherwise noted.

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and  
WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and  
WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

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WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

Part 1--Preamble

Section 101. National Security Emergency Preparedness Policy.

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

Sec. 102. Purpose.

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

Sec. 103. Scope.

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedures, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.

(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472.

Sec. 104. Management of National Security Emergency Preparedness.

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy.

(b) The National Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Director of the Federal Emergency Management Agency shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization

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preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedures will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

Sec. 105. Interagency Coordination.

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate with those organizations assigned responsibility in, Executive Order No. 12472, to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

### Part 2--General Provisions

Sec. 201. General. The head of each Federal department and agency, as appropriate, shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope, and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

(3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;

(4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:

(a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies;

(b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;

(5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;

(6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;

(7) Make policy recommendations to the National Security Council regarding national security emergency preparedness activities and functions of the Federal Government;

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- (8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;
- (9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;
- (10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;
- (11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;
- (12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the Federal Register, or to each agency designated to maintain the Federal Register in an emergency;
- (13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;
- (14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;
- (15) Consult and coordinate with the Director of the Federal Emergency Management Agency to ensure that those activities and plans are consistent with current National Security Council guidelines and policies.

Sec. 202. Continuity of Government. The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

Sec. 203. Resource Management. The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

- (1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;
- (2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;
- (3) Prepare plans and procedures to share between and among the responsible agencies resources such as energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;
- (4) Develop plans to set priorities and allocate resources among civilian and military claimants;
- (5) Identify occupations and skills for which there may be a critical need in the event of a national security emergency.

Sec. 204. Protection of Essential Resources and Facilities. The head of each Federal department and agency, within assigned areas of responsibility, shall:

- (1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;
- (2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;
- (3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

Sec. 205. Federal Benefit, Insurance, and Loan Programs. The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

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Sec. 206. Research. The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

Sec. 207. Redlegation. The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within that department or agency.

Sec. 208. Transfer of Functions. Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council.

Sec. 209. Retention of Existing Authority. Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

### Part 3--Department of Agriculture

Sec. 301. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Agriculture shall:

- (1) Develop plans to provide for the continuation of agricultural production, food processing, storage, and distribution through the wholesale level in national security emergencies, and to provide for the domestic distribution of seed, feed, fertilizer, and farm equipment to agricultural producers;
- (2) Develop plans to provide food and agricultural products to meet international responsibilities in national security emergencies;
- (3) Develop plans and procedures for administration and use of Commodity Credit Corporation inventories of food and fiber resources in national security emergencies;
- (4) Develop plans for the use of resources under the jurisdiction of the Secretary of Agriculture and, in cooperation with the Secretaries of Commerce, Defense, and the Interior, the Board of Directors of the Tennessee Valley Authority, and the heads of other government entities, plan for the national security emergency management, production, and processing of forest products;
- (5) Develop, in coordination with the Secretary of Defense, plans and programs for water to be used in agricultural production and food processing in national security emergencies;
- (6) In cooperation with Federal, State, and local agencies, develop plans for a national program relating to the prevention and control of fires in rural areas of the United States caused by the effects of enemy attack or other national security emergencies;
- (7) Develop plans to help provide the Nation's farmers with production resources, including national security emergency financing capabilities;
- (8) Develop plans, in consonance with those of the Department of Health and Human Services, the Department of the Interior, and the Environmental Protection Agency, for national security emergency agricultural health services and forestry, including:
  - (a) Diagnosis and control or eradication of diseases, pests, or hazardous agents (biological, chemical, or radiological) against animals, crops, timber, or products thereof;
  - (b) Protection, treatment, and handling of livestock and poultry, or products thereof, that have been exposed to or affected by hazardous agents;
  - (c) Use and handling of crops, agricultural commodities, timber, and agricultural lands that have been exposed to or affected by hazardous agents; and
  - (d) Assuring the safety and wholesomeness, and minimizing losses from hazards, of animals and animal products and agricultural commodities and products subject to continuous inspection by the Department of Agriculture or owned by the Commodity Credit Corporation or by the Department of Agriculture;
- (9) In consultation with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in agriculture-related international civil emergency preparedness planning and related activities.

Sec. 302. Support Responsibility. The Secretary of Agriculture shall assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical agricultural materials.

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## Part 4--Department of Commerce

Sec. 401. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Commerce shall:

- (1) Develop control systems for priorities, allocation, production, and distribution of materials and other resources that will be available to support both national defense and essential civilian programs in a national security emergency;
- (2) In cooperation with the Secretary of Defense and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;
- (3) In cooperation with the Secretary of Defense and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;
- (4) In cooperation with the Secretary of Defense, perform industry analyses to assess capabilities of the commercial industrial base to support the national defense, and develop policy alternatives to improve the international competitiveness of specific domestic industries and their abilities to meet defense program needs;
- (5) In cooperation with the Secretary of the Treasury, develop plans for providing emergency assistance to the private sector through direct or participation loans for the financing of production facilities and equipment;
- (6) In cooperation with the Secretaries of State, Defense, Transportation, and the Treasury, prepare plans to regulate and control exports and imports in national security emergencies;
- (7) Provide for the collection and reporting of census information on human and economic resources, and maintain a capability to conduct emergency surveys to provide information on the status of these resources as required for national security purposes;
- (8) Develop overall plans and programs to ensure that the fishing industry continues to produce and process essential protein in national security emergencies;
- (9) Develop plans to provide meteorological, hydrologic, marine weather, geodetic, hydrographic, climatic, seismic, and oceanographic data and services to Federal, State, and local agencies, as appropriate;
- (10) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in industry-related international (NATO and allied) civil emergency preparedness planning and related activities.

Sec. 402. Support Responsibilities. The Secretary of Commerce shall:

- (1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical materials;
- (2) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest and fishery products;
- (3) Assist, in consultation with the Secretaries of State and Defense, the Secretary of the Treasury in the formulation and execution of economic measures affecting other nations.

## Part 5--Department of Defense

Sec. 501. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Defense shall:

- (1) Ensure military preparedness and readiness to respond to national security emergencies;
- (2) In coordination with the Secretary of Commerce, develop, with industry, government, and the private sector, reliable capabilities for the rapid increase of defense production to include industrial resources required for that production;
- (3) Develop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between and among the military, civil government, and the private sector;
- (4) Develop and maintain damage assessment capabilities and assist the Director of the Federal Emergency Management Agency and the heads of other departments and agencies in developing and maintaining capabilities to assess attack damage and to estimate the effects of potential attack on the Nation;

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- (5) Arrange, through agreements with the heads of other Federal departments and agencies, for the transfer of certain Federal resources to the jurisdiction and/or operational control of the Department of Defense in national security emergencies;
- (6) Acting through the Secretary of the Army, develop, with the concurrence of the heads of all affected departments and agencies, overall plans for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States. This includes:
  - (a) Coordination of national security emergency water resource planning at the national, regional, State, and local levels;
  - (b) Development of plans to assure emergency provision of water from public works projects under the jurisdiction of the Secretary of the Army to public water supply utilities and critical defense production facilities during national security emergencies;
  - (c) Development of plans to assure emergency operation of waterways and harbors; and
  - (d) Development of plans to assure the provision of potable water;
- (7) In consultation with the Secretaries of State and Energy, the Director of the Federal Emergency Management Agency, and others, as required, develop plans and capabilities for identifying, analyzing, mitigating, and responding to hazards related to nuclear weapons, materials, and devices; and maintain liaison, as appropriate, with the Secretary of Energy and the Members of the Nuclear Regulatory Commission to ensure the continuity of nuclear weapons production and the appropriate allocation of scarce resources, including the recapture of special nuclear materials from Nuclear Regulatory Commission licensees when appropriate;
- (8) Coordinate with the Administrator of the National Aeronautics and Space Administration and the Secretary of Energy, as appropriate, to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies;
- (9) Develop, in coordination with the Secretary of Labor, the Directors of the Selective Service System, the Office of Personnel Management, and the Federal Emergency Management Agency, plans and systems to ensure that the Nation's human resources are available to meet essential military and civilian needs in national security emergencies;
- (10) Develop national security emergency operational procedures, and coordinate with the Secretary of Housing and Urban Development with respect to residential property, for the control, acquisition, leasing, assignment and priority of occupancy of real property within the jurisdiction of the Department of Defense;
- (11) Review the priorities and allocations systems developed by other departments and agencies to ensure that they meet Department of Defense needs in a national security emergency; and develop and maintain the Department of Defense programs necessary for effective utilization of all priorities and allocations systems;
- (12) Develop, in coordination with the Attorney General of the United States, specific procedures by which military assistance to civilian law enforcement authorities may be requested, considered, and provided;
- (13) In cooperation with the Secretary of Commerce and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;
- (14) In cooperation with the Secretary of Commerce and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;
- (15) With the assistance of the heads of other Federal departments and agencies, provide management direction for the stockpiling of strategic and critical materials, conduct storage, maintenance, and quality assurance operations for the stockpile of strategic and critical materials, and formulate plans, programs, and reports relating to the stockpiling of strategic and critical materials.

Sec. 502. Support Responsibilities. The Secretary of Defense shall:

- (1) Advise and assist the heads of other Federal departments and agencies in the development of plans and programs to support national mobilization. This includes providing, as appropriate:
  - (a) Military requirements, prioritized and time-phased to the extent possible, for selected end-items and supporting services, materials, and components;

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- (b) Recommendations for use of financial incentives and other methods to improve defense production as provided by law; and
- (c) Recommendations for export and import policies;
- (2) Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas;
- (3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;
- (4) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;
- (5) In consultation with the Secretaries of State and Commerce, assist the Secretary of the Treasury in the formulation and execution of economic measures that affect other nations;
- (6) Support the Secretary of State and the heads of other Federal departments and agencies as appropriate in the formulation and implementation of foreign policy, and the negotiation of contingency and post-emergency plans, intergovernmental agreements, and arrangements with allies and friendly nations, which affect national security;
- (7) Coordinate with the Director of the Federal Emergency Management Agency the development of plans for mutual civil-military support during national security emergencies;
- (8) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills.

### Part 6--Department of Education

Sec. 601. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Education shall:

- (1) Assist school systems in developing their plans to provide for the earliest possible resumption of activities following national security emergencies;
- (2) Develop plans to provide assistance, including efforts to meet shortages of critical educational personnel, to local educational agencies;
- (3) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, for dissemination of emergency preparedness instructional material through educational institutions and the media during national security emergencies.

Sec. 602. Support responsibilities. The Secretary of Education shall:

- (1) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills;
- (2) Support the Secretary of Health and Human Services in the development of human services educational and training materials, including self-help program materials for use by human service organizations and professional schools.

### Part 7--Department of Energy

Sec. 701. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

- (1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy resources, including:
  - (a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;
  - (b) In coordination with appropriate departments and agencies and in consultation with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;
  - (c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;
- (2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;



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- (3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;
- (4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;
- (5) In consultation with the Secretaries of State and Defense and the Director of the Federal Emergency Management Agency, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;
- (6) In consultation with the Secretaries of State and Defense, the Director of the Federal Emergency Management Agency, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;
- (7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;
- (8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common defense and security;
- (9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;
- (10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

### Sec. 702. Support Responsibilities. The Secretary of Energy shall:

- (1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, and local officials and private sector organizations to assess the radiological impact associated with national security emergencies;
- (2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;
- (3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;
- (4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

### Part 8--Department of Health and Human Services

#### Sec. 801. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Health and Human Services shall:

- (1) Develop national plans and programs to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies;
- (2) Promote the development of State and local plans and programs for provision of health, mental health, and medical services in national security emergencies;
- (3) Develop national plans to set priorities and allocate health, mental health, and medical services' resources among civilian and military claimants;
- (4) Develop health and medical survival information programs and a nationwide program to train health and mental health professionals and paraprofessionals in special knowledge and skills that would be useful in national security emergencies;
- (5) Develop programs to reduce or eliminate adverse health and mental health effects produced by hazardous agents (biological, chemical, or radiological), and, in coordination with appropriate Federal agencies, develop programs to minimize property and environmental damage associated with national security emergencies;
- (6) Develop guidelines that will assure reasonable and prudent standards of purity and/or safety in the manufacture and distribution of food, drugs, biological products, medical devices, food additives, and radiological products in national security emergencies;

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- (7) Develop national plans for assisting State and local governments in rehabilitation of persons injured or disabled during national security emergencies;
- (8) Develop plans and procedures to assist State and local governments in the provision of emergency human services, including lodging, feeding, clothing, registration and inquiry, social services, family reunification and mortuary services and interment;
- (9) Develop, in coordination with the Secretary of Education, human services educational and training materials for use by human service organizations and professional schools; and develop and distribute, in coordination with the Director of the Federal Emergency Management Agency, civil defense information relative to emergency human services;
- (10) Develop plans and procedures, in coordination with the heads of Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas.

Sec. 802. Support Responsibility. The Secretary of Health and Human Services shall support the Secretary of Agriculture in the development of plans related to national security emergency agricultural health services.

### Part 9--Department of Housing and Urban Development

Sec. 901. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Housing and Urban Development shall:

- (1) Develop plans for provision and management of housing in national security emergencies, including:
  - (a) Providing temporary housing using Federal financing and other arrangements;
  - (b) Providing for radiation protection by encouraging voluntary construction of shelters and voluntary use of cost-efficient design and construction techniques to maximize population protection;
- (2) Develop plans, in cooperation with the heads of other Federal departments and agencies and State and local governments, to restore community facilities, including electrical power, potable water, and sewage disposal facilities, damaged in national security emergencies.

### Part 10--Department of the Interior

Sec. 1001. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Interior shall:

- (1) Develop programs and encourage the exploration, development, and mining of strategic and critical and other nonfuel minerals for national security emergency purposes;
- (2) Provide guidance to mining industries in the development of plans and programs to ensure continuity of production during national security emergencies;
- (3) Develop and implement plans for the management, control, allocation, and use of public land under the jurisdiction of the Department of the Interior in national security emergencies and coordinate land emergency planning at the Federal, State, and local levels.

Sec. 1002. Support Responsibilities. The Secretary of the Interior shall:

- (1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical minerals;
- (2) Cooperate with the Secretary of Commerce in the identification and evaluation of facilities essential for national security emergencies;
- (3) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest products.

### Part 11--Department of Justice

Sec. 1101. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Attorney General of the United States shall:

- (1) Provide legal advice to the President and the heads of Federal departments and agencies and their successors regarding national security emergency powers, plans, and authorities;
- (2) Coordinate Federal Government domestic law enforcement activities related to national security emergency preparedness, including Federal law enforcement liaison with, and assistance to, State and local governments;
- (3) Coordinate contingency planning for national security emergency law enforcement activities that are beyond the capabilities of State and local agencies;

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- (4) Develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for the control of persons entering or leaving the United States;
- (5) Develop plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutions and resources during national security emergencies;
- (6) Provide information and assistance to the Federal Judicial branch and the Federal Legislative branch concerning law enforcement, continuity of government, and the exercise of legal authority during National security emergencies;
- (7) Develop intergovernmental and interagency law enforcement plans and counterterrorism programs to interdict and respond to terrorism incidents in the United States that may result in a national security emergency or that occur during such an emergency;
- (8) Develop intergovernmental and interagency law enforcement plans to respond to civil disturbances that may result in a national security emergency or that occur during such an emergency.

Sec. 1102. Support Responsibilities. The Attorney General of the United States shall:

- (1) Assist the heads of Federal departments and agencies, State and local governments, and the private sector in the development of plans to physically protect essential resources and facilities;
- (2) Support the Secretaries of State and the Treasury in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel, property, and other assets within the jurisdiction of the United States;
- (3) Support the Secretary of the Treasury in developing plans to control the movement of property entering and leaving the United States;
- (4) Support the heads of other Federal departments and agencies and State and local governments in developing programs and plans for identifying fatalities and reuniting families in national security emergencies;
- (5) Support the intelligence community in the planning of its counterintelligence and counterterrorism programs.

### Part 12--Department of Labor

Sec. 1201. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Labor shall:

- (1) Develop plans and issue guidance to ensure effective use of civilian workforce resources during national security emergencies. Such plans shall include, but not necessarily be limited to:
  - (a) Priorities and allocations, recruitment, referral, training, employment stabilization including appeals procedures, use assessment, and determination of critical skill categories; and
  - (b) Programs for increasing the availability of critical workforce skills and occupations;
- (2) In consultation with the Secretary of the Treasury, develop plans and procedures for wage, salary, and benefit costs stabilization during national security emergencies;
- (3) Develop plans and procedures for protecting and providing incentives for the civilian labor force during national security emergencies;
- (4) In consultation with other appropriate government agencies and private entities, develop plans and procedures for effective labor-management relations during national security emergencies.

Sec. 1202. Support Responsibilities. The Secretary of Labor shall:

- (1) Support planning by the Secretary of Defense and the private sector for the provision of human resources to critical defense industries during national security emergencies;
- (2) Support planning by the Secretary of Defense and the Director of Selective Service for the institution of conscription in national security emergencies.

### Part 13--Department of State

Sec. 1301. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of State shall:

- (1) Provide overall foreign policy coordination in the formulation and execution of continuity of government and other national security emergency preparedness activities that affect foreign relations;

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(2) Prepare to carry out Department of State responsibilities in the conduct of the foreign relations of the United States during national security emergencies, under the direction of the President and in consultation with the heads of other appropriate Federal departments and agencies, including, but not limited to:

- (a) Formulation and implementation of foreign policy and negotiation regarding contingency and post-emergency plans, intergovernmental agreements, and arrangements with United States' allies;
- (b) Formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral states;
- (c) Formulation and execution of political strategy toward hostile or enemy states;
- (d) Conduct of mutual assistance activities;
- (e) Provision of foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs;
- (f) Protection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad, in consultation with the Secretaries of Defense and Health and Human Services;
- (g) Protection of international organizations and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States, in coordination with the Attorney General and the Secretary of the Treasury;
- (h) Formulation of policies and provisions for assistance to displaced persons and refugees abroad;
- (i) Maintenance of diplomatic and consular representation abroad; and
- (j) Reporting of and advising on conditions overseas that bear upon national security emergencies.

Sec. 1302. Support Responsibilities. The Secretary of State shall:

- (1) Assist appropriate agencies in developing planning assumptions concerning accessibility of foreign sources of supply;
- (2) Support the Secretary of the Treasury, in consultation, as appropriate, with the Secretaries of Commerce and Defense, in the formulation and execution of economic measures with respect to other nations;
- (3) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;
- (4) Support the Director of the Federal Emergency Management Agency in the coordination and integration of United States policy regarding the formulation and implementation of civil emergency resources and preparedness planning;
- (5) Assist the Attorney General of the United States in the formulation of national security emergency plans for the control of persons entering or leaving the United States.

### Part 14--Department of Transportation

Sec. 1401. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Transportation shall:

- (1) Develop plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies;
- (2) Be prepared to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary of Transportation. This direction may include:
  - (a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems;
  - (b) Allocation of transportation resource capacity; and
  - (c) Emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation;
- (3) Develop plans to provide for the smooth transition of the Coast Guard as a service to the Department of the Navy during national security emergencies. These plans shall be compatible with the Department of Defense planning systems, especially in the areas of port security and military readiness;
- (4) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in transportation-related international (including NATO and allied) civil emergency preparedness planning and related activities;
- (5) Coordinate with State and local highway agencies in the management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and publicly owned highway maintenance equipment to assure efficient and safe use of road space during national security emergencies;

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- (6) Develop plans and procedures in consultation with appropriate agency officials for maritime and port safety, law enforcement, and security over, upon, and under the high seas and waters subject to the jurisdiction of the United States to assure operational readiness for national security emergency functions;
- (7) Develop plans for the emergency operation of U.S. ports and facilities, use of shipping resources (U.S. and others), provision of government war risks insurance, and emergency construction of merchant ships for military and civil use;
- (8) Develop plans for emergency management and control of the National Airspace System, including provision of war risk insurance and for transfer of the Federal Aviation Administration, in the event of war, to the Department of Defense;
- (9) Coordinate the Interstate Commerce Commission's development of plans and preparedness programs for the reduction of vulnerability, maintenance, restoration, and operation of privately owned railroads, motor carriers, inland waterway transportation systems, and public storage facilities and services in national security emergencies.

Sec. 1402. Support Responsibility. The Secretary of Transportation shall coordinate with the Secretary of Energy in the planning and management of transportation resources involved in the bulk movement of energy materials.

### Part 15--Department of the Treasury

Sec. 1501. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Treasury shall:

- (1) Develop plans to maintain stable economic conditions and a market economy during national security emergencies; emphasize measures to minimize inflation and disruptions; and, minimize reliance on direct controls of the monetary, credit, and financial systems. These plans will include provisions for:
  - (a) Increasing capabilities to minimize economic dislocations by carrying out appropriate fiscal, monetary, and regulatory policies and reducing susceptibility to manipulated economic pressures;
  - (b) Providing the Federal Government with efficient and equitable financing sources and payment mechanisms;
  - (c) Providing fiscal authorities with adequate legal authority to meet resource requirements;
  - (d) Developing, in consultation with the Board of Governors of the Federal Reserve System, and in cooperation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration Board, the Farm Credit Administration Board and other financial institutions, plans for the continued or resumed operation and liquidity of banks, savings and loans, credit unions, and farm credit institutions, measures for the reestablishment of evidence of assets or liabilities, and provisions for currency withdrawals and deposit insurance;
- (2) Provide for the protection of United States financial resources including currency and coin production and redemption facilities, Federal check disbursement facilities, and precious monetary metals;
- (3) Provide for the preservation of, and facilitate emergency operations of, public and private financial institution systems, and provide for their restoration during or after national security emergencies;
- (4) Provide, in coordination with the Secretary of State, for participation in bilateral and multilateral financial arrangements with foreign governments;
- (5) Maintain the Federal Government accounting and financial reporting system in national security emergencies;
- (6) Develop plans to protect the President, the Vice President, other officers in the order of presidential succession, and other persons designated by the President;
- (7) Develop plans for restoration of the economy following an attack; for the development of emergency monetary, credit, and Federal benefit payment programs of those Federal departments and agencies that have responsibilities dependent on the policies or capabilities of the Department of the Treasury; and for the implementation of national policy on sharing war losses;
- (8) Develop plans for initiating tax changes, waiving regulations, and, in conjunction with the Secretary of Commerce or other guaranteeing agency, granting or guaranteeing loans for the expansion of industrial capacity, the development of technological processes, or the production or acquisition of essential materials;
- (9) Develop plans, in coordination with the heads of other appropriate Federal departments and agencies, to acquire emergency imports, make foreign barter arrangements, or otherwise provide for essential material

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from foreign sources using, as appropriate, the resources of the Export-Import Bank or resources available to the Bank;

(10) Develop plans for encouraging capital inflow and discouraging the flight of capital from the United States and, in coordination with the Secretary of State, for the seizure and administration of assets of enemy aliens during national security emergencies;

(11) Develop plans, in consultation with the heads of appropriate Federal departments and agencies, to regulate financial and commercial transactions with other countries;

(12) Develop plans, in coordination with the Secretary of Commerce and the Attorney General of the United States, to control the movement of property entering or leaving the United States;

(13) Cooperate and consult with the Chairman of the Securities and Exchange Commission, the Chairman of the Federal Reserve Board, the Chairman of the Commodities Futures Trading Commission in the development of emergency financial control plans and regulations for trading of stocks and commodities, and in the development of plans for the maintenance and restoration of stable and orderly markets;

(14) Develop plans, in coordination with the Secretary of State, for the formulation and execution of economic measures with respect to other nations in national security emergencies.

Sec. 1502. Support Responsibilities. The Secretary of the Treasury shall:

(1) Cooperate with the Attorney General of the United States on law enforcement activities, including the control of people entering and leaving the United States;

(2) Support the Secretary of Labor in developing plans and procedures for wage, salary, and benefit costs stabilization;

(3) Support the Secretary of State in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel and property or other assets in the United States.

### Part 16--Environmental Protection Agency

Sec. 1601. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the Environmental Protection Agency shall:

(1) Develop Federal plans and foster development of State and local plans designed to prevent or minimize the ecological impact of hazardous agents (biological, chemical, or radiological) introduced into the environment in national security emergencies;

(2) Develop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation, assist in determining acceptable emergency levels of biological agents, and help to provide detection and identification of chemical agents;

(3) Develop, in coordination with the Secretary of Defense, plans to assure the provision of potable water supplies to meet community needs under national security emergency conditions, including claimancy for materials and equipment for public water systems.

Sec. 1602. Support Responsibilities. The Administrator of the Environmental Protection Agency shall:

(1) Assist the heads of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment;

(2) Advise the heads of Federal departments and agencies regarding procedures for assuring compliance with environmental restrictions and for expeditious review of requests for essential waivers.

### Part 17--Federal Emergency Management Agency

Sec. 1701. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Federal Emergency Management Agency shall:

(1) Coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies;

(2) Coordinate the development and implementation of plans for the operation and continuity of essential domestic emergency functions of the Federal Government during national security emergencies;

(3) Coordinate the development of plans, in cooperation with the Secretary of Defense, for mutual civil-military support during national security emergencies;

(4) Guide and assist State and local governments and private sector organizations in achieving preparedness for national security emergencies, including development of plans and procedures for assuring continuity of

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

government, and support planning for prompt and coordinated Federal assistance to States and localities in responding to national security emergencies;

(5) Provide the President a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies;

(6) Coordinate the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies;

(7) Develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private sector capabilities for national security emergency crisis management, population protection, and recovery in the event of an attack on the United States;

(8) Develop and support public information, education and training programs to assist Federal, State, and local government and private sector entities in planning for and implementing national security emergency preparedness programs;

(9) Coordinate among the heads of Federal, State, and local agencies the planning, conduct, and evaluation of national security emergency exercises;

(10) With the assistance of the heads of other appropriate Federal departments and agencies, develop and maintain capabilities to assess actual attack damage and residual recovery capabilities as well as capabilities to estimate the effects of potential attacks on the Nation;

(11) Provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs;

(12) Assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning, including the provision of:

(a) advice and assistance to the departments and agencies in alliance civil emergency planning matters;

(b) support to the United States Mission to NATO in the conduct of day-to-day civil emergency planning activities; and

(c) support facilities for NATO Civil Wartime Agencies in cooperation with the Departments of Agriculture, Commerce, Energy, State, and Transportation.

Sec. 1702. Support Responsibilities. The Director of the Federal Emergency Management Agency shall:

(1) Support the heads of other Federal departments and agencies in preparing plans and programs to discharge their national security emergency preparedness responsibilities, including, but not limited to, such programs as mobilization preparedness, continuity of government planning, and continuance of industry and infrastructure functions essential to national security;

(2) Support the Secretary of Energy, the Secretary of Defense, and the Members of the Nuclear Regulatory Commission in developing plans and capabilities for identifying, analyzing, mitigating, and responding to emergencies related to nuclear weapons, materials, and devices, including mobile and fixed nuclear facilities, by providing, inter alia, off-site coordination;

(3) Support the Administrator of General Services in efforts to promote a government-wide program with respect to Federal buildings and installations to minimize the effects of attack and establish shelter management organizations.

### Part 18--General Services Administration

Sec. 1801. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of General Services shall:

(1) Develop national security emergency plans and procedures for the operation, maintenance, and protection of federally owned and occupied buildings managed by the General Services Administration, and for the construction, alteration, and repair of such buildings;

(2) Develop national security emergency operating procedures for the control, acquisition, leasing, assignment, and priority of occupancy of real property by the Federal Government, and by State and local governments acting as agents of the Federal Government, except for the military facilities and facilities with special nuclear materials within the jurisdiction of the Departments of Defense and Energy;

(3) Develop national security emergency operational plans and procedures for the use of public utility services (other than telecommunications services) by Federal departments and agencies, except for Department of Energy-operated facilities;

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- (4) Develop plans and operating procedures of government-wide supply programs to meet the requirements of Federal departments and agencies during national security emergencies;
- (5) Develop plans and operating procedures for the use, in national security emergencies, of excess and surplus real and personal property by Federal, State, and local governmental entities;
- (6) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, with respect to Federal buildings and installations, to minimize the effects of attack and establish shelter management organizations.

Sec. 1802. Support Responsibility. The Administrator of General Services shall develop plans to assist Federal departments and agencies in operation and maintenance of essential automated information processing facilities during national security emergencies.

### Part 19--National Aeronautics and Space Administration

Sec. 1901. Lead Responsibility. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the National Aeronautics and Space Administration shall coordinate with the Secretary of Defense to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies.

### Part 20--National Archives and Records Administration

Sec. 2001. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Archivist of the United States shall:

- (1) Develop procedures for publication during national security emergencies of the Federal Register for as broad public dissemination as is practicable of presidential proclamations and Executive orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress;
- (2) Develop emergency procedures for providing instructions and advice on the handling and preservation of records critical to the operation of the Federal Government in national security emergencies.

### Part 21--Nuclear Regulatory Commission

Sec. 2101. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

- (1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;
- (2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under Section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;
- (3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

Sec. 2102. Support Responsibilities. The Members of the Nuclear Regulatory Commission shall:

- (1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying useable facilities, and estimating the time and actions necessary to restart inoperative facilities;
- (2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

### Part 22--Office of Personnel Management

Sec. 2201. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Personnel Management shall:

- (1) Prepare plans to administer the Federal civilian personnel system in national security emergencies, including plans and procedures for the rapid mobilization and reduction of an emergency Federal workforce;
- (2) Develop national security emergency work force policies for Federal civilian personnel;
- (3) Develop plans to accommodate the surge of Federal personnel security background and pre-employment investigations during national security emergencies.



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Sec. 2202. Support Responsibilities. The Director of the Office of Personnel Management shall:

- (1) Assist the heads of other Federal departments and agencies with personnel management and staffing in national security emergencies, including facilitating transfers between agencies of employees with critical skills;
- (2) In consultation with the Secretary of Defense and the Director of Selective Service, develop plans and procedures for a system to control any conscription of Federal civilian employees during national security emergencies.

### Part 23--Selective Service System

Sec. 2301. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of Selective Service shall:

- (1) Develop plans to provide by induction, as authorized by law, personnel that would be required by the armed forces during national security emergencies;
- (2) Develop plans for implementing an alternative service program.

### Part 24--Tennessee Valley Authority

Sec. 2401. Lead Responsibility. In addition to the applicable responsibilities covered in Parts 1 and 2, the Board of Directors of the Tennessee Valley Authority shall develop plans and maintain river control operations for the prevention or control of floods affecting the Tennessee River System during national security emergencies.

Sec. 2402. Support Responsibilities. The Board of Directors of the Tennessee Valley Authority shall:

- (1) Assist the Secretary of Energy in the development of plans for the integration of the Tennessee Valley Authority power system into nationwide national security emergency programs;
- (2) Assist the Secretaries of Defense, Interior, and Transportation and the Chairman of the Interstate Commerce Commission in the development of plans for operation and maintenance of inland waterway transportation in the Tennessee River System during national security emergencies.

### Part 25--United States Information Agency

Sec. 2501. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the United States Information Agency shall:

- (1) Plan for the implementation of information programs to promote an understanding abroad of the status of national security emergencies within the United States;
- (2) In coordination with the Secretary of State's exercise of telecommunications functions affecting United States diplomatic missions and consular offices overseas, maintain the capability to provide television and simultaneous direct radio broadcasting in major languages to all areas of the world, and the capability to provide wireless file to all United States embassies during national security emergencies.

Sec. 2502. Support Responsibility. The Director of the United States Information Agency shall assist the heads of other Federal departments and agencies in planning for the use of media resources and foreign public information programs during national security emergencies.

### Part 26--United States Postal Service

Sec. 2601. Lead Responsibility. In addition to the applicable responsibilities covered in Parts 1 and 2, the Postmaster General shall prepare plans and programs to provide essential postal services during national security emergencies.

Sec. 2602. Support Responsibilities. The Postmaster General shall:

- (1) Develop plans to assist the Attorney General of the United States in the registration of nationals of enemy countries residing in the United States;
- (2) Develop plans to assist the Secretary of Health and Human Services in registering displaced persons and families;
- (3) Develop plans to assist the heads of other Federal departments and agencies in locating and leasing privately owned property for Federal use during national security emergencies.

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## Part 27--Veterans' Administration<sup>1</sup>

Sec. 2701. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of Veterans' Affairs<sup>2</sup> shall:

- (1) Develop plans for provision of emergency health care services to veteran beneficiaries in Veterans' Administration medical facilities, to active duty military personnel and, as resources permit, to civilians in communities affected by national security emergencies;
- (2) Develop plans for mortuary services for eligible veterans, and advise on methods for interment of the dead during national security emergencies.

Sec. 2702. Support Responsibilities. The Administrator of Veterans' Affairs shall:

- (1) Assist the Secretary of Health and Human Services in promoting the development of State and local plans for the provision of medical services in national security emergencies, and develop appropriate plans to support such State and local plans;
- (2) Assist the Secretary of Health and Human Services in developing national plans to mobilize the health care industry and medical resources during national security emergencies;
- (3) Assist the Secretary of Health and Human Services in developing national plans to set priorities and allocate medical resources among civilian and military claimants.

## Part 28--Office of Management and Budget

Sec. 2801. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Management and Budget shall prepare plans and programs to maintain its functions during national security emergencies. In connection with these functions, the Director of the Office of Management and Budget shall:

- (1) Develop plans to ensure the preparation, clearance, and coordination of proposed Executive orders and proclamations;
- (2) Prepare plans to ensure the preparation, supervision, and control of the budget and the formulation of the fiscal program of the Government;
- (3) Develop plans to coordinate and communicate Executive branch views to the Congress regarding legislation and testimony by Executive branch officials;
- (4) Develop plans for keeping the President informed of the activities of government agencies, continuing the Office of Management and Budget's management functions, and maintaining presidential supervision and direction with respect to legislation and regulations in national security emergencies.

## Part 29—General

Sec. 2901. Executive Order Nos. 10421 and 11490, as amended, are hereby revoked. This Order shall be effective immediately.

Note:

E.O. 12656 was amended by E.O. 13074, February 9, 1998 (with respect to force deployment with respect to evacuation of U.S. citizens in threatened areas overseas)

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## AMENDMENT(S)

### **EO 13228, Establishing the Office of Homeland Security and the Homeland Security Council, October 8, 2001**

Sec. 9. Amendments to Executive Order 12656. Executive Order 12656 of November 18, 1988, as amended, is hereby further amended as follows:

- (a) Section 101(a) is amended by adding at the end of the fourth sentence: “, except that the Homeland Security Council shall be responsible for administering such policy with respect to terrorist threats and attacks within the United States.”

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(b) Section 104(a) is amended by adding at the end: “, except that the Homeland Security Council is the principal forum for consideration of policy relating to terrorist threats and attacks within the United States.”

(c) Section 104(b) is amended by inserting the words “and the Homeland Security Council” after the words “National Security Council.”

(d) The first sentence of section 104(c) is amended by inserting the words “and the Homeland Security Council” after the words “National Security Council.”

(e) The second sentence of section 104(c) is replaced with the following two sentences: “Pursuant to such procedures for the organization and management of the National Security Council and Homeland Security Council processes as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of those processes as the President may establish. The Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council and the Homeland Security Council on implementation of national security emergency preparedness policy.”

(f) Section 201(7) is amended by inserting the words “and the Homeland Security Council” after the words “National Security Council.”

(g) Section 206 is amended by inserting the words “and the Homeland Security Council” after the words “National Security Council.”

(h) Section 208 is amended by inserting the words “or the Homeland Security Council” after the words “National Security Council.”

### **Executive Order 13286, Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security February 28, 2003**

Sec. 42. Executive Order 12656 of November 18, 1988 (“Assignment of Emergency Preparedness Responsibilities”), as amended, is further amended by:

(a) striking “The Director of the Federal Emergency Management Agency” wherever it appears in sections 104(c) and 1702 and inserting “The Secretary of Homeland Security” in lieu thereof;

(b) striking “the Director of the Federal Emergency Management Agency” wherever it appears in sections 104(c), 201(15), 301(9), 401(10), 501(4), 501(7), 502(7), 601(3), 701(5), 801(9), 1302(4), 1401(4), 1701, and 1801(b), and inserting “the Secretary of Homeland Security” in lieu thereof;

(c) striking “consistent with current National Security Council guidelines and policies” in section 201(15) and inserting “consistent with current Presidential guidelines and policies” in lieu thereof;

(d) striking “Secretary” in section 501(9) and inserting “Secretaries” in lieu thereof;

(e) inserting “and Homeland Security” after “Labor” in section 501(9);

(f) striking “and” after “State” in section 701(6) and inserting a comma in lieu thereof;

(g) inserting “, and Homeland Security” after “Defense” in section 701(6);

(h) striking “the Director of the Federal Emergency Management Agency,” in section 701(6); and

(i) striking “Federal Emergency Management Agency” in the title of Part 17 and inserting “Department of Homeland Security” in lieu thereof.

Without prejudice to subsections (a) through (i) of this section, all responsibilities assigned to specific Federal officials pursuant to Executive Order 12656 that are substantially the same as any responsibility assigned to, or function transferred to, the Secretary of Homeland Security pursuant to the Homeland Security Act of 2002 (regardless of whether such responsibility or function is expressly required to be carried out through another official of the Department of Homeland Security or not pursuant to such Act), or intended or required to be carried out by an agency or an agency component transferred to the Department of Homeland Security pursuant to such Act, are hereby reassigned to the Secretary of Homeland Security.

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## APPENDIX 4-12: ASD MEMO-25MAR2003, IMPLEMENTATION GUIDANCE REGARDING THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE

See Clamo document database at [www.jagcnet.army.mil/clamo](http://www.jagcnet.army.mil/clamo)

## APPENDIX 4-13: AR 500-50 - CIVIL DISTURBANCES

Headquarters  
Department of the Army  
Washington, DC  
21 April 1972

### \*Army Regulation 500–50

Effective 1 June 1972

#### EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES

#### CIVIL DISTURBANCES

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By Order of the Secretary of the Army:

W.C. Westmoreland  
General, United States Army  
Chief of Staff

Official:

Verne L. Bowers  
Major General, United States Army  
The Adjutant General

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**History.** This publication has been reorganized to make it compatible with the Army electronic publishing database. No content has been changed.

**Summary.** This is a complete revision of AR 500-50 and changes are made throughout. Local limited supplementation of this regulation is permitted but is not required. If supplements are issued, Army Staff agencies and major Army commands will furnish one copy of each to the Deputy Chief of Staff for Operations and Plans (HQDA(DAM-ODS) WASH, DC 20310).

**Applicability.** Not applicable.

**Proponent and exception authority.** The proponent agency of this regulation is the Deputy Chief of Staff for Operations and Plans.

**Army management control process.** Not applicable.

**Supplementation.** Not applicable.

**Suggested Improvements.** Users are Invited to send comments and suggested improvements DA Form 2028 (Recom - mended Changes to Publications) direct to HODA (DAM-ODS) WASH DC 20310.

**Distribution.** Active Army, ARNG, and USAR. To be distributed in accordance with DA Form 12-9 requirements for AR, Emergency Employment of Army Resources: A (qty rqr block No. 398).

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## Chapter 1 GENERAL

### 1-1. Scope

This regulation prescribes responsibilities, policy, and guidance for the Department of the Army in planning and operations involving the use of Army resources in the control of actual or anticipated civil disturbances. Basic authority is contained in DOD Directive 3025.12, Employment of Military Resources in the Event of Civil Disturbances.

### 1-2. Explanation of terms

*a.* Civil authorities are those elected and appointed public officials and employees who constitute the governments of the 50 States, District of Columbia, Commonwealth of Puerto Rico, US possessions and territories, and political subdivisions thereof.

*b.* Civil disturbances are group acts of violence and disorders prejudicial to public law and order within the 50 States, District of Columbia, Commonwealth of Puerto Rico, US possessions and territories, or any political subdivision thereof. The term civil disturbance includes all domestic conditions requiring or likely to require the use of Federal Armed Forces pursuant to the provisions of 10 USC chapter 15.

*c.* Federal property is property owned, leased, possessed, or occupied by the Federal Government.

*d.* Federal function is any function, operation, or action, carried out under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof.

*e.* The Posse Comitatus Act (18 USC 1385) prohibits the use of the Army and Air Force to execute local, State or Federal laws, unless authorized by the Constitution or act of Congress.

*f.* An objective area is the city or other geographical location where a civil disturbance is occurring or is anticipated, and where Federal Armed Forces are, or may be, employed.

### 1-3. Basic policies

*a.* The protection of life and property and the maintenance of law and order within the territorial jurisdiction of any State are the primary responsibilities of State and local civil authorities. Generally, Federal Armed Forces are employed after State and local civil authorities have utilized all of their own forces which are reasonably available for use, and are unable to control the situation, or when the situation is, beyond the capabilities of State or local civil authorities, or when State and local civil authorities will not take appropriate action. Employment of Federal Armed Forces will take place only—

(1) under the provisions of this regulation; and

(2) when the Secretary of the Army, pursuant to the orders and policies of the Secretary of Defense and the President, has generally or specifically so ordered, except in cases of emergency (para 2-4). See paragraph 2-3.

*b.* The Secretary of the Army has been designated as the Executive Agent for the Department, of Defense in all matters pertaining to the planning for, and deployment and employment of military resources in the event of civil disturbances. The Department of the Army is responsible for coordinating the functions of all the Military Services in this activity for the Executive Agent. The Secretaries of the other Military Services are responsible for providing such assistance as may be requested by the Executive Agent.

*c.* Requests from civil authorities, the National Guard, and non-DOD Federal agencies for US Army resources may be honored in accordance with chapter 4. However, requesters should be encouraged to provide sufficient resources of their own to minimize the need for reliance on Army assistance. Availability of such assistance is contingent upon military requirements for the requested resources.

*d.* Persons not normally subject to military law taken into custody by the military forces incident to the use of armed forces, as contemplated by this regulation, will be transferred, as soon as possible, to the civil authorities. Prior to the establishment and operation of Army detention facilities, the designated task force commander will verify the fact that available Federal, State, and local confinement facilities and personnel can no longer effectively accommodate the number of persons apprehended who are awaiting arraignment and trial by civil jurisdiction. Further, this authority may be exercised only in the event Federal Armed Forces have been employed under the provisions of this regulation and only with the prior approval

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of the Chief of Staff, US Army. When the requirement exists for the establishment and operation of Army detention facilities during civil disturbances, the provisions of AR 190-20 will be complied with.

*e.* Whenever military aid is requested by civil authorities in the event of civil disturbances within the States of Alaska or Hawaii, the Commonwealth of Puerto Rico, or US possessions and territories, the commander of the unified command concerned coordinates the provision of such aid as directed by the DOD Executive Agent and consistent with defense priorities.

*f.* Units and members of the Army Reserve in active Federal service may be employed in civil disturbance operations in the same manner as other active forces. Units and members of the Army Reserve may be ordered to active duty for this purpose by the President as provided by law. Members of the Army Reserve, with their consent, may be ordered to active duty for civil disturbance operations under the provisions of 10 USC 672.

*g.* Civil disturbance information on civilian individuals or organizations will not be collected unless these activities can, in a reasonably direct manner, be related to a distinct threat of civil disturbance exceeding the law enforcement capabilities of local and State authorities. Collection of such information will be accomplished only on order of the Department of the Army following authorization by the Secretary or Under Secretary of the Army. (See para 3-1b(6) and 3-1c.)

### **1-4. Training**

Training of Active Army USAR, and NG forces for civil disturbance operations will be conducted in accordance with current training directives. See paragraph 3-4.

## **Chapter 2 EMPLOYMENT OF FEDERAL ARMED FORCES**

### **2-1. Common types**

In addition to the provisions of the Constitution and other basic legal principles, there are numerous statutes authorizing the employment of Federal Armed Forces in cases of violence, or for other specific purposes, within any State and within the territories of the United States. The possibility of employment under many of these provisions is considered remote, and only those instances where employment is most likely are treated in this paragraph. Additional constitutional and statutory provisions are cited in paragraph 2-2.

*a. To aid State civil authorities at the request of the State.* Article IV, section 4, of the Constitution makes it the duty of the Federal Government at the request of the legislature of any State (or of the Governor if the legislature cannot be convened), to protect the State against domestic violence. Congress has enacted legislation authorizing the President to utilize Federal Armed Forces for this purpose. See 10 USC 331, 3500.

*b. To enforce Federal authority.* Article II, Section 3, of the Constitution makes it the duty of the President to see that the laws of the United States are faithfully executed. Congress has implemented this provision by providing that whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or territory by the ordinary course of judicial proceedings, he may utilize such Federal Armed Forces as he deems necessary to enforce those laws or to suppress the rebellion. See 10 USC 332,3500.

*c. To protect the civil rights of citizens within any State.* The 14th Amendment of the Constitution forbids any State to deny equal protection of the laws to any person within its jurisdiction. In implementation of this provision and of Article II, Section 3, mentioned above, Congress has provided that whenever insurrection, civil violence, unlawful combinations, or conspiracies in any State so oppose, obstruct, or hinder the execution of the laws of the State, and of the United States, as to deprive any of the population of that State of rights, privileges, and immunities named in the Constitution and secured by laws, and the authorities of that State are unable, fail, or refuse to provide such protection, it will be deemed a denial by that State of the equal protection of the laws. Thereupon, it becomes the duty of the President to take such measures, by intervention with Federal Armed Forces, or by other means, as he deems necessary, to suppress such disturbances. See 10 USC 333, 3500.

### **2-2. Other statutory provisions**

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*a. Insurrection after intervention (see also para 2-1a, b, and c).* See 12 Stat. 257, 284 50 USC 205.

*b. Military areas and zones.* See 18 USC 1383.

*c. Miscellaneous.* The President is authorized by statutes to employ, at his discretion, the military forces for the following purposes. (See statutes cited for full text of laws, only the general purposes of which are herein stated):

(1) *Civil rights.* To authorize persons appointed to execute warrants issued to enforce certain law enacted for the safeguarding of civil rights to summon the land and naval forces for assistance. See 36 Stat. 1167,42 USC 1989.

(2) *Indians.* To remove unauthorized persons from lands belonging by treaty to Indian tribes. See 4 Stat. 730,25 USC 180.

(3) *Public lands.* For the preservation and protection of certain public lands and public lands generally. See 3 Stat. 651, 16 USC 593; See 1, act 3 March 1807, 2 Stat. 445; See 5, act 25 February 1885, 23 Stat. 322, 43 USC 1065; See 1, act 6 June 1900, 31 Stat. 618, 16 USC 78; act 30 March 1883, 22 Stat. 627,16 USC 23.

(4) *Offenses against neutrality.* To enforce neutrality by preventing belligerents in foreign wars from using territory of the United States and to prevent the illegal exportation of war material. See See. 14, act 4 March 1909, 35 Stat. 1901, as amended, 22 USC 462; Sec. 4, title II, act 15 June 1917,40 Stat. 225,22 USC 408.

(5) *Customs and public health.* To enforce customs laws of the United States. See 12 Stat. 256, 50 USC 220.

(6) *Quarantine and health laws.* To aid in the execution of quarantine and health laws. See 1 Stat. 619,42 USC 97.

(7) *Guano islands.* To protect the rights of the discoverer of a guano island. See 11 Stat. 120, 48 USC 1418.

### 2-3. Prerequisites of employment

*a. At the request of a State (para 2-1a).* Formal requests by a State for the assistance of Federal Armed Forces must originate with the legislature of the State concerned or with the Governor if the legislature cannot be convened, and should be made to the President. The Attorney General of the United States has been designated by the President to receive and coordinate preliminary requests from States for Federal military assistance under the authority cited in paragraph 2-1a. Should such an application, either formal or preliminary, be presented to a local commander, that commander will request the person making the application to transmit his request to the Attorney General. The commander will also inform the Army Chief of Staff of the fact of the request by the most expeditious means and will include a statement of all material facts known to him (exempt report, para 7-2o, AR 335-15).

*b. Presidential proclamation.* No employment orders will be issued by the Department of the Army for the purposes indicated in paragraph 2-1a, b, and c until the President directs the Secretary of Defense to take the necessary action. In practice this direction to the Secretary of Defense follows issuance of the proclamation required by law demanding that the insurgents cease and desist from acts of violence and disperse and retire peaceably forthwith. See 10 USC 334. This requirement does not preclude the alerting of forces and, if necessary, the prepositioning of forces by the Executive Agent. However, prepositioning of more than a battalion-sized unit will be undertaken only with the informal approval of the President.

*c. Department of the Army approval.* Due to the serious political and legal implications of employment of Federal Armed forces, prior Department of the Army approval of any intended employment is required in every case except for purposes Indicated in paragraph 2-8 or action in an emergency as justified under paragraph 2-4.

### 2-4. Emergency

*a.* In cases of sudden and unexpected invasion or civil disturbance, including civil disturbances incident to earthquake, fire, flood, or other public calamity endangering life or Federal property or disrupting Federal functions or the normal processes of government, or other equivalent emergency so imminent as to make it dangerous to await instructions from the Department of the Army requested through the most expeditious means of communications available, an officer of the Active Army in command of troops may take such action, before the receipt of instructions, as the circumstances of the case reasonably



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justify. However, in view of the availability of rapid communications capabilities, it is unlikely that action under this authority would be justified without prior Department of the Army approval while communications facilities are operating. Such action, without prior authorization, of necessity may be prompt and vigorous but should be designed for the preservation of law and order and the protection of life and property until such time as instructions from higher authority have been received, rather than as an assumption of functions normally performed by the civil authorities. In the event of civil disturbances requiring action before the receipt of instructions, the officer taking such action will report immediately his action, and the circumstances requiring it, to the Director of Military Support (DOMS), Department of the Army (DACS-MSO-W), by the most expeditious means of communication available, in order that appropriate instructions can be issued at the earliest possible time (exempt report, para 7-2o, AR 335-15).

*b.* Emergency explosive ordnance disposal service and emergency firefighting assistance may be provided in accordance with paragraphs 4-2b(1)(c)1 and 2. Instances of such assistance, which relate to civil disturbances, will be reported in the format shown in figure 4-2.

### **2-5. Restrictions**

*a.* Willful violation of the provisions of the Posse Comitatus Act (para 1-2e) is an offense punishable by fine or imprisonment, or both.

*b.* Federal law prohibits a person in the civil, military, or naval service of the United States from ordering, bringing, keeping, or having under his authority or control any troops or armed men at any place where a general or special elections being held, unless such force is necessary to repel armed enemies of the United States. Violations are punishable by fine or imprisonment, or both, and by disqualification from holding any office of honor, profit, or trust under the United States. See 18 USC 592 and 593.

### **2-6. Command authority**

*a.* In the enforcement of the laws, Federal Armed Forces are employed as a part of the military power of the United States and act under the orders of the President as Commander in Chief. When employment of Federal Armed Forces has taken place, the duly designated military commander at the objective area will act to the extent necessary to accomplish his mission. In the accomplishment of his mission, reasonable necessity is the measure of his authority, subject, of course, to instructions he may receive from his superiors.

*b.* Federal Armed Forces employed in aid of the civil authorities will be, under the command of, and directly responsible to, their military and civilian superiors through the Department of the Army chain of command. They will not be placed under the command of an officer of the State defense forces or of the National Guard not in the Federal service or of any local or State civil official. As directed by the Army Chief of Staff, military commanders will be responsive to authorized Federal civil officials.

### **2-7. Martial law**

It is unlikely that situations requiring the employment of Federal Armed Forces during civil disturbance operations will necessitate the declaration of martial law. When Federal Armed Forces are employed in the event of civil disturbances, their proper role is to support, not supplant civil authority. Martial law depends for its justification upon public necessity. Necessity gives rise to its imposition; necessity justifies its exercise; and necessity limits its duration. The extent of the military force used and the legal propriety of the measures taken, consequently, will depend upon the actual threat to order and public safety, which exists at the time. In most instances, the decision to impose martial law is made by the President, who normally announces his decision, by a proclamation, which usually contains his instructions concerning the exercise of martial law and any limitations thereon. However, the decision to impose martial law may be made by the local commander on the spot, if the circumstances demand immediate action, and time and available communications facilities do not permit obtaining prior approval from higher authority (para. 2-4). Whether or not a proclamation of martial law exists, it is incumbent upon commanders concerned to weigh every proposed action against the threat to public order and safety so that the necessity therefor may be ascertained. Except in the limited circumstances mentioned in paragraph, 2-4, when conditions requiring the imposition of martial law arise, the military commander at the scene will so inform the Army Chief of Staff, and await instructions (exempt report, para 7-2o, AR 335-15). When Federal Armed Forces have been employed in an objective area in a martial law situation, the population of the affected area will be informed of the rules of conduct and other restrictive measures the military is authorized to enforce. These

normally will be announced by proclamation or order and will be given the widest possible publicity by all available media. Federal Armed Forces ordinarily will exercise police powers previously inoperative in the affected area, restore and maintain order, insure the essential mechanics of distribution, transportation, and communications, and initiate necessary relief measures.

### **2–8. Protection of Federal property**

*a.* The right of the United States to protect Federal property or functions by intervention with Federal Armed Forces is an accepted principle of our Government. This form of intervention is warranted only where the need for protection exists and the local civil authorities cannot or will not give adequate protection. This right is exercised by executive authority and extends to all Federal property and functions.

*b.* AR 210-10 recognizes the commander's authority to maintain law and order on a military installation. To maintain law and order and protect his installation and the activities thereon, the commander may take such actions as are reasonably necessary and lawful, including ejection from, or denial of access to, the installation of individuals who threaten a civil disturbance upon or directed against the installation or its activities (see 18 USC 1382). If appropriate, such individuals may also be apprehended or restrained in accordance with AR 600-40.

*c.* When the commander of a class II installation/activity under the jurisdiction of a major Army command is, reasonably certain that a civil disturbance presents a threat to persons, property, or functions on, his installation/activity which is beyond the combined protection capability of his own and civil law enforcement resources and those of the appropriate major command, the major commander concerned will request support directly from CG CONARC.

*d.* When the commander of a class II installation/activity under the direct supervision of Headquarters, Department of the Army, is reasonably certain that a civil disturbance presents a threat to persons, property, or function/activity which is beyond the combined protection capability of his own and civil law enforcement resources, he will request support through appropriate CONUS Army to CG CONARC or MDW to DA, (DACSMSO-W) and advise the appropriate headquarters, Department of the Army, staff agency of such request.

*e.* Upon receiving requests for assistance from commanders as indicated in c and d above, the CG CONARC, has authority to employ augmentation forces as required to reinforce the internal security forces of class II installations/ activities. When such action is taken, the CG CONARC, will notify Department of the Army (DACS-AISO-W) through established command channels. If, however, because of its location within an area predominantly under civil rather than military jurisdiction, in the judgment of the major commander(s) involved there may be jurisdictional implications connected with the use of Federal troops to protect a class II installation/activity, no action will be taken until the appropriate major commander requests and receives specific instructions through established command channels from HQDA (DACS-MSO-W).

*f.* When an installation commander learns that a need for the protection of other Federal property or functions (except class I and class II installations/activities) exists, he will notify HQDA (DACS-MSO-IV) through established command channels.

### **2–9. End of commitment**

The use of Federal Armed Forces for civil disturbance operations should end as soon as the necessity therefor ceases and the normal civil processes can be restored. Determination of the end of the necessity will be made by the Department of the Army after coordination with the Department of Justice. The military, commander will submit his recommendations direct to HQDA (DACS-MSO-W) (exempt report, para 7-2y, AR 335-15).

## **Chapter 3 RESPONSIBILITIES**

### **3–1. Department of the Army**

Responsibilities assigned to the Secretary of the Army as DOD Executive Agent are contained in section VII, DOD Directive 3025.12. The following civil disturbance responsibilities are assigned within the Department of the Army:

*a. Chief of Staff, US Army.*

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(1) Exercises, through designated task force commanders, direction of Federal forces employed for the purpose of civil disturbance operations.

(2) Informs the Secretary of the Army of unusual military resource requirements (actual or potential) and other significant developments in connection with civil disturbance planning and operations.

*b. The Director of Military Support.*

(1) Coordinates the functions of all the Military Services when Federal military aid to civil authority in civil disturbances is required.

(2) Develops policies and procedures for—

(a) Calling or ordering to active Federal service—

1. The Army National Guard units or members required to carry out the provisions of the Presidential Executive Order or other appropriate authority.

2. The specific Air National Guard units or members required to carry out the provisions of the Presidential Executive Order or other appropriate authority.

(b) Providing military resources of the United States Army, consistent with defense priorities, including—

1. The military resources of the Army National Guard called or ordered to active Federal service under the provisions of (a)1 above.

2. The military resources of the Army Reserve ordered to active duty to carry out the purposes of this regulation.

(c) The employment of forces that may be required to carry out the purposes of DOD Directive 3025.12.

(3) Develops Department of the Army civil disturbance plans as required.

(4) Develops and establishes command and control facilities for alerting, moving, prepositioning, and employing Federal Armed Forces for civil disturbance operations.

(5) Provides for communications electronics support for Department of the Army, Federal agencies, and Army task forces employed in civil disturbance operations.

(6) Receives determination by the Secretary or Under Secretary of the Army that there is a distinct threat of a civil disturbance beyond the capability of local and State authorities to control, and communicates authorization for employment of Army intelligence collection resources to ACSI.

(7) In coordination with appropriate Department of the Army and other Federal agencies, provides essential planning, operational, logistics, and intelligence data to the National Military Command Center (NMCC) and the Military Service command centers on a timely basis to insure that the National Command Authorities and appropriate Military Service command authorities are adequately informed.

(8) Develops procedures for review and coordination of all DOD components' directives, instructions, and plans affecting civil disturbance planning and operations to assure conformity with DOD policies and DOD Executive Agent policies.

*c. Assistant Chief of Staff for Intelligence.* Initiates Department of the Army orders for activation of Army intelligence resources in civil disturbance situations when informed by the Director of Military Support of authorization by the Secretary or Under Secretary of the Army.

### 3-2. Contingency planning

*a.* Commanders of major US Army commands and activities within the 50 States, District of Columbia, Commonwealth of Puerto Rico, and US possessions and territories, and National Guard State Adjutants General will develop and maintain appropriate civil disturbance plans.

*b.* The Department of the Army and subordinate commanders will, upon request of the State Adjutant General, advise and assist the National Guard of the several States, Commonwealth of Puerto Rico, and the District of Columbia in planning for civil disturbance operations. In connection with contingency planning, CONUS Army commanders will advise State Adjutants General of Department of the Army operations plans and supporting CONUS Army and task force plans. Direct coordination of planning between CONUS Army commanders and State Adjutants General is authorized.

### 3-3. Military commander

*a.* In case of employment of Federal Armed Forces, the task force commander will cooperate with and assist, to the fullest extent possible, the Governor and other State and local authorities and forces, unless or until such cooperation interferes with the accomplishment of his mission.

b. The task force commander will accept and, if reasonably possible within the framework of his orders, comply with requests for assistance received from duly constituted civil authorities. Even though the task force commander may direct subordinate elements of his command to assist designated civil authorities or police officials, military personnel will not be placed under the command of civilians, but will be commanded and controlled by their military superiors through the chain of command. This requirement does not preclude the establishment of joint patrols and jointly manned fixed posts.

c. In carrying out his duties, the military commander will insure that only the minimum necessary force is used to restore order. He will observe the policies outlined in his instructions and the provisions of Field Manual 19-15, Civil Disturbances. The commander will insure positive control over loading and firing of weapons.

### 3-4. Training requests

The Department of Justice is responsible for Federal efforts directed toward improving and evaluating the capabilities of local civil law enforcement authorities to deal with civil disturbances. The Department of the Army will assist this effort by providing limited training assistance through the Department of Justice when requested by civil law enforcement authorities. Such requests will not be approved at the local level, but will be referred to the nearest United States Attorney, Department of Justice.

## Chapter 4

### FUNDING AND REQUESTS FOR MILITARY RESOURCES

#### 4-1. Funding and reporting

a. *Funding.* Participation of Federal Armed Forces in civil disturbance operations is an unprogrammed emergency requirement. Therefore, costs incurred by the Army as a result of operations under the Department of the Army Civil Disturbance Plan will be financed as prescribed below—

(1) *Resources employed under Army direction.*

(a) *Employment of Active Army forces.* Unless specified as reimbursable in the Army directive, expenses incurred in connection with a civil disturbance will be financed as follows:

1. Cost for travel and transportation (except commercial or Military Airlift Command airlift), communications, supplies, and other operating costs will be financed from funds, which are normally used for such purposes of the command sponsoring the movement of troops, and/or providing the Government-owned transportation.

2. Cost for commercial or MAC airlift incurred in the movement of troops (including troops of other Services) will be funded by CON ARC under the Secretary of the Army's responsibility as DOD Executive Agent.

3. Cost of military pay, allowances, subsistence and other costs to military personnel appropriations of military personnel on active duty will be financed in the normal manner.

(b) *Employment of Army Reserve units ordered to active duty.* The policies prescribed in (a)1 and 2 above also apply to Army Reserve units. When the President determines that it is necessary to increase the number of Army personnel on active duty beyond the number for which funds are provided in current Army appropriations, the cost of such increased Army military personnel is authorized as an excepted expense in accordance with the provisions of 34 Stat. 255, 41 USC 11 (section III, AR 37-20).

(2) *Resources employed without Department of the Army direction.* When Army expenditures are required for the immediate employment of Army resources required in case of sudden and unexpected civil disturbances or other emergencies endangering life or Federal property or disrupting the normal processes of Government, or in protecting life or Federal property or preventing the disruption of Federal activities, such expenses will be chargeable to funds available to the installation or command. The policies prescribed in (1) above apply, except that the use of commercial or MAC airlift will be financed from funds available to the Military Service, which directed the movement of troops.

(3) *Resources provided to civil authorities.* Loan or sale of Army equipment to civil authorities will be handled as follows:

(a) Loan or disposition of equipment other than sales of surplus Army equipment will be made in accordance with policies established in paragraphs 4-3 through 4-5.

(b) Sales of surplus Army equipment will be made in accordance with, AR 37-108, AR 37-151, and AR 755-1.

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*b. Reporting.* A Report of Civil Disturbance Operations Costs (RCS DD-A(AR) 1112) will be prepared in accordance with figure 4-1.

### **4-2. Military resources**

Paragraphs 4-2 through 4-5 provide general guidance in providing US Army resources to State and local governments and law enforcement agencies, National Guard units not in Federal service, and Federal agencies.

*a. Classification of resources.*

(1) US Army resources are classified in three groups as follows:

(a) *Group One.* Personnel, arms, ammunition, tank-automotive equipment and aircraft.

(b) *Group Two.* Riot control agents, concertina wire, and other like military equipment to be employed in control of civil disturbances which is not included in group one.

(c) *Group Three.* Firefighting resources (including operating personnel); equipment of a protective nature (such as masks, helmets, body armor vests), and other equipment not included in groups one or two (such as clothing, communications equipment, searchlights); and the use of Army facilities.

(2) Requests for personnel to be used in a direct law enforcement role are not within the purview of this section and must be made by the legislature or Governor of a State in accordance with 10 USC 331. Pursuant to the Posse Comitatus Act, US Army operating personnel employed in connection with loaned equipment may not be used in its direct law enforcement role.

(3) Repair parts and POL items are classified according to the group of the equipment for which the parts of POL are intended.

*b. Approval of request.*

(1) Requests for US Army resources will be considered for approval as follows:

(a) Requests for group one resources may be granted only with the personal approval of the DOD Executive Agent or, when designated by him for that purpose, the Under Secretary of the Army.

(b) Requests for group two resources may be granted only with the personal approval of the DOI Executive Agent or, when designated by him for that purpose, the Under Secretary of the Army or a task force commander employed at an objective area during a civil disturbance.

(c) Requests for group three resources, may be granted by the Secretary or Under Secretary of the Army, commanding generals of CONUS Armies and the MDW, and CINC of unified commands outside CONUS.

1. Installation commander, are authorized to provide emergency explosive ordnance disposal service in accordance with AR 75-14 and AR 75-15.

2. Where installation fire departments have mutual aid agreements with nearby civil communities, the installation commander is authorized to provide emergency civilian or mixed civilian/military firefighting assistance. In the absence of a mutual aid agreement and when in the best interest of the United States, a commander with group three approval authority is authorized to provide emergency civilian or mixed civilian/ military assistance in extinguishing fires and in preserving life or property from fire, within the vicinity of an installation. In either case, civilian firefighters, may be used provided:

*a.* In civil disturbance situations where there is significant danger of physical harm to firefighters, the civilian employees volunteer for the assignment. (Department of the Army civilian employees acting in this volunteer capacity are acting as Federal employees.)

*b.* Firefighting equipment is not to be used for riot control.

*c.* Civil authorities recognize that prior to the employment of Federal forces to assist in restoring law and order, the protection of firefighting crews and equipment is the responsibility in ascending order, of municipal, county, and State officials. Failure on the part of such authorities to recognize this responsibility and/or to provide adequate protection will be grounds for refusal to employ installation resources or for withdrawal of resources already employed. This requirement in no way infringes upon the right of the individual to use necessary force to protect himself from violent attack.

(2) Requests for groups one, two, or three resources, and for renewal of outstanding loans, may be denied at any level in the chain of command down to and including commanders delegated group three approval authority.

(3) Commanders having initial approval authority may grant, for good cause shown, a single extension's an outstanding loan. Extensions of type I loans (c(1) below) will be for a maximum of 15 days.

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Extensions of type II loans (c(2) below) will be for a maximum term of 90 days. Further extensions will be approved only at military departmental level.

*c. Categories of loan.* Loans are categorized by type, contingent upon the duration of the loan period.

(1) *Type I.* To meet an urgent need during an actual disorder. Loans of this type will be for the duration of the disorder, tip to a maximum term of 15 days, renewable only as provided in b(3) above.

(2) *Type II.* To meet a need in anticipation of an imminent threatened civil disorder. Such loans may be granted to a civil authority when a binding purchase contract has been executed to procure resources substantially similar to the military property requested and there is substantial lead time before delivery. Loans of this type will be for the duration of the procurement period tip to a maximum term of 90 days, renewable only as provided in b(3) above. The fact that a civil authority has submitted a purchase request for DOD surplus military equipment is not considered a binding purchase contract without assurance from the Defense Logistics Services Center that the items for which the purchase request is made can be delivered to the civil authority within a 90-day Period. See DOD Instruction 4160.23.

*d. Reports.* Civil Disturbances Report-Providing Resources to Civil Authorities, RCS DDA(AR) 1112 (fig. 4-2).

(1) Reports of all requests for Army resources (approved, denied, or pending) will be prepared by the appropriate approving authorities, using the format shown in figure 4-2, and forwarded through channels as follows:

(a) To Department of the Army (DACSMSO-W) in the case of requests received in CONUS.

(b) To Department of the Army (DACSMSO-W) with information copies to Joint Chiefs of Staff in the case of requests received by organizations or installations outside CONUS over which the commanders of unified commands exercise command authority.

(2) The DOMS Watch Team will transmit information copies of all approved requests for groups one and two resources to the DOD General Counsel and the Deputy Attorney General of the United States.

(3) A weekly summary will be compiled by DOMS from reports submitted by the Services and other DOD agencies, showing action taken (approved, denied, or pending) and submitted to the Deputy Attorney General; General Counsel, Department of Defense, Assistant Secretary of Defense (Installations and Logistics); Under Secretary of the Army; and the General Counsel, Department of the Army. Negative summary reports are required.

### 4-3. Loans to State and local governments and law enforcement agencies

*a. Policy.* As a temporary emergency measure, US Army resources under the control of the Department of the Army may be loaned to State and local governmental bodies and law enforcement agencies for use during civil disturbance operations.

*b. Processing of requests.* Requests from officials of the 50 States,\* the Commonwealth of Puerto Rico, and US possessions and territories, or any political subdivision thereof, for military resources for use in connection with civil disturbances will be promptly forwarded through channels to the appropriate approving authority (commanders of unified commands will coordinate such requests originating from are outside CONUS) using the format shown in figure, except as noted below—

*Note.* \*For loan purposes, the District of Columbia will be governed by paragraph 4-5. Loan to the government of the District of Columbia will be governed by this paragraph.

(1) Requests for resources that require DOD Executive Agent approval will be forwarded through channels to Department of the Army (DACS-MSO-W).

(2) Requests for group three resources not available to commanders having approval authority will be forwarded through channels to Department of the Army (DACS-MSO-W). Intermediate commands will, as appropriate, approve and make available the requested resources.

(3) Requests received by personnel of Defense agencies will be referred to local military commanders for processing.

(4) Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

(5) Requests from civil law enforcement agencies for training assistance, related to the control of civil disturbances will not be approved at the local level. Such requests should be referred to the nearest United States Attorney, Department of Justice.

*c. Loan agreements.* Written agreements will be executed concurrently with all loans of US Army property to civil authorities.

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(1) Loan agreements will include provisions for a fidelity bond in the amount of the total current item price of the loaded property.

(a) The fidelity bond will be (generally governed by the provisions of Part 2 of Sec. X, ASPR, and will consist of properly executed Standard Form 25 (Performance bond) or certified bank check, or cash or negotiable US bonds deposited with the Treasurer of the United States. The fidelity bond need not be posted by the borrowing agency itself; so long as the bond is valid, the source or originating agency is immaterial. For example, in order to secure a loan, a State may post bond on behalf of a city, county, or other governmental body or authority within the State.

(b) In an extreme emergency, when the requirement of posting bond would unduly delay approval of a valid request for loan of military property involving a total current item price of \$1,000 or less, a commander having approval authority under paragraph 4-2b may approve the request on the condition that bond be posted within a reasonable time not to exceed five day. Absolute waiver of the requirement to post bond will be granted only by the Secretary of the Army or his designee.

(c) Bond will be forfeited on account of failure to return loaned property only with the concurrence of the DOD Executive Agent. Requests for authority to forfeit bond will be transmitted to Department of the Army (DACSMSO-W) who will refer them to the proper authorities for action.

(2) A sample loan agreement is provided at figure 4-3.

(a) This format is for type I loans. For type II loans, the format is modified by substituting paragraph 2, figure 4-4 and adding exhibit IA, figure 4-5.

(b) When a cash deposit is used in lieu of a properly executed Standard Form 25, Performance Bond, this format is modified by substituting paragraph 7, figure 4-6.

(c) Modifications of the loan agreement format, except as authorized in this regulation, will be made only with the approval of the Under Secretary of the Army or his designee.

### **4-4. Loans to the National Guard**

#### *a. Policy.*

(1) Commanders having group three approval authority under paragraph 4-2b are authorized to approve requests for the loan of Army resources, less personnel, regardless of classification under paragraph 4-2a, of Active and Reserve forces to the National Guard of a State or the District of Columbia for use of its units in an active duty status in anticipation of or during civil disturbances. Firefighting and explosive ordnance disposal support may be provided, as a complete resource. to include personnel.

(2) Loans of Army resources will be approved, if possible, when the National Guard is authorized such resources and the Department of the Army is unable to provide them on a permanent basis. The National Guard of the several States, the Commonwealth of Puerto Rico, and the District of Columbia will be responsible for reimbursement of costs over and above normal Department of the Army operating expenses incurred in connection with loaned Department of the Army equipment. Guidance contained in paragraph 6, figure 4-3 pertaining to loans to civil authorities is also applicable to reimbursement by the National Guard.

(3) Military property-issued or loaned to the National Guard may not be farther loaned in connection with civil disturbances without approval of the National Guard Bureau and the DOD Executive Agent. Requests to do so will be forwarded to Department of the Army (DACSMSO-W).

*b. Processing of request.* Requests for US Army resources received from the National Guard will be promptly submitted through channels to the appropriate approving authority using the format shown in figure 4-2, except as noted below:

(1) Requests for resources that require DOD Executive Agent approval will be forwarded through channels to Department of the Army (DACSMSO-W).

(2) Requests for resources not available to commanders having group three-approval authority will be forwarded through channels to Department of the Army (DACSMSO-W). Intermediate commands will, as appropriate, approve and make available the requested resources.

(3) Requests for equipment, which involves operating personnel, excluding firefighting and explosive ordnance disposal, will be processed as a group one Army resource.

*c. Loan receipt.* The Receiving State will receipt for loaned Army property by completing the format shown at figure 4-7.

### **4-5. Loans to Federal agencies**

## DOPLAW HANDBOOK

### *a. Policy.*

(1) Commanders having group three approval authority under paragraph 4-2b are authorized to approve requests for the loan of group three military resources, less personnel, of Active and Reserve forces to non-DOD Federal agencies in anticipation of or during civil disturbances. Firefighting and explosive ordnance disposal support may be provided as a complete resource, including personnel.

(2) As required by 31 USC 686, Federal agencies will be responsible for reimbursement of costs in addition to normal Department of the Army operating expenses which are incurred in connection with loaned property. Reimbursement will be in accordance with AR 700-49 and DSAR 4140.27, except that Federal agencies shall not be required to make any payment on account of fair wear or tear or normal depreciation of any of the property.

(3) Army property loaned to Federal agencies may not be further loaned without the approval of the director of the requesting agency and the DOD Executive Agent. Requests to do so will be forwarded to Department of the Army (DACSMSO-W).

(4) Loans to the US Secret Service will be in accordance with AR 1-4.

*b. Proceming of request.* Requests for US Army resources received from Federal agencies will be promptly submitted through channels to the appropriate approving authority using the format shown in figure 4-2, except as noted Wow:

(1) Requests for resources that require DOD Executive Agent approval will be forwarded through channels to Department of the Army (DACS-MSO-W).

(2) Requests for resources not available to commanders having group three-approval authority will be forwarded through channels to Department of the Army (DACS-MSO-W). Intermediate commands will, as appropriate, approve and make available the request resources.

(3) Requests for equipment, which involve operating personnel excluding firefighting and explosive ordnance disposal, will be processed as for a Group One Army resource.

*c. Loan agreements.* Written agreements will be executed concurrently with all loans of Army property to Federal agencies in connection with civil disturbances.

(1) Neither fidelity bonds nor binding purchase contracts are required.

(2) A sample loan agreement is provided at figure 4-3. The words "Federal agencies" will be substituted for "civil authority." Other modifications to suit the sample format for use by Federal agencies may be made as necessary.



## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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### REPORT OF CIVIL DISTURBANCE OPERATIONS COST (US ARMY) (RCS DD-A(AR)1112)

#### 1. REQUIREMENTS

Costs\* reports will be submitted to Headquarters, Department of the Army, (DACA-FI), for the purpose of meeting requirements for staff information, reprogramming, or requesting additional funds to meet increased Army expenses resulting from costs associated with civil disturbance operations.

#### 2. SUBMITTING AGENCIES

All Army commands, agencies, and the Army General Staff will submit the required reports when expenses have been incurred that are attributable to civil disturbances.

#### 3. REQUIRED COST REPORTS

Initial report (estimated costs) will be submitted within 24 hours of a time to be designated by DOMS. The final report (actual costs) will be submitted within 12 working days after the termination of the redeployment phase of the civil disturbance operation. Reporting instructions ("as of" and due dates) will be disseminated by DOMS message.

#### 4. REIMBURSABLE COSTS

Operations costs for civil disturbances are payable from funds of agencies providing resources. To enable prompt reimbursement for resources, billing for reimbursable incremental costs will be accomplished within 30 days of submission of the final report of actual costs.

#### 5. INTERIM REPORTS

Interim reports may be required of a civil disturbance operation requires lengthy deployment of military forces. These interim reports, if required, will be requested by message or telephone. Interim reports will be based on the best cost information available at the time.

#### 6. PREPARATION INSTRUCTIONS

*a. General.* Costs will be identified and reported as normal operating costs, incremental costs, and total costs. Normal operating costs are those costs which would have been incurred in the absence of a civil disturbance. Incremental costs are those costs which would not have been incurred in the absence of a civil disturbance.

(1) Cost reports will include data reported separated for each city or location in which Federal forces are employed in civil disturbance operations. Costs shown will be net costs for each component, i.e., they will include and identify costs reimbursable to other DOD components or agencies and costs reimbursable to the reporting component or agency by other DOD components or agencies.

\*Costs are synonymous with obligations.

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Figure 4-1. REPORT OF CIVIL DISTURBANCE OPERATIONS COST (US ARMY) (RCS DD-A(AR)1112)

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(2) Report separately plus and minus reimbursable adjustments, between reporting component or agency and non-DOD Government agencies or civil authorities.

(3) Report the number of active duty military personnel, National Guard personnel, called to active Federal service and Reserve personnel ordered to active duty, employed as of the end of the month, unless the reporting period is less than a month (30 days). If less than a month, report the beginning and ending strengths for the reporting period. Data will reflect officer and enlisted strengths separately.

δ. Negative reports will not be submitted.

## 7. FORMAT

a. Dollar costs:

	(Thousands of \$)				Net
	Total	Normal	Reim- burse- ment to others	Incre- mental Reim- burse- ment from others	
(1) Military personnel, Army.					
(a) Active duty.	_____	_____			
(b) National Guard called to Federal service and mobilized Reserve.					
(c) NGPA (Savings)	(____)		_____	_____	_____
(d) RPA (Savings)	(____)				
TOTAL MPA	_____	_____			
(2) Procurement of equipment and missiles, Army.					
(a) Issues to military forces.	_____		_____	_____	_____
(b) Assistance to other Federal agencies (Identify separately by agency).	_____		_____	_____	_____
TOTAL PEMA	_____		_____	_____	_____
(3) Operation and maintenance, Army.					
(a) Temporary duty costs.	_____		_____	_____	_____
1. Military.	_____		_____	_____	_____
2. Civilian.	_____		_____	_____	_____
(b) Civilian overtime.	_____		_____	_____	_____
(c) Transportation.	_____		_____	_____	_____
1. USAF transportation.	_____		_____	_____	_____

Figure 4-1. REPORT OF CIVIL DISTURBANCE OPERATIONS COST (US ARMY) (RCS DD-A(AR)1112)—Continued

# APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

(Thousands of \$)							
	<u>Total</u>	<u>Normal</u>		<u>Reim- burse- ment to others</u>	<u>Incre- mental Reim- burse- ment from others</u>	<u>Net</u>	
2. Military motor transportation.	_____	_____		_____	_____	_____	
3. Army Air transportation.	_____	_____		_____	_____	_____	
(d) Assistance to other Federal agencies (identify separately by agency).	_____	_____		_____	_____	_____	
(e) Support to other DOD components and agencies (identify separately).	_____	_____		_____	_____	_____	
(f) Support to National Guard on State status.	_____	_____		_____	_____	_____	
(g) Support to civilian law enforcement agencies (identify separately by agency).	_____	_____		_____	_____	_____	
(h) Construction costs (identify individual line items whose cost exceeds \$500 per line).	_____	_____		_____	_____	_____	
(i) Material and supplies.	_____	_____		_____	_____	_____	
(j) Other OMA costs (identify individual line items whose cost exceeds \$500 per line).	_____	_____		_____	_____	_____	
TOTAL OMA	_____	_____		_____	_____	_____	
b. Number of forces employed.							
	<u>Active</u>		<u>Reserve</u>		<u>Federalized National Guard</u>		<u>Total</u>
	<u>Off</u>	<u>Enl</u>	<u>Off</u>	<u>Enl</u>	<u>Off</u>	<u>Enl</u>	<u>Off</u> <u>Enl</u>

Figure 4-1. REPORT OF CIVIL DISTURBANCE OPERATIONS COST (US ARMY) (RCS DD-A(AR)1112)—Continued

**CIVIL DISTURBANCES REPORT—PROVIDING RESOURCES TO  
CIVIL AUTHORITIES, RCS DD-A(AR)1112**

**1. All requests for assistance received, whether denied, approved or forwarded for approval, will be reported promptly (Reports Control Symbol DD-A(AR) 1112) in the following format:**

- a. DOD organization receiving request.
  - b. Place (city, town, village, county) of actual or anticipated civil disturbance.
  - c. Name and title of requesting official.
  - d. Date-time group (ZULU), request for assistance was received.
  - e. Scope of the disturbance or the threat of such a disturbance existing at the time of the request.
  - f. Type, group, and quantities of assistance requested.
  - g. Purpose for which the assistance was requested.
  - h. Anticipated duration the assistance will be required.
  - i. Anticipated impact on local community relations resulting from approval/disapproval of the request.
  - j. Statement as to whether the request was granted or denied (including date-time group (ZULU) of notification to requester) and the level at which the decision was made.
  - k. Reasons for denying or referring the request to higher headquarters.
  - l. If request referred to higher headquarters, provide a recommendation and comments, as appropriate, for approval or denial based upon knowledge of facts at hand.
  - m. If appropriate, provide additional information on emergency fire-fighting assistance provided in a civil disturbance situation.
  - n. Other pertinent information, e.g., effect on ability to perform assigned missions and if so, the extent and duration; category and duration of loan; and ability to provide items requested.
- 2. Appropriate security classification will be placed on this document when completed.**

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Figure 4-2. CIVIL DISTURBANCES REPORT-PROVIDING RESOURCES TO CIVIL AUTHORITIES, RCS DD-A(AR)1112

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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### LOAN AGREEMENT

This loan agreement is entered into by and between the United States of America, hereinafter called the Government, represented by (Name and title of military representative) for the purpose of entering into this agreement, and (City, county, State or other government body or authority) a (Definition) organized and existing under the authority of (Governing law), hereinafter called the civil authority, represented by (Name and title of civil authority's representative) for the purpose of entering into this agreement.

#### 1. PURPOSE

Under the authority of Department of Defense Directive 3025.12, and in consideration of the premises, the Government hereby lends to the civil authority and the civil authority hereby borrows from the Government the Government property, hereinafter called the property, listed and described in exhibit I hereto attached and incorporated by reference into the terms of this agreement, which property is required by the civil authority to assist in maintaining public civil order in the area over which it has jurisdiction.

#### 2. TERM

This loan of property is intended to meet an urgent need during actual civil disorder. The civil authority shall keep the property only for the actual duration of the disorder and in no case longer than 15 days after the date of this loan agreement, unless this agreement shall be renewed. Nevertheless, the Government may revoke and terminate this agreement and demand return of the property in whole or in part at any time.

#### 3. LIABILITY FOR USE OF PROPERTY

The Government shall make every effort to see that each item of the property is furnished in serviceable and usable condition according to its originally intended purpose. Nevertheless, the Government makes no warranty or guarantee of fitness of any of the property for a particular purpose or use, or warranty of any other type whatsoever. The civil authority assumes all responsibility for any liability or claims arising from the transportation, use, or possession of the property during the term of this loan, and agrees to hold the Government harmless from any such liability or claims.

#### 4. CARE OF PROPERTY

The civil authority is responsible for the care of the property during the term of this loan. The civil authority shall transport, use and store the property with due care and diligence. The civil authority shall safeguard and secure any high value items, any sensitive serial numbered items, and any arms and ammunition loaned by the Government in substantially the same manner as would the Government under its applicable regulations. The civil authority shall not mortgage, pledge, assign, transfer, sublet, or part with possession of any of the property in any manner to any third party either directly or indirectly, except that this provision shall not preclude the civil authority from permitting the use of the property by a third party with the prior written approval of the Government. The civil authority shall neither make nor permit any modification

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Figure 4-3. LOAN AGREEMENT

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to any of the nonexpendable property. At all times the Government shall have free access to all of the property for the purpose of inspecting or inventorying it.

#### 5. RETURN OF PROPERTY

The nonexpendable property, and all of the expendable property which has not been expended, shall be returned by the civil authority to the Government at the expiration or termination of this loan.

#### 6. PAYMENT

The civil authority shall reimburse the Government for expenses incurred in connection with this loan, as provided below :

a. Transportation expenses. The civil authority shall reimburse the Government for any expenses for movement of the property incurred by the Government incident to this loan, including those for necessary packing and crating, movement of the property from (Location) to (Location where the property will be used), and return of the property to (Location).

b. Repair expenses. The civil authority shall reimburse the Government for any expenses necessary to repair, rehabilitate, or replace parts of any of the property following its return to the Government, except that the civil authority shall not be required to make any payment on account of fair wear and tear or normal depreciation of any of the property.

c. Replacement expenses. The civil authority shall reimburse the Government (as indicated and at the price shown on Exhibit I) for the cost of all of the expendable property (including but not limited to petroleum, oil, and other lubricants) used or consumed during this loan, and for any of the property lost, destroyed, damaged beyond repair, or otherwise not available for return or not returned to the Government.

d. Personnel expenses. The civil authority shall reimburse the Government for costs incident to the pay of additional civilian personnel who may be temporarily required in connection with the loaned property, overtime pay of civilian personnel, and travel and per diem expenses of civilian and military personnel.

#### 7. BOND

The civil authority has provided a performance bond in the amount of the total value of the property as shown on Exhibit I, which performance bond is marked Exhibit II hereto attached and incorporated by reference into the terms of this agreement.

a. Should the civil authority fail to return any of the property as provided in paragraph 5 above, or fail to reimburse the Government within 30 days after receiving a request for payment of expenses, the bond shall be forfeited as liquidated damages in the amount equal to the expense to the Government computed in accordance with paragraph 6 above.

b. Payment of liquidated damages by forfeiture of any portion of the bond to the Government shall not operate as a sale to the civil authority of any of the property available to be returned but not returned to the Government, nor to extinguish the Government's right to have the available missing property returned.

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Figure 4-3. LOAN AGREEMENT—Continued

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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c. Should the civil authority later return to the Government any of the missing property on account of which a portion of the bond was forfeited as liquidated damages, the civil authority shall be entitled to recoup from the Government a sum equal to 90% of the price of the late returned property as shown on Exhibit I, less an amount in payment for expenses, if any, computed in accordance with paragraph 6 above, and less an amount for depreciation. If the normal life expectancy of an item can be determined by reference to applicable military publications, the amount for depreciation shall be computed by the straight line method, using the price shown on Exhibit I and the date of expiration or termination of this loan as initial points. When normal life expectancy is not established by applicable military publications, the amount for depreciation shall be computed by the same method, applying a uniform depreciation rate of 50% per annum.

### 8. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress shall be admitted to any share or part of this loan, or to any benefit arising in connection with it.

### 9. CONTINGENCY FEES

No persons or agency acting for or on behalf of the civil authority to solicit or obtain this loan shall be paid any commission, percentage, brokerage, or contingent fee in any way connected with this loan.

### 10. DISPUTES

Any disputes concerning a question or fact arising under this loan agreement which are not disposed of by mutual agreement shall be decided by the Secretary of the Army as the Government's Executive Agent for civil disturbance matters, or by his designee.

Done at (Place) this (Date) day of (Month) 19 (Year).

FOR THE GOVERNMENT:

FOR THE CIVIL AUTHORITY:

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Name and Title)

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Figure 4-3. LOAN AGREEMENT—Continued

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**CERTIFICATE**

I, the (Title) of the (City, county, State or other governmental body or authority), named as civil authority in this loan agreement, certify that (Name), who signed this agreement on behalf of the civil authority, was then (Title) of (City, county, State, or other governmental body or authority) and that this loan agreement was duly signed for and on behalf of (City, county, State, or other governmental body or authority) by authority of its governing body and is within the scope of its lawful powers. In witness whereof I have hereunto affixed my hand and seal of (City, county, State, or other governmental body or authority) this (Day) day of (Month) 19 (Year)

(OFFICIAL SEAL)

(Name and title of certifying officer)

**EXHIBIT I****MILITARY PROPERTY OF THE UNITED STATES**

<u>FEDERAL</u> <u>STK NO</u>	<u>NOMEN-</u> <u>CLATURE</u>	<u>QUAN-</u> <u>TITY</u>	<u>CURRENT ITEM</u> <u>PRICE, EACH</u>	<u>TOTAL</u> <u>PRICE</u>
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GRAND TOTAL

**EXHIBIT II**

Properly executed Standard Form 25, Performance Bond (June, 1967, ed.), or evidence of deposit acceptable in accordance with part 2 of sec X, ASPR, in the amount of the grand total shown on Exhibit I.

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Figure 4-3. LOAN AGREEMENT—Continued

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APPENDIX 4: MILITARY ASSISTANCE FOR  
CIVILIAN AUTHORITIES

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SUBSTITUTE PARAGRAPH 2

(For use when the civil authority has initiated procurement action and the term of the loan is to be longer than 15 days.)

2. TERM

This loan of property is intended to meet an urgent need connected with threatened civil disorder. The civil authority hereby covenants and certifies that it has made a binding purchase contract to procure for itself certain public property as listed and described on Exhibit 1A hereto attached and incorporated by reference into the terms of this agreement, and that the Government property which is the subject of this loan agreement, is required as a substitute only until delivery of the civil authority's own property listed and described in Exhibit 1A. The civil authority shall keep the Government property only until delivery of its own property, and in no case longer than 90 days after the date of this loan agreement, unless this agreement shall be renewed. Nevertheless, the Government may revoke and terminate this agreement and demand return of the property in whole or in part at any time.

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Figure 4-4. SUBSTITUTE PARAGRAPH 2

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EXHIBIT 1A

PROPERTY BEING PROCURED BY CIVIL AUTHORITY

<u>NOMENCLATURE</u>	<u>QUANTITY</u>	<u>SOURCE</u>	<u>DATE ORDERED</u>
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Figure 4-5. EXHIBIT 1A

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**SUBSTITUTE PARAGRAPH 7**

**(To be used when the civil authority posts bond in the form of a cash deposit as an alternative to a properly executed Standard Form 25, Performance Bond.)**

**7. CASH DEPOSIT**

The civil authority has deposited with the Government an amount of money which is equal to the total price of the property as shown on Exhibit I, which deposit is evidenced by Exhibit II hereto attached and incorporated by reference into the terms of this agreement.

a. Not later than 60 days after the expiration or termination of this agreement this deposit shall be returned to the civil authority, less an amount to compensate the Government for its expenses computed in accordance with paragraph 6 above.

b. Retention of a portion of the deposit by the Government shall not operate as a sale to the civil authority of any of the property available to be returned but not returned to the Government, nor to extinguish the Government's right to have the available missing property returned.

c. Should the civil authority later return to the Government any of the missing property on account of which a portion of the deposit was withheld by the Government, the civil authority shall be entitled to recoup from the Government a sum equal to 90% of the price of the late returned property as shown on Exhibit I, less an amount in payment for expenses, if any, computed in accordance with paragraph 6 above, and less an amount for depreciation. If the normal life expectancy of an item can be determined by reference to applicable military publications, the amount for depreciation shall be computed by the straight line method, using the price shown on Exhibit I and the date of expiration or termination of this loan as initial points. When normal life expectancy is not established by applicable military publication, the amount for depreciation shall be computed by the same method, applying a uniform depreciation rate of 50% per annum.

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Figure 4-6. SUBSTITUTE PARAGRAPH 7

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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(Date) \_\_\_\_\_

**LOAN RECEIPT**

As the authorized representative of the Adjutant General, State of (State), I acknowledge receipt from (Lending unit) this date, of the property described below, temporarily loaned to the National Guard of (State), under the provisions of the Department of the Army Civil Disturbance Plan dated \_\_\_\_\_.

FEDERAL STOCK NO.	NOMENCLATURE	QUANTITY
<p>It is understood that the National Guard of the State of <u>(State)</u> is responsible for the cost of transportation, repair, rehabilitation or replacement of the above property utilizing State funds. It is also understood that the use of this property is subject to the following limitations:</p> <p style="text-align: right; margin-top: 10px;">_____ Signature of AG Representative</p>		

Figure 4-7. LOAN RECEIPT

### APPENDIX 4-14: TABLE 2-1 AND 2-2, AR 700-131 – LOAN, LEASE AND DONATION OF ARMY MATERIEL

Table 2-1. Equipment normally executed on a reimbursable basis: agreements, bonds, and insurance requirements				
Borrower	Loan or lease agreement required	Surety bond required	Vehicular insurance required	Radioactive material license (as applicable)
Army or other DOD activities	See note (1)	No	No	Yes ( 5 , 6 )
Non-DOD Federal department and agencies	Yes	No	No	Yes
Civil authorities (State and local governments)	Yes	Yes ( 2 )	Yes (2)	Yes ( 7 )
Civilian activities (veteran's organizations, youth groups, etc.)	Yes	Yes	Yes	Yes (7)
Commercial Corporations	Yes	Yes ( 3 )	Yes ( 4 )	Yes (7)
<b>Notes:</b> 1. A hand receipt or other document assigning responsibility will suffice for retail activities. A loan agreement will be required for material on loan from wholesale activities. 2. In emergency disaster relief cases, bonds and insurance will be provided within 5 days after receipt of the materiel. 3. This applies when the <a href="#">Federal Acquisition Regulation (FAR) Part 45</a> and subparts are not applicable. 4. The requirement for a surety bond or insurance may be waived if one or the other is in effect. 5. For radioactive commodities, existing Army Commodity Licenses may cover the requirement. Contact the item manager for details.				

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6. For other DOD organizations, the service or agency license will probably cover the requirement. The DOD (recipient) representative must coordinate the license information.

7. An NRC license or a license from an NRC approved "Agreement State" will satisfy the requirement.

Table 2-2. Loan or lease approval authority				
Requester	Category of equipment	Loan period/extension	Action office	Approval authority
Authorized recipients ( para 2-11 )	Wholesale (Army Working Capital Fund) loans (nonexpendable items)	120 days/none (1-year repair program — other Services)	AMC MSC	HQAMC (AMCOPS-SLA)
All (leases)	Prototype/developmental major items	As required	SARD-SA	ASA (ALT)
Army and other DOD activities (RDT&E)	MACOM owned	1 year/none	Installation	Installation commander
	ARNG owned	1 year/none	USPFO	State AG
	USAR owned	1 year/none	Installation	USARC MSC
	Historical property (to include military art, arms, combat/ tactical vehicles, vessels and aircraft)	2 years/2years	DAMH-MD	Chief, CMH
	Prime Power Program	1 year/1 year	HQDA (ZCM)	Asst Chief of Engineers
	Floating plant	As negotiated	Water resource support center	Asst Chief of Engineers
	COMSEC	1 year/none	USACCSLA	USACCSLA
	Wholesale equipment (no readiness/DAMPL impact)	1 year/1 year	AMC MSC	HQAMC (AMCOPS-SLA)
	Wholesale equipment (readiness/DAMPL impact)	1 year/none	AMC MSC	HQDA ODCS, G-4
Army RDT&E activities; or Army procurement agencies for use by contractor personnel or Government contractor	Wholesale equipment (no readiness/DAMPL impact)	2 years/none	AMC MSC	HQAMC (AMCOPS-SLA)
	Wholesale equipment (readiness/DAMPL impact)	2 years/none	AMC MSC	HQDA ODCS, G-4 (DALO-SMP)

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

	Prime Power Program	1 year/1 year	HQDA (DAEN-ZCM)	Asst Chief of Engineers
	Floating plant	As negotiated	Water resource support center	Asst Chief of Engineers
	COMSEC	2 years/none	USACSLA	USACSLA
Federal departments and agencies (non-DOD)	All arms, combat/ tactical vehicles, vessels and aircraft (fielded equipment)	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
	Prime Power Program	1 year/1 year	HQDA (DAEN-ZCM)	Asst Chief of Engineers
	Floating Plant	As negotiated	Water Resource Support Center	Asst Chief of Engineers
	Wholesale equipment (no readiness/DAMPL impact), other than arms, combat/ tactical vehicles, vessels and aircraft	1 year/1 year	AMC MSC	HQAMC (AMCOPS-SLA)
	Wholesale equipment (readiness/DAMPL impact), other than arms, combat/ tactical vehicles, vessels and aircraft	1 year/none	AMC MSC	HQDA ODCS, G-4 (DALO-SMP)
	Medical (other than combat/tactical vehicles, vessels and aircraft)	Over 180 days	DASG-LOZ	HQDA (DASG-LOZ)
	Medical (ARNG owned, other than combat/tactical vehicles, vessels and aircraft)	Fewer than 180 days	USFPO	State AG
	Medical (MACOM owned, other than combat/ tactical vehicles, vessels and aircraft)	Fewer than 180 days	Commander, U.S. Army Medical Center (MEDCEN)/ Medical Department Activity (MEDDAC)	Installation commander
	Medical (USAR owned, other combat/ vehicles, vessels and aircraft)	Fewer than 180 days	Installation	USAR MSC
	Medical (wholesale owned), other than combat/ tactical vehicles, vessels and aircraft	Fewer than 180 days	U.S. Army Medical Materiel Agency	Commander, USAMMA

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	MACOM owned (other equipment), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	Installation commander
	Historical property (to include military art, arms, combat/ tactical vehicles, vessels and aircraft)	2 years/2 years	DAMH-MD	Chief, CMH
	USAR owned (other equipment), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	USAR MSC
	ARNG owned (other equipment), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	USPFO	State AG
National Museum	Historical property, to include military art, arms, combat/ tactical vehicles, vessels and aircraft	As required for exhibition	DAMH-MD	Chief, CMH
Activities outside Federal Government:				
State; local government agencies; schools; churches; commercial activities	All arms, combat/tactical vehicles, vessels and aircraft (fielded equipment)	As required	HQDA (DALO-SMP)	ASA (ALT)
	Medical (other than combat/tactical vehicles, vessels and aircraft)	Over 180 days	HQDA (DASG-LOZ)	HQDA (DASG-LOZ)
	Medical (MACOM owned), except arms, combat/ tactical vehicles, vessels and aircraft	Fewer than 180 days	MEDCEN MEDDAC	Installation commander
	Other equipment, wholesale (no readiness/DAMPL impact), except arms, combat/tactical vehicles, vessels and aircraft	1 year/ 1 year	AMC MSC	HQAMC (AMCOPS-SLA)
	Other equipment,	1 year/none	AMC MSC	HQ <a href="#">ODCS</a> , G-4

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	wholesale (readiness/DAMPL impact), except arms, combat/tactical, vehicles, vessels and aircraft			(DALO-SMP)
	MACOM owned, except arms, combat/tactical, vehicles, vessels and aircraft	Fewer than 180 days	Installation	Installation
	ARNG owned, except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	USPFO	State AG
	USAR owned, except arms, combat/tactical, vehicles, vessels and aircraft	Fewer than 180 days	Installation	USAR MSC
Manufacturers for lease of previously produced materiel for demonstration purposes involving foreign	All equipment except prototype and nonstandard equipment	As required	ASA (ALT)	DASA (DEC)
	All prototype and nonstandard equipment	As required	ASA (ALT)	ASA (ALT)
Manufacturers for lease of previously produced materiel in support of R&D initiatives within the United States	All equipment except prototype and nonstandard	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
	All prototype and nonstandard equipment	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Department of Agriculture:				
U.S. Forest Service	Protection against wildlife	90 days/90 days	HQDA ODCS, G-3 (DAMO-OD)	ASA (ALT)
	Avalanche control	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Animal Disease Eradication Program	All equipment except arms, combat/tactical vehicles, vessels and aircraft	90 days	HQDA ODCS, G-3 (DAMO-OD)	Operations and Readiness
DOJ, FBI	Aircraft piracy/all equipment except arms,	Minimum essential	HQDA ODCS, G-3	DOD General Counsel or designee;

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	combat/tactical vehicles, vessels and aircraft			in urgent cases, Deputy Director for Operations
Department of Treasury, United States Secret Service	All equipment except arms, combat/tactical vehicles, vessels and aircraft	Minimum essential	HQDA ODCS, G-3	Executive Secretary of the Department of Defense Military Assistant to the President
Civilian law enforcement:				
Civil disturbances and terrorist activities and planned events with potential for lethal force	All personnel, arms, combat/ tactical vehicles, vessels, and aircraft, even if applicable under other categories	15 days/15 days	HQDA ODCS, G-3 (DAMO-OD) through ASA (ALT)	SECDEF
	Riot control agents, concertina wire, and other equipment to be employed in control of civil disturbances	15 days/15 days	HQDA ODCS, G-3 (DAMO-OD) through ASA (ALT)	SECDEF
	Fire fighting resources and equipment of a protective nature (masks, helmets, body armor, vests) and use of Army facilities	15 days/15 days	Installation	Installation commander, State AG, Commander Military District of Washington/CG Unified Commands outside continental United States (OCONUS)/ HQAMC
Other law/drug enforcement activities	Medical, except combat/tactical vehicles, vessels and aircraft	Over 180 days	HQDA (DASG-LOZ)	HQDA (DASG-LOZ)
	Medical (MACOM owned), except combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Commander (MEDCEN/ MEDDAC)	Installation commander
	Medical (ARNG owned), except, combat/tactical and aircraft	Fewer than 180 days	USPFO	State AG
	Medical (USAR owned), except arms, combat/ tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	USARC MSC
	Medical wholesale, except combat/ tactical	Less than 180 days	USAMMA	Commander, USAMMA



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	vehicles, vessels, aircraft			
	Other wholesale equipment (no readiness/DAMPL impact), except combat/tactical vehicles, vessels and aircraft	1 year/1 year	AMC MSC	HQDA AMC (AMCOPS-SLA)
	Other wholesale equipment (readiness/DAMPL impact), except combat/tactical vehicles, vessels and aircraft	1 year/none	AMC MSC	HQDA ODCS, G-4 (DALO-SMP)
	Other equipment (MACOM owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	Installation commander
	Other equipment (ARNG owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	USFPO	State AG
	Other equipment (USAR owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	USARC MSC
Federal law enforcement agencies (only)	Ammunition	As required	HQDA ODCS, G-4 (DALO-SMP/Supply Management Army (SMA)	ASA (ALT)
Red Cross (aid to DOD in time of war)	Administrative and general support	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Foreign governments	All equipment, except combat/ tactical vehicles, vessels and aircraft	As required, not to exceed 5 years	HQDA ODCS, G-4 (DALO-SMP)	Director, Defense Security Assistance Agency
Youth groups:				
Boy and Girl Scouts of America (world or national jamborees); Civil Air Patrol; Camp Fire Girls, Inc; YMCA; YWCA;	MACOM owned	As required for event	Installation	Installation commander

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Boy's Club of America; Four-H Clubs; and similar groups				
	Wholesale	As required for event	AMC MSC	HQAMC
	USAR owned	As required for event	Installation	USARC MSC
	ARNG owned	As required for event	USFPO	State AG
Army flying clubs	Aircraft	As negotiated	Installation	ASA (ALT), Command General (CG) FORSCOM continental United State (CONUS)
Veterans organizations	Convention assistance (furniture)	15 days/15 days	Installation	Installation commander
	Furniture (MACOM owned)	15 days/15 days	Installation	Installation commander
	Furniture (ARNG owned)	15 days/15 days	USPFO	State AG
	Burial functions (obsolete rifles)	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Aid to District of Columbia Government in combating crime	Materiel and supplies	As negotiated	HQDA ODCS, G-3 (DAMO-OD)	ASA (ALT)
Disaster relief: Federal Emergency Management Agency (FEMA)	Materiel and supplies	For minimum essential period	HQDA (DAMO-OD)	SECDEF
	For rehabilitation reconstruction (bridges, etc.)	For minimum essential period when requested by FEMA	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
USACE District Commander	Flood fighting equipment and supplies	For minimum essential period	USACE District	
American National Red Cross in support of local civilian Government disaster relief	Materiel and supplies	For minimum essential period	Installation	Installation commander
	USAR owned, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	Installation	USARC MSC

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	ARNG-owned, except arms, combat/tactical and aircraft	For minimum essential period	USPFO	State AG
Environmental Protection Agency and U.S. Coast Guard (oil and petroleum spills)	Materiel, supplies, and equipment	For minimum essential period	HQDA ODCS, G-3 (DAMO-OD)	ASA (ALT)
Environmental Protection Agency and U.S. Coast Guard	Equipment/supplies, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	HQDA ODCS, G-3 (DAMO-OD)	ASD (&L)
Foreign Disaster Assistance	Equipment/supplies, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	Through Department of State to HQDA ODCS, G-3 (DAMO-OD)	ASD (International Security Affairs)
Civil Defense	Equipment/supplies, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	Installation	CG, FORSCOM
Museums and Similar Activities	Historical arms, combat/tactical vehicles, vessels and aircraft	2 year/2 year	DAMH-MD	ASA (ALT)
	Historical property other than arms, combat/tactical vehicles, vessels and aircraft	2 years/2years	DAMH-MD	Chief, CMH
	Military art	2 years/2years	DAMH-MD	Chief, CMH
Community relations and domestic action programs (Youth Conservation Corps)	Equipment for instructional purposes	As negotiated	Installation	Installation commander
	ARNG owned	As negotiated	USPFO	State AG
	USAR owned	As negotiated	Installation	USARC MSC
Authorized military health care recipients	Military	As required	HQDA (DASG-LOZ)	HQDA (DASG-LOZ)
SSF Installations	Class VII (wholesale equipment/DAMPL impact)	1 year/1 year	AMC MSC	AMC MSC
HQDA	Class VII wholesale equipment (readiness/DAMPL	1 year/1 year	AMC MSC	ODCS, G-4

	impact)			
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The full text of this regulation can be found at:

[https://akocomm.us.army.mil/usapa/epubs/xml\\_pubs/r700\\_131/head.xml](https://akocomm.us.army.mil/usapa/epubs/xml_pubs/r700_131/head.xml)

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

### **APPENDIX 4-15:** NGR 500-1/ANGI 10-8101 - MILITARY SUPPORT TO CIVIL AUTHORITIES

HEADQUARTERS  
DEPARTMENTS OF THE ARMY AND THE AIR FORCE  
Washington, DC 20310-2500  
1 February 1996

\*NGR 500-1/ANGI 10-8101

Emergency Employment of Army and Other Resources

MILITARY SUPPORT TO CIVIL AUTHORITIES

By Order of the Secretaries of the Army and the Air Force:

EDWARD D. BACA  
Lieutenant General, USA  
Chief, National Guard Bureau

Official:

DEBORAH GILMORE  
Chief  
Administrative Services

**Summary.** This regulation prescribes policies, procedures, responsibilities and guidance for the employment of Army and Air National Guard units, personnel and equipment of the several states in support of civil authorities.

**Applicability.** This regulation applies to all Army National Guard (ARNG) and Air National Guard (ANG) units of the several states, territories, and the District of Columbia.

**Impact on Unit Manning System.** This regulation does not contain policies that affect the Unit Manning System.

**Internal Control System.** This regulation incorporates guidance from AR 11-2 and OMB Circular A-123. It includes internal control review provisions/checklists for ARNG and ANG Military Support.

**Interim changes.** Interim changes to this regulation are not official unless they are authenticated by the Chief, Administrative Services. Interim changes will be destroyed on their expiration dates unless sooner superseded or rescinded.

**Supplementation.** This regulation may be supplemented at state level, subject to review and approval by NGB-ARO-OM.

**Suggested Improvements.** The proponent of this regulation is the National Guard Bureau, Director of Operations, Training and Readiness. Users are invited to send comments and suggested improvements to Chief, National Guard Bureau, **ATTN: NGB-ARO-OM**, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204-1382.

**Distribution:** C/F

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\*This regulation supersedes NGR (AR) 500-1/NGR (AF) 55-05, 1 October 1991

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## Glossary

## CHAPTER 1 GENERAL

### 1-1. Purpose

This regulations prescribes the policies, procedures, responsibilities and guidance for employment of Army and Air National Guard units, personnel and equipment in support of civil authorities.

### 1-2. References

Required and related publications are listed in appendix A.

### 1-3. Explanation of abbreviations and terms

Special terms used in this regulation are explained in the glossary.

### 1-4. Authority

The governor is the commander in chief of all Army and Air National Guard units within his/her jurisdiction, which are not in active federal service. This authority is derived from Article 1, Section 8, Clause 16, U.S. Constitution.

a. Governors may authorize the use of the National Guard to assist civil authorities in accordance with the State Code and/or State Constitution. During periods

of state active duty, costs will be funded by the state except when federal funds are provided for counter-drug activities.

b. Command of the National Guard is normally exercised through the Adjutant General or his designated military representative.

c. The President of the United States is the Commander in Chief of the National Guard of the District of Columbia. The National Guard may be ordered, in militia status, to aid civil authorities under Title 39 of the District of Columbia Code and Executive Order No. 11485, 3 October 1969.

### 1-5. Responsibility

The Chief, National Guard Bureau (CNGB) has overall responsibility for the Military Support to Civil Authorities (MSCA) Programs in the National Guard. CNGB has designated the Director, Army National Guard (DARNG) as the Executive Agent for coordinating domestic MSCA operations. As the executive agent, the DARNG develops MSCA plans, issues necessary planning guidance, and establishes implementing procedures. DARNG has designated the Director of Operations, Training and Readiness (DARO) as the action agent for MSCA within the National Guard Bureau. State Adjutants General are responsible for establishing military support programs in their states.

### 1-6. Public Affairs

Public affairs is an important element of military support operations. National Guard public affairs guidelines are contained in NGB Pam 360-5/ANGP 190-9.

## CHAPTER 2 MILITARY SUPPORT OPERATIONS

### 2-1. General

a. This chapter prescribes guidance and procedures for ARNG/ANG personnel, units and activities conducting MSCA operations in a state active duty (SAD) status only. When a unit is on federal active duty, applicable Army or Air Force regulations will apply.

b. Primary responsibility for disaster relief is with the local and/or state government and those federal agencies designated by statute.

### 2-2. Considerations for Employment

National Guard assistance normally is provided when--

a. The situation is so severe and so widespread that effective response and support is beyond the capacity of local and state government, and civil resources have been exhausted.

b. Required resources are not available from commercial sources. National Guard support will not be furnished if it is in competition with private enterprise or the civilian labor force.

c. National Guard resources will normally be committed as a supplement to civil resources that are required to cope with the humanitarian and property protection requirement caused by a civil emergency or mandated by law.

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d. Assistance will be limited to tasks that, because of experience and the availability of organic resources, the National Guard can do more effectively or efficiently than another agency.

e. When an emergency or disaster occurs and waiting for instructions from higher authority would preclude an effective response, a National Guard commander may do what is required and justified to save human life, prevent immediate human suffering, or lessen major property damage or destruction. The commander will report the action taken to higher military authority, and to civil authority as soon as possible. Support will not be denied or delayed solely for lack of a commitment for reimbursement or certification of liability from the requestor.

f. The National Guard will be employed with adequate resources to accomplish the mission when conducting civil disaster/emergency relief operations. That determination will be made by the on-scene commander or the senior officer present. Military support to civil authorities will terminate as soon as possible after civil authorities are capable of handling the emergency.

g. When any public service is lost or withdrawn, and an immediate substantial threat to public health, safety, or welfare is evident, the National Guard may be called to restore and/or continue that public service. It is desirable that supervisors, managers, and key personnel of the public service be available to provide technical assistance to National Guard personnel. In the absence of key public service personnel, the state adjutant general will make plans and coordinate with appropriate civil authorities to perform the mission within the capabilities and limitations of the National Guard.

h. The capability of the National Guard to assist in the restoration/continuation of public services depends primarily on the degree of military or civilian skills possessed by National Guard personnel.

### 2-3. Personnel

a. States will prepare and maintain current information on the status and capabilities of units to respond to certain types of emergency situations. Particular emphasis will be placed to identify individuals in units who possess special or critical military and/or civilian skills which may be required to support specific operations.

b. Active Guard/Reserve (AGR) full time support may only be employed in accordance with the guidance contained in NGR (AR) 600-5, paragraph 3-3 for the ARNG, and ANGI 36-101, Chapter 3 for the ANG. Military Technician (MT) personnel must be employed in accordance with the provisions of TPR 990-2. Technicians who provide support to state and local civil authorities must be placed in an appropriate leave status for all hours of their normal workday that fall within the period of military duty.

c. Because of their immediate availability, depending on the circumstances, and incidental to their full time positions, MT and/or AGR personnel may be used to provide an initial response to emergency situations involving the threat of loss of life, human suffering, or widespread property damage. In those cases, as soon

as the immediate threat has diminished, it is imperative that--

(1) Full time support (FTS) personnel are replaced with traditional Guardsmen, or;

(2) The status of involved FTS personnel is changed consistent with the guidance contained in the appropriate ARNG/ANG AGR or technician personnel regulations.

### 2-4. Planning

a. States will prepare and maintain emergency plans for the employment of the National Guard in an MSCA role. Plans will provide for response to civil disobedience/disturbance, natural, man-made or technological disasters, and other potential emergencies. Plans will be reviewed and updated by the state not later than 30 Sep each year. During annual reviews, special emphasis should be given to ensuring that task organizations are consistent and compatible with force structure modifications.

b. Two copies of all emergency response plans (or changes) will be forwarded to NGB-ARO-OM as they are updated. If no changes are required, a memorandum indicating the title of the plan and the date of annual review shall be forwarded to NGB-ARO-OM not later than 15 October each year.

c. Plans should be coordinated with adjacent states and appropriate intrastate agencies, to include the state attorney general's office to ensure compatibility, non-redundancy, and effective lawful response.

d. Emergency plans will be comprehensive and responsive to all potential emergency requirements. They will be prepared based on worst case scenarios that can be expected locally. Plans will contain provisions for:

(1) Actions before, during and after disasters. Consider primary and alternate command and control facilities, survivability, equipment evacuation, alert procedures, communications, and periodic exercises to test emergency plans.

(2) External assistance for support beyond state capabilities and prepositioning of equipment and supplies.

e. Plans will provide for the possible transition to federal status; applicable Army and Air Force regulations and OPLANs are primary reference documents.

### 2-5. National Guard Operations Support

The National Guard Bureau is the federal military coordination, administrative, policy, and logistical center for the Army and Air National Guard. It serves as the legal channel of communication between the United States Army, the United States Air Force, and the National Guard in 54 states and territories. The CNGB has designated the DARNG as the Executive Agent for MSCA programs. The DARNG, in turn, has designated the DARO as his Action Agent for MSCA to include program planning, policy and operations. All facets of the MSCA program will be closely coordinated with the Director, Air National Guard (DANG) through the Air National Guard Director of Operations (ANGRC/DO).



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**a. Operation Center Function.** The Operation Center at the Army National Guard Readiness Center, Arlington Hall, is designated as the National Guard Bureau Operation Center (NGB-ARO-OMC). It serves as the focal point for all state emergency reports, (less ANG aircraft safety and accident reporting, ANG specific training issues, ANG mobilization and OCONUS operational issues), state active duty deployments and Adjutant General connectivity with the National Guard Bureau leadership. The NGB-ARO-OMC is operational 24 hrs, 7 days a week and maintains close/immediate operational and reporting connectivity with the ANG Operations Center (ANGRC/DOC) at Andrews Air Force Base. During disasters or CONUS base emergencies/crises, the NGB-ARO-OMC will serve as the lead Operation Center for the National Guard Bureau. The automatic exchange of information between the NGB-ARO-OMC and the ANRC/DOC is critical to keep the full spectrum of both the Army and Air National Guard Chain of Command abreast of current issues.

**b. Crisis Action System.** When a crisis or emergency situation is deemed to be of such a serious nature, or has the potential to escalate to such a level that it would require support or continuous monitoring by NGB, the DARO will activate a Crisis Action Team (CAT). The CAT will bring to bear the entire capability of both the Army and Air National Guard. ANG representation on the CAT can be either through a Liaison Officer (LNO) in the NGB-ARO-OMC or electronic/telephonic connectivity ARO-OMC and the ANGR/DOC. In either case, all information, reports and activities will be provided by NGB-ARO-OMC to the ANGR/DOC when the CAT is active. All taskings and support requirements for both Army and Air National Guard assistance, beyond the capability of the affected TAG, will be validated, coordinated, and/or reported through the NGB-ARO-OMC.

**c. Liaison Teams.** During periods of emergency/crisis the deployment of an NGB Liaison Team to the affected states has been shown to improve coordination and expedite assistance. The NGB-LNO Team is composed of an LNO from NGB-ARO (Operations), ANGRC/DO (ANG Operations), NGB-ARL (Logistics), and NGB-PA (Public Affairs). Deployment of the NGB LNO capability is the decision of The receiving TAG. Any part or all of the NGB-LNO Team will be deployed at the states request. Request for the NGB-LNO Team will come directly from the state Plans, Operations and Military Support Officer (POMSO). It is the responsibility of the POMSO to ensure a coordinated state position, with TAG approval, for deployment of the NGB-LNO Team. Requests will come to the NGB-ARO-OMC and execution/deployment authority rests with the DARO. Questions on LNO support requirements and coordination can be directed to the NGB-ARO-OMC, COML 703-607-9350, DSN 327-9350.

### 2-6. Interstate Compacts

The National Guard Bureau fully supports Interstate Mutual Assistance Compacts. Further, NGB endorses the Southern Regional Emergency Management Compact (SREMAC) due to the fact that it is not re-

stricted to participation within a single region of the United States.

**a. Purpose.** Emergencies or disasters will often transcend jurisdictional boundaries or a states capability to respond. In these instances, intergovernmental assistance enhances response planning and management. The purpose of a compact is to establish the framework necessary to prevent delays during a time of need. An Interstate Compact constitutes the legal basis for mutual assistance among member jurisdictions. However, compacts provide only the authority for interstate assistance, not the specifics required for execution; it is incumbent upon the POMSO to insure proper planning for Interstate National Guard support.

**b. Deliberate Planning.** Requirements for cross-border assistance may include known equipment or skill shortfalls within a state inventory or shortfalls due to geographic limitations; whereas assets of another state could respond to save lives quicker than the affected states own assets. It is recommended that as much as possible, neighboring states (belonging to a compact) resolve as many staffing issues as possible and initiate Memorandums of Agreement or Understanding as part of the deliberate planning process. These should include but not be limited to, legal reimbursement rates, liability limits, workman's compensation coverage, logistical, and operational considerations. It is imperative that members of SREMAC include as part of their planning specific language that deploying National Guard assets be OPCON to the receiving states Adjutant General. This action is necessary due to SREMAC language (Article IV) giving OPCON to the emergency services officials of the receiving state whom may or may not be the Adjutant General.

**c. National Guard Bureau.** The role and function of NGB remains the same as during any MSCA operation; to provide policy guidance and facilitate assistance to the executing Adjutant General. In this role NGB will assist in locating and coordinating assets and assist in transportation coordination for those assets when required. Under Interstate Compacts, execution is between states, under the authority of the responsible governors and in support of the requesting Adjutant General.

**d. Reporting.** It is the responsibility of supporting states to report equipment and personnel deployment strengths IAW Chapter 6 of this regulation when providing support to another state. It is the responsibility of the receiving state to delineate between organizational and attached support and report on the employment activities of each IAW Chapter 6, of this regulation.

## CHAPTER 3 LOAN, LEASE AND USE OF EQUIPMENT

### 3-1. Loans and Leases of Equipment

a. Loans and leases of equipment are governed by AR 700-131 for the ARNG, and by AFM 67-1/ANGR 67-1 for the ANG. State adjutants general are given broad authority to loan equipment by these regulations; exceptions are noted in paragraph 3-1c below.

b. United States Property and Fiscal Officers (USP&FOs) are responsible for negotiating, preparing agreements and approving loans and leases of equipment in accordance with procedures established by AR 700-131 and AFM 67-1/ANGR 67-1. Formats for loan agreements are prescribed in cited references.

c. The loan of weapons, combat/tactical vehicles, vessels and aircraft require approval of the service secretary or their designee. Requests for loan/lease of National Guard equipment which require HQDA or HQAF approval will be reviewed by the National Guard Bureau as follows:

(1) The Chief, Military Support, Operations Center, and Security Branch (NGB-OM) is responsible for all military support loan requests for civil emergencies, law enforcement support, civil disturbances, disaster relief, terrorist situations, environmental protection, and hazardous or other dangerous material accidents.

(2) The Chief, Public Affairs (NGB-PA) is responsible for loan requests concerning community relations and domestic information programs.

(3) The Director, Aviation and Safety (NGB-AVN) is responsible for requests for the loan or lease of ARNG aircraft; the Director of Operations, Plans & Programs (NGB/XOO) is responsible for the loan or lease of ANG aircraft.

(4) The Director, Logistics Division (NGB-ARL) is responsible for all other requests for loan or lease of ARNG equipment; the Director of Logistics (NGB/LG) is responsible for loan or lease of ANG equipment.

d. All equipment loans or leases to support law enforcement agencies will be reported quarterly to NGB-OM IAW Chapter 6 of this regulation.

### 3-2. Loan Request Channels

a. Loan requests from state and local agencies will be routed directly to the respective state Adjutant General.

b. Loan requests from federal agencies will be routed through that agency's national headquarters to the Department of Defense, and then to the appropriate service for resourcing.

### 3-3. Use of Equipment

a. The State Adjutant General has authority to use federal property issued to the National Guard of his state during periods of civil disturbance and other emergency conditions declared by the Governor, in accordance with state law. Any reimbursement required under these conditions will be effected in accordance with paragraph 3-6 below.

b. Federal property used during state emergencies will remain under National Guard control, and operated only by qualified NG personnel.

c. If required, states may coordinate directly with other states for temporary loan of additional federal property required for a particular emergency. USP&FOs are responsible for coordinating all arrangements, including a report of all transactions to NGB-ARL IAW RCS # ARNG-194.

### 3-4. Use of Federal Facilities

When situations arise that require use of federal facilities of the National Guard, permission must be obtained from the installation/ activity commander prior to use, including coordination for use of controlled or restricted access areas. NGB-OM will be notified of all use of federal facilities.

### 3-5 Use of National Guard Aircraft

The operation of aircraft is expensive and requires continuous special attention. The matter of cost effectiveness cannot be overlooked in the planning and execution of air movements to support MSCA operations. The use of National Guard aircraft is governed by the 95-series of regulations for the ARNG, and the 55-series for the ANG. These regulations shall be used as primary reference documents on all use of aircraft issues.

#### a. Air Transportation of Civilians

(1) Eligibility requirements for all travelers on Department of Defense (DoD) owned or operated aircraft are contained in DoD Directive 4515.13-R. The policy concerning use of DoD transportation resources and limitations in support of civilians is contained in DoD Directive 4500.9. General guidance on providing support to civilian law enforcement officials is contained in DoD Directive 5525.5.

(2) All non-DoD traffic must be supported by letter orders or invitational travel orders, the supporting documents for which shall clearly articulate how the travel is in support of the DoD mission, or other statutory authority for the movement. The Economy Act requires reimbursement to the DoD when support is provided to another federal agency or activity. There are other laws (and regulations or policies emanating from those laws) which mandate reimbursement for DoD support.

(3) Requests for movement of non-DoD traffic must be forwarded thru NGB-OM to the Office of the Assistant Deputy Under Secretary of Defense (ADUSD) for Transportation Policy L/TP for review and appropriate action; reimbursement requirements will be determined in coordination with the OSD Comptroller and General Counsel.

#### (4) Special Circumstances.

(a) Civilian law enforcement personnel may be transported on missions conducted incidental to training under the following conditions: the mission must be approved in advance by NGB-ARO-OM on a case-by-case basis; the operation must be consistent with the participating aviation unit(s)' military mission; and the mission must be conducted within available resources, including flying hours. Air transportation of media personnel requires NGB-PA approval. Transporting non-law enforcement personnel on missions conducted incidental to training requires NGB-ARO-OM approval on a case-by-case basis. No reimbursement is required in these cases. Care must be taken to ensure

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that the mission is in direct support of an operational requirement, and not just providing point-to-point transportation. That type of support would place the National Guard in competition with commercial enterprise and in violation of federal law.

(b) When National Guard aircraft are employed in response to a state-declared emergency, to include civil disorders, natural or man-made disasters, or any other type of emergency, civilian agency officials (federal, state, and local, including media personnel) may be transported consistent with mission requirements. The state shall reimburse the federal government at a rate which captures the cost of consumables, depot-level repairables, POL, and depot maintenance, or contractor logistics support, hereinafter referred to as the "Emergency State Active Duty Rate" for the actual use of that aircraft. The liability issue in these cases is a function of state law. Aircrew personnel will normally be in a state active duty status, except for those initial operations required to prevent the immediate loss of life or limb, to mitigate human suffering, or to prevent widespread property damage.

(c) When National Guard aircraft are used in state active duty under non-emergency situations, as allowed by appropriate state laws, civilian personnel (government, law enforcement, media, etc.) may be transported under the following conditions: all passengers must have prior flight authorization (see para 3-5a(2) above); all passengers must execute a DD Form 1381 (Air Transportation Agreement), or other suitable liability release; and the state must reimburse the federal government through the USP&FO at a rate which captures all reimbursement costs, less military pay, and crew per diem, hereinafter called "Non-Emergency State Active Duty Rate". The state assumes all personal and property liability, including collateral damages, which may accrue from the mission.

(5) The terms Emergency State Active Duty Rate and Non-Emergency State Active Duty Rate in (4b) and (4c) have been submitted for inclusion in DoD 7220.9-M.

### **b. Training Support to State Emergency Response Personnel.**

(1) Requests to conduct this type of training will be forwarded to NGB-ARO-OM for approval, and coordination with NGB-AVN and other NGB staff. Such training may include: configuring of National Guard aircraft for aeromedical evacuation and conducting practice missions; high rise building rescue operations; rappelling into remote areas which are inaccessible by vehicle; and training in internal rescue hoist operations. The equipment and techniques used are technical, and proper team training is essential for safe operations.

(2) Approval of this training will be given on a case by case basis. If approved by the National Guard Bureau, the training may be conducted subject to the following conditions:

(a) All participating National Guard personnel will be in state active duty status, and the state accepts total liability for National Guard personnel and property.

(b) The state will reimburse the federal government through the USP&FO for the direct flying hour cost of aircraft (POL and repair parts).

(c) Personal liability for state emergency response personnel is a state responsibility.

(d) National Guard aircraft and related equipment will be operated by qualified National Guard personnel only.

(3) Requests will include: identification of the civil agency making the request; description of training to be conducted; civil assets available/not available; full justification; duration; and start and termination dates/times.

(4) An after action report will be forwarded to NGB-OM upon completion of the training.

c. **Training support of federal agency personnel.** Requests for training support from federal agencies will be routed through that agency's national headquarters to the Department of Defense Executive Secretariat and then to the appropriate service for resourcing.

### **3-6. Reimbursement**

a. **State Active Duty (SAD).** When federal property is used by National Guard personnel in a SAD status, as ordered by the Governor in response to an emergency relating to a civil disturbance, natural disaster, or other incident, the state will be liable for reimbursement (or replenishment in kind) to the federal government through the USP&FO for the following:

(1) Repair parts, other than fair wear and tear, expended in the objective area.

(2) POL (petroleum, oils and lubricants) expended for direct mission accomplishment.

(3) Incremental costs (those costs above the expenses which normally accrue during scheduled training periods) which can be attributed to direct mission support.

b. **Use of Aircraft.** Reimbursement policies and procedures for use of ARNG aircraft are outlined in NGB Pam 95-5, procedures for ANG aircraft are found in AFI 65-503.

c. **Loans of Equipment.** Costs associated with the loan of equipment will be reimbursed in accordance with AR 700-131 and AFM 67-1.

d. **Support to Other Federal Agencies.** When the National Guard is involved in military support operations in which another Federal agency has a requirement to reimburse the National Guard for assistance under the provisions of the Economy Act, or other statutory requirement, reimbursement for approved missions will be accomplished before the actual support IAW MOU/MOA between that agency and the National Guard. When another Federal agency requests support in an emergency that precludes prior reimbursement, the National Guard shall record the name of the requesting official, the date and time the request was made, the exact nature of the support requested, and the official's verbal commitment to reimburse the National Guard for the support costs.

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**3-7. Equipment Authorizations**

**a.** Commercial equipment must be authorized prior to procurement or leasing. If not already authorized, requests for authorization will be processed in accordance with AR 71-13 for TDA addition or addition to CTA 50-909.

**b.** USP&FO's have the authority to approve procurement of commercial nonstandard nontype classified, noncontrolled, equipment consistent with limitations imposed by NGB-ARL.

## **CHAPTER 4 CIVIL DISTURBANCE SUPPORT OPERATIONS**

**4-1. Responsibility**

The protection of life, property, and the maintenance of law and order within the territorial jurisdiction of any state, is the primary responsibility of civil authorities. The Army and Air National Guard have primary responsibility for providing military assistance to state and local government agencies in civil disturbances, normally serving on State Active Duty status under the command of the State's Governor, in accordance with state law. The National Guard is employed only after all local and state resources have been fully utilized, or when the situation is beyond the capabilities of the local and state civil authorities. National Guard assistance is provided in support of civil authorities, not to replace civil authority command jurisdiction. National Guard forces will remain under the command of National Guard officers, and missions are executed through the National Guard chain-of-command in coordination with civil authorities. Federal forces shall not be placed under the command of National Guard authorities who are not on federal active duty. Federal military forces may conduct Military Assistance for Civil Disturbance (MACDIS) operations with National Guard forces, or otherwise support National Guard forces that are operating under state orders. In extreme circumstances, National Guard forces may be ordered into federal service to ensure unified command and control of all military forces for MACDIS operations, if the President determines such action to be necessary.

**4-2. Planning**

Civil Disturbance plans will include provisions for communication and liaison with supported agencies. When a civil disturbance mission is imminent, liaison will immediately be established with the appropriate civil authority to identify requirements and initiate planning. The DoD Civil Disturbance Plan "Garden Plot" is an appropriate guide for developing civil disturbance plans and operations. The Army National Guard State Area Commands (STARCs) shall plan for contingency use of non-Federalized National Guard forces for civil disturbance operations, and facilitate MACDIS operations within the state, if federalized.

**4-3. Resources**

The National Guard should be employed with sufficient resources to accomplish the mission when conducting MACDIS operations. Support to civil authorities

should terminate as soon as possible after the situation is under control.

**a. Equipment Resources.** The National Guard Bureau will work closely with states to coordinate resource needs/shortfalls in support of MACDIS operations for soldiers/units designated as having an on-the-street (OTS) mission assignment.

The following identifies some specialized items recommended for MACDIS on-the-street operations support.

Face Shields	Riot Agent Dispersers
Riot Batons	Special Weapons
Body Shields	Recorders/Camcorders
Body Armor	Bull Horns
Lock Plates	Voice Projection Equip
Flex Cuffs	Cyalume Light Sticks
Flood/Spot Lights	Night Observation Devices

(1) States will ensure that all Modification Table(s) of Organization and Equipment (MTOE) and Common Table of Allowances (CTA) authorized items are on hand or on order through United States Property and Fiscal Officer (USP&FO) channels.

(2) State unique requirements, not MTOE/CTA supported, should be requisitioned through appropriate State resource channels. Unfinanced requirements of this type should be processed in accordance with state policies and procedures for emergency preparedness equipment/supply acquisition.

**b. Training Resources.**

(1) Units assigned a civil disturbance mission will conduct MACDIS training annually in inactive duty training (IDT) status. MACDIS training will be resourced from the units annual allocation of 48 IDT periods. The training can be conducted concurrently with individual and collective mission essential training, or it can be MACDIS exclusive training. However, the entire training for any given year will not exceed a multiple unit training assembly 4 (MUTA4) for the ARNG, and a Unit Training Assembly (UTA4) for the ANG. Requests for exceptions must be forwarded to NGB-ARO-OM for approval.

(2) Each POMSO will ensure that additional training assemblies for code 51 civil disturbance leader training are allocated to units assigned a civil disturbance OTS mission. Allocation is derived from the current NGB Fiscal Year (FY) target disbursement for each state. An annual civil disturbance training report will be submitted to NGB-ARO-OM, NLT 15 October. Reporting is based on inclusive dates of the previous FY information and will be submitted IAW paragraph 6-3 of this regulation. Results of this report significantly impact future code 51 allocations. Failure to submit the required information could result in a reduced code 51 annual allotment.

(3) When it is determined that a threat of civil disturbance is imminent, dates and times of unit training assemblies may be rescheduled for the purpose of alerting or assembling personnel for possible employment.

(4) If it becomes necessary to employ or commit individuals or units in support of civil authorities, the

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training status must terminate, and all personnel must be placed in SAD status prior to commitment.

### 4-4. Employment Guidance

The state civil disturbance mission is a joint Army and Air National Guard responsibility and civil disturbance response plans should consider the employment of both forces.

a. Only ARNG and ANG individuals who have received civil disturbance training should be employed in civil disturbance control operations. Personnel who have not received training may be used in a support role only.

b. Air National Guard Security Police elements may conduct civil disturbance training using the principles and procedures outlined in this regulation and Department of the Army Field Manual (FM 19-15) as a guide. Programs of Instruction (POI) used by the ARNG can also be used to support this training. Other selected ANG personnel should be considered for specific administrative/support missions, e.g., traffic control outside the immediate area of operations, security of command, control, and communication (C3) elements, operations center functions, etc.

c. All personnel authorized to carry firearms must have received qualification training and testing on the type of firearm to be carried in accordance with current regulations as a prerequisite to being issued the firearm. Training must include instruction on safety functions, capabilities, limitations, and maintenance of the firearm to be carried. Testing will include qualification firing in accordance with Army qualification standards.

### 4-5. Training

a. Civil disturbance training must enable personnel to function effectively as individuals and as members of a control force. To be effective, the training must be intensive and realistic. Individual, team, and unit training are vital to develop personnel who are able to perform distasteful and dangerous duties with discipline and objectivity. A lack of training on the part of even one person can adversely affect the unit's performance.

b. Units assigned an on-the-street civil disturbance mission for the first time should conduct training in accordance with FM 19-15. Subsequently, units with an on-the-street mission are required to conduct annual refresher training to sustain proficiency in MACDIS operations. The subjects and time devoted to each will be determined by the states Adjutant General and National Guard Commander concerned. Training emphasis may be dictated by specific requirements in the local area, however, as a minimum, training will be conducted to maintain proficiency in the following subject areas:

(1) Unit Training Subjects: Civil disturbances; use of minimum force and actions in the affected area; extreme force; riot batons; apprehension and detention operations; media relations; standards of conduct; urban tactics.

(2) Civil Disturbance Leader Training Subjects: Civil disturbances; use of minimum force and action in the affected area; information planning; operations

planning; control force operations; crowd control formations; riot control agents.

(3) Individual Training: MACDIS training should impart to the individual soldier a knowledge of civil disturbance control doctrine and provide psychological conditioning so the soldier can successfully function in a civil unrest environment both as an individual and as a member of the unit. At a minimum, individuals should receive training in use of minimum force; extreme force; apprehension and detention; media relations; standards of conduct; actions in the affected area and urban tactics.

c. FM 19-15, AR 500-50, and NGR 500-1/ANGI 10-8101 will be used as guides to develop MACDIS training to ensure proficiency for immediate deployment in civil disturbance operations.

(1) Commanders will ensure that personnel are adequately trained in assigned specialized equipment such as shot-guns, riot control dispersers/agents, and other civil disturbance unique equipment.

(2) Commanders will ensure that each individual has the essential knowledge of policies pertaining to application of force in civil disturbance operations in state active duty status.

d. Special team training. Special reaction teams may be established for specific contingencies in accordance with FM 19-15 Chapters 3, 5, and 6. Civil disturbance training time will be used to establish and maintain proficiency of these teams. Sniper team functions are an option, not mandatory. Those states electing to have sniper team(s) must ensure marksmen meet specialized training requirements in compliance with current standards.

### 4-6. Use of Force

Use of force in state active duty status will be governed by state law. FM 19-15 Chapter 7, and Annex C, DoD Civil Disturbance Plan "Garden Plot", outlines degrees of force options, to include the use of deadly force applicable to Federal troops participating in control operations. As a condition on the use of Federal property and equipment, National Guard personnel engaged in civil disturbance control operations (in state active duty status) will at a minimum comply with the following guidelines, unless state law is more restrictive, in which case they will comply with state law.

a. The use of force must be restricted to the minimum degree consistent with mission accomplishment.

b. The use of deadly force can be justified only by extreme necessity. It is authorized only where all three of the following circumstances are present:

(1) Lesser means have been exhausted or are not available.

(2) The risk of death or serious bodily harm to innocent persons is not significantly increased by its use.

(3) The purpose of its use is one or more of the following:

(a) Self-defense to avoid death or serious bodily harm, including the defense of other persons.

(b) Prevention of a crime that involves a substantial risk of death or serious bodily harm; for example, setting fire to an inhabited dwelling or sniping.

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(c) Prevention of the destruction of property vital to public health and safety.

(d) Detention or prevention of the escape of a person who, during the detention or on the act of escaping, presents a clear threat of loss of life or serious bodily harm to another person.

**c. Force options.**

(1) Consistent with the principle that use of minimum force is of paramount importance, the force options outlined in FM 19-15 will be used as a guide when considering the use of face shields, vests, batons, and when arming personnel. Anytime in force options, use of the bayonet is optional.

(2) When the M16/16A1/16A2 rifle is employed, a lock plate (NSN 5340-00-923-9031) must be installed IAW TM 9-1005-249-24&P to prevent automatic firing.

**Note:** Lock plates are employed as a safety item to prevent weapons from being placed in automatic fire mode. Given overriding immediate deployment criteria, the Adjutant General, upon personal written order may deploy that portion of his force necessary without locking plates installed. The potential ramifications of this decision must be weighed carefully before this decision is executed.

**d. Apprehension and detention.** As much as possible, apprehension will be left to civilian authorities. However, if apprehension is necessary, guidelines for arrest and formal legal procedures should be obtained from the State Attorney General in accordance with appropriate state laws.

**e. Pre-commitment briefing.** Prior to commitment, personnel will be briefed by an officer on the following, as a minimum:

(1) The specific mission of the unit.

(2) Rules governing the application of force and state laws as they apply to the specific situation, to include the use of deadly force.

(3) Procedures regarding accountability and security of weapons, ammunition and other sensitive equipment.

(4) Use of weapons/control of ammunition. If weapons and ammunition are issued, the following must be thoroughly defined:

(a) Authority to insert clip/magazine in the weapon.

(b) Authority to chamber round.

(c) Authority to fire.

(5) A psychological orientation on the local situation, specifically addressing types of abuse that individuals may be expected to receive and the proper response to these types of abuses.

(6) Briefing by local police or other state agencies.

(7) Special orders for civil disturbance operations will be issued to all personnel prior to employment. These orders will include guidance specific to the current operation and, as a minimum, will address special instructions, acceptable standards of conduct, interface with the civilian populace, and contact with the media.

#### 4-7. Civil Disturbance Evaluation

Units assigned an on-the-street civil disturbance mission will conduct an annual evaluation of civil disturbance readiness. Use of the unit readiness checklist at **appendix E** is required. Reports will be submitted within 30 days of completion of unit civil disturbance training to the State POMSO.

### CHAPTER 5 TERRORISM COUNTERACTION

#### 5-1. General

Terrorism Counteraction (TC/A) consists of those actions taken to counter the terrorist threat. Antiterrorism and Counterterrorism are two major areas of the National Guard role in terrorism counteraction. Antiterrorism refers to defensive measures taken to reduce vulnerability to terrorist attack. Counterterrorism refers to the offensive measures taken in response to acts of terrorism.

#### 5-2. Responsibility

Civil authorities have primary responsibility for counter-terrorist operations within the state except on active military installations where the commander is responsible unless otherwise specified in jurisdictional agreements.

#### 5-3. Role of the National Guard

The role of the National Guard in TC/A activities is to support the federal and state law enforcement agencies with equipment, facilities, and personnel.

#### 5-4. Training and Operational Guidance

**a. Direct confrontation and negotiation with terrorists** should be accomplished by trained law enforcement personnel only.

**b. Unit training in TC/A operations** can be conducted during annual refresher civil disturbance training.

**c. Commanders and selected staff members of units assigned a TC/A support mission** should attend a formalized course of instruction. Courses are available at the U.S. Army Military Police School, Fort McClellan, AL and the California Specialized Training Institute, San Luis Obispo, CA.

**d. State civil disturbance plans** will address provisions for support of civil counter terrorism operations.

#### 5-5. National Guard Missions

The following are possible missions for National Guard support of counter terrorist operations conducted by civil authorities:

**a. Public safety measures.**

(1) Traffic control and road block.

(2) Disaster search/relief and recovery team.

(3) Perimeter security and security of critical facilities.

(4) Ground control.

(5) Area evacuation.



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### **b. Public health measures.**

- (1) Emergency medical treatment.
- (2) Limited aeromedical evacuation.

### **c. Public welfare measures.**

- (1) Emergency shelter.
- (2) Mass feeding/water supply.
- d. Other essential public services.
- e. Limited engineering support.
- f. Transportation support.
- g. Communication support.
- h. Loan of resources.
- i. Aviation support.
- j. Logistic support.
- k. General support for emergency forces.

### **5-6. Other Agency Missions**

The following are types of support that require a high degree of training and are normally performed by federal and state civil authorities:

- a. Civil authorities command and control team other than National Guard liaison elements.
- b. Hostage negotiation.
- c. Intelligence collection and investigative teams.
- d. Assault teams.
- e. Arrest teams.

### **5-7. Planning and Coordination**

The Adjutant General, in coordination with civil authorities, will develop plans to counter terrorist operations which may develop on National Guard installations and facilities. Plans developed must comply with AR 381-10, U.S. Army Intelligence Activities; and AR 381-20, U.S. Army Counterintelligence Activities. Plans shall include provisions for:

- a. Immediate notification of the FBI and local law enforcement authorities. During the initial liaison and planning for the counter terrorism operations, a determination of who the lead law enforcement agency is must be determined.
- b. Notification of National Guard Bureau in accordance with instructions in Chapter 6.
- c. The use of National Guard resources and facilities to support law enforcement operations.
- d. Protection, safeguarding, and disposition of intelligence information on terrorism, terrorist organizations and individuals received during the planning, preparation, and execution of counterterrorism support missions.

## **CHAPTER 6 REPORTING**

### **6-1. Reports**

Within the scope of military support there are specific information requirements to be transmitted via various reports. This chapter provides guidance regarding format and reporting procedures for MSCA operations. Paragraph 6-3 outlines the training report requirements for code 51 Additional Training Assembly (ATA) civil disturbance leadership training.

### **6-2. Military Support (Civil Disturbance, Disaster, Emergency)**

An alert/call-up of the National Guard to SAD in connection with natural or man-made disasters/emergencies require the following reports be submitted to the NGB Operations Center (NGB-ARO-OMC): (See **appendixes B, C, and D.**)

a. **Initial Report.** This report (**app B**) is provided two ways:

- (1) Provide NGB-ARO-OMC a detailed telephonic report.
- (2) Follow-up with a fax copy to NGB-ARO-OMC within 24 hrs.

b. **Follow-up (Daily) Report.** As significant changes occur (i.e., changes in personnel, location of command post, equipment, or deployment of forces) submit this report via fax NLT 1300 hrs EST daily. This allows NGB-ARO-OMC to prepare the situation report (SITREP) for NGB leadership.

c. **Closing Report.** Submit this report the day each mission closes with FY to date totals for ARNG/ANG personnel and FY to date total for ARNG and ANG mandays. (See **app B.**)

d. The different categories of reports are--

(1) **Natural Disasters:** droughts, earthquakes, fires, floods, hurricanes, mud/land slides, winter storms, tidal waves, tornados, and volcanic eruptions.

(2) **Civil Emergencies:** hazardous material incidents, loss of public utilities, search and rescue operations.

(3) **Law Enforcement Support:** civil disturbances, terrorist activity, property protection, and assistance to law enforcement agencies.

(4) **Other:** federal/state local agency support, Presidential/Vice Presidential support, bands, parades, etc.

(5) The following operations can potentially fall into the above categories: transportation support, aviation support, shelter, and medical support.

e. **After Action Reports (AARs).**

(1) An AAR (RCS ARNG-98) will be prepared and forwarded to NGB-ARO-OMC within 15 days after completion of each mission.

(2) Use the format in **appendix C** for MSCA missions.

(3) The intent of the abbreviated AAR shown in **appendix D** is to reduce administrative requirements in preparing lengthy AAR's for minor incidents, with less than 25 soldiers.

(4) Missions which begin in one FY and run into the next FY, should be closed out 30 September, and assigned a new mission number with a start date of 1 October.

f. Submit reports to the NGB-ARO-OMC which is staffed 24 hours a day, 7 days a week. To report any incident or State Active Duty (SAD) mission, call or Fax to: Watch Team (NGB-ARO-OMC), DSN 327-9350, CM (703) 607-9350 NON-SECURE FAX DSN 327-9881 CM (703) 607-9881 SECURE FAX DSN 327-9880 CM (703) 607-9880.

(1) AUTODIN Routing Indicator: RUEARNG/ARNGR RUEARNG/ARNGRC ARLINGTON VA//NGB-ARO-OMC//

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(2) INTERNET E-MAIL: ARNGOPS@ARNGRC-EMH2.ARMY.MIL

**(3) CURRENT MAILING ADDRESS.**

Army National Guard Readiness Center (ARNGRC)  
**ATTN: NGB-ARO-OMC**  
 111 South George Mason Drive  
 Arlington, VA 22204-1382

**g.** If contact cannot be made with NGB-ARO-OMC, call NGB Andrews Operations Center at DSN 858-6001 or commercial (301) 981-6001. The Fax numbers are DSN 858-7505, or commercial (301) 981-7505.

**h.** If the contingency warrants, the CNGB will activate the Contingency Support Center (CSC) at Andrews AFB, MD. Participating units/states will be advised of the CSC activation via an USMTF SYS.RRM activation message. The requirement for daily SITREP reporting to the CSC with specific reporting parameters will be identified in the message.

**i.** Air National Guard (ANG): All contingencies involving ANG resources will require NGB-/XOOC notification. ANG will comply with ANGI 10-206 and AFMAN 10-206 (Operational Reporting) requirements, as the situation dictates. Follow-up reports will be made as the situation changes. Initial and follow-up reports will be transmitted as indicated above.

**6-3. Civil Disturbance Training Report**

An annual report to NGB-ARO-OM will be submitted by each state POMS NLT 15 October. The following information is required with an as of date of 30 September each year:

- (1) Code 51 ATA dollars allocated:
- (2) Code 51 ATA dollars expended: Off: Enl:
- (3) Number of company size elements that have an on-the-street civil disturbance mission:
- (4) Number of leadership personnel (Corporal thru Captain) assigned to units with an on-the-street mission:
- (5) Percentage of leadership personnel (Corporal thru Captain) in those units that received civil disturbance leadership training:
  - (a) Within the last 12 months:
  - (b) Within the last 24 months:
- (6) Indicate code 51 ATA projections/requirements for the next FY (provide justification in remarks section):
- (7) Number of authorized and on hand quantities of the following special civil disturbance equipment:

Disperser, M-5	Shotgun, .12 ga
Disperser, M-33A1	Baton, Riot Control
Compressor, AN-M4	Body Armor
Service Kit, M-254	Face Shields
Service Kit, M27	Body Shields
Other special equipment	Lock Plates

(8) Remarks:



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## INTERNAL CONTROL REVIEW CHECKLIST

The purpose of this checklist is to provide guidelines for personnel, property and other assets that normally are utilized in Military Support Operations.

AR 11-2 and OMB Circular A-123, govern the Internal Control System for Military Support Operations. Internal Control is a command responsibility that receives up to congressional level attention. It emphasizes resource(s) accountability.

### Internal Control Categories:

a. Categories of internal control are accounting and administrative.

(1) Accounting controls relate to safeguarding assets and effective financial management. Focus is on item accountability and performance measures.

(2) Administrative Controls apply to authorization actions for transactions and events. They focus on program performance and the economy as well as efficiency of operations.

The following internal control checklist will be used as a guide when conducting internal military support reviews IAW AR 11-2 and OMB Circular A-123.

### Internal Control Review Checklist

Are commanders familiar with NGR 500-1/ANGI 10-8101?	Yes	No
Is the state terrorism counteraction plan up-to-date?	Yes	No
Does the state have an up-to-date personnel special skill list on hand IAW NGR 500-1/ANGI 10-8101?	Yes	No
Does the ANG unit CBPO provide lists of personnel with special skills to POMSOs through APDS capability?	Yes	No
Does the state review and update their emergency response plans annually IAW NGR 500-1/ANGI 10-8101?	Yes	No
Has NGB-ARO-OM been provided two copies of the emergency response plans IAW NGR 500-1/ANGI 10-8101?	Yes	No
Has the emergency response plan been coordinated with all appropriate federal and state agencies, to include the state attorney general's office?	Yes	No
Have procedures been established to record and report use of federal resources during State Active Duty?	Yes	No
Have procedures been established to effect reimbursement by the state to the USP&FO for federal resources used during State Active Duty?	Yes	No
Does the emergency response plan provide information to perform duty on federal status, using Garden Plot as a guide?	Yes	No
Has NGB-ARO-OM been provided with current state maps?	Yes	No
Do units assigned civil disturbance missions receive annual evaluation, IAW AR 350-7?	Yes	No
Are units that do not meet criteria reported to NGB-ARO-OM, IAW NGR 500-1/ANGI 10-8101?	Yes	No
Does the state have a current copy of: AR 500-60, AR 95-1, NGR 95-1, NGB Pam 95-5, NGR 600-5, ANGI 36-101, and AR 700-131?	Yes	No

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## Internal Control Review Checklist--Continued

Do units with "on-the-street" civil disturbance missions conduct annual refresher/junior leadership training IAW NGR 500-1/ANGI 10-8101?	Yes	No
Are Secret Service support missions coordinated with the state POMSO Officer?	Yes	No
Are Air National Guard military support missions coordinated with the POMSO officer?	Yes	No

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### **Appendix A REFERENCES**

#### ***Section I. Required Publications***

##### **AR 11-2**

Internal Control Systems

##### **AR 350-7**

Training/Evaluation of Civil Disturbance Forces

##### **AR 500-50**

Civil Disturbances

##### **AR 500-60**

Disaster Relief

##### **AR 500-70**

Military Support of Civil Defense

##### **AR 700-131**

Loan and Lease of Army Materiel

##### **AFI 31-210**

The Air Force Anti-Terrorism Program

##### **AFI 32-4001**

Disaster Preparedness Planning and Operation

##### **FORSCOM REG 525-54**

Critical Facilities Protection Program

##### **DA Civil Disturbance Plan "GARDEN PLOT"**

##### **FM 19-15**

Civil Disturbance

##### **FM 23-10**

Sniper Training

##### **NGB Pam 360-5/ANGP 190-9**

National Guard Public Affairs Guidelines

##### **AFM 67-1**

USAF Supply Manual

#### ***Section II. Related Publications***

##### **DOD Directive 3025.1**

Military Support to Civil Authorities (MSCA)

##### **DOD Directive 3025.12**

Military Assistance for Civil Disturbance (MACDIS)

##### **DOD Directive 4515.13R**

Air Transportation Eligibility

##### **DOD Directive 5160.54**

DoD Key Assets Protection Program (KAPP)

##### **DOD Directive 5525.5**

DoD Cooperation with Civilian Law Enforcement Officials (Change 1)

##### **AR 71-13**

Dept of Army Equipment Authorization and Usage Program

##### **AR 95-1/NGR 95-1**

Aviation Flight Regulations

##### **AR 130-5/AFR 45-17**

National Guard Bureau Organization/Functions

##### **AR 190-10**

Threats to the President and Other Government Officials

##### **AR 310-49**

The Army Authorization Documents System (TAADS)

##### **AR 525-13**

The Army Terrorism Counteraction Program

##### **DA Pam 190-52-1**

Personnel Security Precautions Against Terrorism

##### **TC 19-16**

Countering Terrorism on US Army Installations

##### **CTA 50-909**

Field and Garrison Furnishings and Equipment

##### **FORSCOM/NGB Regulation 350-2**

Reserve Component (US Army) Training

##### **NGR 10-2**

State Area Command, Army National Guard

##### **NGR 350-1**

Army National Guard Training

##### **NGR 600-5**

Active Guard/Reserve Program

##### **NGR 600-85**

Drug Abuse Prevention and Control

##### **NGB PAM 95-5**

Use of Army National Guard Aircraft

##### **ANGR 23-01**

State Air National Guard Headquarters

##### **ANGI 36-101**

The Active Guard/Reserve (AGR) Program

##### **ANGI 10-206**

Operations Report

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**APPENDIX B**  
**FOR OFFICIAL USE ONLY**  
**NATIONAL GUARD BUREAU OPERATIONS CENTER**  
**EMERGENCY STATE ACTIVE DUTY REPORT**

**FROM:** \_\_\_\_\_ **OFFICE:** \_\_\_\_\_

**DA 1594 ENTRY #** \_\_\_\_\_

**PHONE: (DSN)** \_\_\_\_\_ **COMM:** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**TYPE OF REPORT: INITIAL:** \_\_\_\_\_ **FOLLOW-UP:** \_\_\_\_\_ **CLOSING:** \_\_\_\_\_

**1. SOURCE OF REQUEST:** \_\_\_\_\_

**2. TYPE OF INCIDENT:** \_\_\_\_\_  
 NATURAL DISASTER, \_\_\_\_\_ **LAW ENFORCEMENT SUPPORT,**  
 CIVIL EMERGENCY, \_\_\_\_\_ **OTHER**

**3. STATE MISSION NUMBER:** \_\_\_\_\_

**4. LOCATION CITY:** \_\_\_\_\_ **COUNTY:** \_\_\_\_\_

**5. SITUATION:** \_\_\_\_\_

**6. MISSION:** \_\_\_\_\_

**7. DATES: START DATE:** \_\_\_\_\_ **END DATE:** \_\_\_\_\_

**8. UNIT'S ASSIGNED: (NAME)** \_\_\_\_\_ **(LOCATION)** \_\_\_\_\_

**9. EQUIPMENT:** \_\_\_\_\_ **(NOMENCLATURE)** \_\_\_\_\_ **(QUANTITY)** \_\_\_\_\_

**10. SAD PERSONNEL: ARNG #** \_\_\_\_\_ **ANG #** \_\_\_\_\_ **TOTAL #** \_\_\_\_\_

**11. MANDAYS: ARNG #** \_\_\_\_\_ **ANG #** \_\_\_\_\_ **TOTAL #** \_\_\_\_\_

**12. CUMULATIVE TOTAL OF PERSONNEL ON SAD FOR ALL MISSIONS THIS FY:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**13. CUMULATIVE TOTAL OF MANDAYS EXPENDED FOR ALL MISSIONS THIS FY:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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## APPENDIX C NATIONAL GUARD MILITARY SUPPORT AFTER-ACTION REPORT FORMAT

**MEMORANDUM FOR:** Chief, National Guard Bureau, **ATTN:** NGB-ARO-OM, 111 South George Mason Dr, Arlington, VA 22204

**SUBJECT:** After Action Report (RCS:ARNGB-98)(Identify operation and inclusive dates).

### 1. General.

- a. **Type Emergency.** Include location by city, county, and state.
- b. **Inclusive dates by date time group:**
- c. **Scope of Emergency:**
  - (1) Use narrative explanation.
  - (2) Include percentage of state ARNG and/or ANG forces called to duty.

### 2. Operations.

- a. **Strength.** ARNG and/or ANG strength of called forces will be reported for each unit/organization for each day of duty. The report will be in column form as follows:

**Date** \_\_\_\_\_

Unit/Organization Designation	Service*	Number of Personnel**			Status***	
		OFF	WO	EM	AGG	Total*****

- \* Service will be indicated by ARNG or ANG
- \*\* # Personnel present for duty with subtotals for ARNG & ANG
- \*\*\* Status will be indicated by UTA, MUTA, or SAD
- \*\*\*\*\* Total number of troops used during call-up

- b. **Operations Summary.** Chronology of significant events in phases as follows:
  - (1) Planning/alert.
  - (2) Execution.
  - (3) Post operations.

- c. **Communications.** Types or methods.

- d. **Training.** Evaluation of the effectiveness of civil disturbance training conducted prior to the occurrence of this incident. Number of hours civil disturbance refresher training conducted by each unit during this operation.

### 3. Administration.

- a. Public Affairs.
- b. Special Services.
- c. Morale and discipline.
- d. National Guard Injuries or casualties.

4. **Logistics/Equipment.** Special equipment and supplies used and source of issue (Note: If ARNG or ANG aircraft are used, the information provided should include type of aircraft used and number of hours flown, by type.)

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## AFTER-ACTION REPORT FORMAT--Continued

**5. Costs.** Total Cost of State Active Duty, including as a minimum the following:

- a. Pay.
- b. Subsistence.
- c. Housing.
- d. Transportation.
- e. Maintenance.
- f. Supplies.
- g. Equipment.
- h. Fuel and petroleum.
- i. Funds paid by other state agencies.
- j. Reimbursable cost.

**6. Problem areas.**

- a. Personnel.
- b. Intelligence.
- c. Operations.
- d. Organization.
- e. Training.
- f. Logistics.
- g. Communications.
- h. Material.
- i. Other.

**7. Lessons learned:** Include any special organization, new tactics or techniques developed to control the emergency.

**8. Recommendations.**

# APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

NGR 500-1/ANGI 10-8101

1 February 1996

## APPENDIX D NATIONAL GUARD MILITARY SUPPORT MINOR INCIDENT AFTER ACTION REPORT FORMAT

**MEMORANDUM FOR:** Chief, National Guard Bureau, **ATTN:** NGB-ARO-OM, 111 South George Mason Dr,  
Arlington, VA 22204

**SUBJECT:** After Action Report (RCS:ARNGB-98)(Identify operation and inclusive dates).

**STATE:** \_\_\_\_\_

**MISSION:** \_\_\_\_\_

**DATE(S):** \_\_\_\_\_

**EFFECTIVE:** \_\_\_\_\_ **COMPLETED:** \_\_\_\_\_

**LOCATION:** \_\_\_\_\_ **CITY:** \_\_\_\_\_ **COUNTY:** \_\_\_\_\_

**NUMBER OF TROOPS:** \_\_\_\_\_ **ARNG:** \_\_\_\_\_ **ANG:** \_\_\_\_\_

**MANDAYS USED:** \_\_\_\_\_

**EQUIPMENT USED:** (Note: If ARNG or ANG aircraft are used, the information provided should include type aircraft used and hours flown, by type.)

**APPROXIMATE COST:** \_\_\_\_\_ (Include all related costs) \_\_\_\_\_

**COMMENTS:** \_\_\_\_\_

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**APPENDIX E****CIVIL DISTURBANCE****Unit Readiness Checklist**

1. The intent of this checklist is to ensure that standards of readiness consistent with the unit's civil disturbance mission and the state's civil disturbance plan are reviewed and maintained. The use of this checklist to standardize evaluations throughout the National Guard community is required. This evaluation should be conducted by the unit commander utilizing records and reports readily available. This checklist is intended to aid in evaluating the civil disturbance capability of the unit. States have authority to add items to this checklist as required to address specific missions or requirements.

2. Battalion commanders must consolidate checklists for subordinate/organic units and forward through command channels to state headquarters. Remedial training for those units not meeting standards must be conducted and mission readiness re-evaluated. Units must be removed from the available troop list until standards are met. Evaluation of mission readiness should be conducted annually. This checklist is not all inclusive and must be supported by a thorough knowledge of material contained in State Civil Disturbance Plans, AR 500-50, NGR 500-1/ANGI 10-8101, FM 19-15, and the NGB Civil Disturbance Handbook.

3. This checklist will be submitted through channels to STARC, **ATTN: POMSO**, within 30 days of completion of unit civil disturbance training. States are not required to submit this document to NGB. However, NGB should be advised of significant factors which seriously limit or jeopardize a unit's ability to perform its civil disturbance mission, to include comments as to corrective action programed or initiated and whether assistance is needed to rectify the deficiency.

4. This checklist consists of four sections: Personnel, Training and Operations, Logistics, and the Commanders Estimate.

**SECTION I****PERSONNEL**

1. Unit Designation:

Unit Strength:	Authorized Strength				Assigned Strength			
	O	NCO	EM	AGG	O	CO	EM	AGG
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

OFF NCO EM AGG

2. Assigned personnel attended training, FY \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

3. Attach unit roster by positions, include special teams.

4. Identify personnel shortages considered significant as they must be resolved before the unit is committed. (Attach listing.)

**SECTION II****TRAINING AND OPERATIONS**

1. Number of leaders (CPL-CPT) that attended civil disturbance training IAW NGR 500-1 and applicable state regulations.

OFF \_\_\_\_\_, ENL \_\_\_\_\_, Date Conducted: \_\_\_\_\_

2. Indicate useage of Code 51 ATAs: OFF \_\_\_\_\_, ENL \_\_\_\_\_

3. Has unit conducted civil disturbance training IAW NGR 500-1/ANGI 10-8101 and applicable state regulations? Yes/No, Date Conducted: \_\_\_\_\_

(Attach training schedule, attendance rosters, and training evaluation results.)



## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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### Unit Readiness Checklist--Continued

4. Have soldiers assigned to special equipment such as shotguns and riot control agent dispersers received qualifying training? Yes/No, Date Conducted: \_\_\_\_\_. (Attach training schedule, attendance rosters, and training evaluation results.)
5. Is civil disturbance training identified in long-range training plan and scheduled on unit training schedules? Yes/No. (If No, why not?) \_\_\_\_\_
6. Is current state National Guard Emergency Operations Plan on hand? Yes/No.
7. Have procedures been established to identify soldiers who have not received training in civil disturbance control operations? Yes/No.
8. Have procedures been established to ensure that untrained soldiers are not committed to on-the-street riot control duty? Yes/No. (They may be used in an administrative/logistics support role.)

### SECTION III

#### LOGISTICS

1. Does unit have on hand adequate amounts of special civil disturbance equipment listed below to conduct operations? Yes/No.

Item	Qty Req'd	Qty O/H	Qty Short
Face Shield	_____	_____	_____
Body Armor	_____	_____	_____
Body Shield	_____	_____	_____
Baton, Riot	_____	_____	_____
Shotguns	_____	_____	_____
Launcher, M203	_____	_____	_____
Lock Plate	_____	_____	_____
Bayonets	_____	_____	_____
M33/M33A1 Disp	_____	_____	_____
M5 Disperser	_____	_____	_____
Svc Kit M254	_____	_____	_____
Svc Kit M27	_____	_____	_____
Compressor, M4	_____	_____	_____
Bull Horn	_____	_____	_____
Flex Cuffs	_____	_____	_____
Flood/Spot Light	_____	_____	_____
Recorder/Camcorders	_____	_____	_____
Night Observation Eq	_____	_____	_____

2. Is equipment serviceable? Yes/No. (Attach listing; Include work orders for unserviceable equipment.)
3. Is equipment readily available? Yes/No. (If No, attach listing and storage location.)
4. Does unit have on hand adequate amounts of ammunition listed below to conduct operations? Yes/No. (If No, attach listing of shortages.)

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**Unit Readiness Checklist--Continued**

LIN	DODAC	DESCRIPTION BOI	QTY O/H
C39136	1305-A363,	Cart, 9mm, 8 rds per pistol	_____
D22628	1305-A400,	Cart, 38 cal, 6 rds per revolver	_____
D23313	1305-A475,	Cart, 45 cal, 7 rds per pistol	_____
D34821	1305-A011,	Cart, 12 Ga, 00 BS, 10 rds per S/G	_____
D14843	1305-A014,	Cart, 12 Ga, 7 1/2 CS, 10 rds per S/G	_____
D14918	1305-A017,	Cart, 12 Ga, 9 CS, 10 rds per S/G	_____
C35042	1305-A059,	Cart, 5.56MM, Ball, 20 rds per M16A2	_____
D35095	1305-A068,	Cart, 5.56MM, Trcr, 3 rds per M16	_____
D34973	1305-A071,	Cart, 5.56MM, Ball, 20 rds per M16A1	_____
D37698	1305-A136,	Cart, 7.62MM, Ball, 25 rds per sniper	_____
D41052	1310-B557,	Cart, 40mm, RC CS, 10 ea per lchr	_____
J79561	1330-G922,	Gren, Hand, CS M47, 108 ea per Co	_____
J79681	1330-G930,	Gren, Hand, Smk HC, 48 ea per Co	_____
R99691	1365-K758,	RC Agent, CR, 4 BT per M33A1 dispenser	_____
R99764	1365-K768,	RC Agent, CS1,6 CN per M33/M5 disp	_____
G22177	1365-K532,	Disp, RC Agent, M36, 75 ea per Co	_____
J77626	1330-G940,	Gren, Hand, Smoke Grn, 5 ea per Plt	_____
J79201	1330-G950,	Gren, Hand, Smoke Red, 5 ea per Plt	_____
J79995	1330-G945,	Gren, Hand, Smoke Yel, 5 ea per Plt	_____
J79818	1330-G955,	Gren, Hand, Smoke Vio, 5 ea per Co	_____

5. Has MTOE equipment required for civil disturbance operations been identified? Yes/No. (Attach listing of equipment.)

6. Are there equipment or supplies required but not on hand? Yes/No. (Attach listing.)

**SECTION IV****COMMANDER'S ESTIMATE**

1. Based on the information reported in Sections I through III and your personal observations and knowledge of your unit:

a. Do you believe that your unit needs additional training prior to commitment to a civil disturbance control mission? Yes/No.

b. If your unit needs additional training, identify the shortcoming and the estimated length of training required. \_\_\_\_\_

c. Identify and explain any other factors or problems which should be considered by higher headquarters. \_\_\_\_\_

2. Based on my observations and evaluation on (date) \_\_\_\_\_, this unit is operationally ready for commitment to civil disturbance operations (without exceptions) (with the following exceptions): (Line out non-applicable statement.) \_\_\_\_\_

Encl  
as

\_\_\_\_\_  
Commanding

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

NGR 500-1/ANGI 10-8101

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### Glossary

#### Section I. Abbreviations

##### AARs

After Action Reports

##### ADUSD

Assistant Deputy Under Secretary of Defense

##### AGR

Active Guard/Reserve

##### ANGRC

Air National Guard Readiness Center

##### ANG

Air National Guard

##### ARNG

Army National Guard

##### ARNGRC

Army National Guard Readiness Center

##### ATA

Additional Training Assembly

##### CAT

Crisis Action Team

##### CNGB

Chief, National Guard Bureau

##### CSC

Contingency Support Center

##### CTA

Common Table of Allowances

##### DANG

Director, Air National Guard

##### DARNG

Director, Army National Guard

##### DARO

Director of Operations, Training and Readiness

##### DO

Director of Operations

##### DoD

Department of Defense

##### FTS

full time support

##### FY

fiscal year

##### IDT

inactive duty training

##### LNO

Liaison Officer

##### MACDIS

Military Assistance for Civil Disturbance

##### MSCA

Military Support to Civil Authorities

##### MT

Military Technician

##### MTOE

Modification Table(s) of Organization and Equipment

##### MUTA4

multiple unit training assembly 4

##### ODUSD

Office of the Assistant Deputy Under Secretary of Defense

##### OTS

on-the-street

##### POI

Programs of Instruction

##### POMSO

Plans, Operations and Military Support Officer

##### SAD

state active duty

##### SITREP

situation report

##### SREMAC

Southern Regional Emergency Management Compact

##### STARCS

State Area Commands

##### TC/A

Terrorism Counteraction

##### USP&FO

United States Property and Fiscal Officer

#### Section II. Terms

##### Civil Authorities

Those elected and appointed officers and employees who constitute the government of the United States, of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, US possessions and territories, and the political subdivisions thereof.

##### Civil Disturbances

Riots, acts of violence, insurrections, unlawful obstructions or assemblages, or other disorders prejudicial to public law and order. The term includes all domestic conditions requiring or likely to require the

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use of a states National Guard pursuant to the individual states laws or constitution or federal armed forces pursuant to the provisions of Chapter 15, Title 10, United States Code.

### **Civil Disturbance Training**

Civil disturbance training is that individual and unit training which is directed toward providing assistance during civil disturbances.

### **Civil Emergency**

Any natural or man-made disaster or emergency that causes or could cause substantial harm to the population or infrastructure. This term can include the consequences of an attack or a national security emergency. For reporting purposes, a civil emergency is any man-caused emergency, or threat which causes or may cause substantial property damage or loss and a natural emergency includes any hurricane, tornado, storm, flood, high water, wind driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe.

### **Federal Property**

Equipment and supplies that are owned, leased, or possessed by the federal government.

### **Interstate Compact**

An agreement between two or more states to provide mutual support. The purpose of a compact is to provide mutual assistance between states in managing any emergency or disaster that is duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, or community disorders.

### **Military Support to Civil Authorities (MSCA)**

Those activities and measures taken by the DOD components, to include the Army and Air National Guard, to foster mutual assistance and support between the DOD and any civil government agency in planning or preparing for, or in the application of resources in response to the consequences of civil emergencies or attacks, including national security emergencies.

### **States**

For the purpose of this regulation the term "states" includes the 50 States, Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and the District of Columbia.

### **Terrorism**

The calculated use of violence or the threat of violence to attain goals which are political, religious, or ideological in nature. This can be done through intimidation, coercion, or instilling fear. Terrorism includes a criminal act against persons or property that is intended to influence an audience beyond the immediate victims.

### **Counter-Terrorism**

Offensive measures taken to respond to a terrorist act, or the documented threat of such an act. Counter ter-

rorism includes the gathering of information and threat analysis to support offensive measures.

### **Anti-Terrorism**

Defensive measures used to reduce the vulnerability of personnel, family members, facilities, and equipment to acts of terrorism. This also includes the collection and analysis of information to accurately assess the magnitude of the threat.

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

### **APPENDIX 4-16:** FM 19-15 - CIVIL DISTURBANCES

<https://www.jagcnet.army.mil/laawsxxi/cds.nsf>

### **APPENDIX 4-17:** FM 100-19/FMF 7-10 - DOMESTIC SUPPORT OPERATIONS

No longer available at official publication sites. Can be found at:

[http://www.webpal.org/webpal/a\\_reconstruction/immediate/martial\\_law/fm100\\_19.pdf](http://www.webpal.org/webpal/a_reconstruction/immediate/martial_law/fm100_19.pdf)

**APPENDIX 4-18: DEPARTMENT OF DEFENSE CIVIL DISTURBANCE PLAN  
(GARDEN PLOT)**

**UNCLASSIFIED**

HEADQUARTERS, U.S. ATLANTIC COMMAND  
1562 Mitscher Avenue, Suite 200  
Norfolk, VA 23551-2488  
23 July 1998

SUBJECT: USCINACOM FUNCPLAN 2502-97 (U)

SEE DISTRIBUTION (Annex Z)

1. (U) USCINACOM Functional Plan (FUNCPLAN) 2502-97 (U), which provides military assistance to civil authorities in responding to civil disturbances and civil disturbance operations within the 48 contiguous states and the District of Columbia is attached.
2. (U) This FUNCPLAN fulfills the requirement of the Regional Objective in the FY 1996 JSCP to "conduct necessary planning and coordination to prepare DoD forces to assist civil authorities in responding to civil disturbances and civil disturbance operations. When authorized by the NCA and directed by the DoD Executive Agent, provide military support for civil disturbance in accordance with DoD Directive 3025.12."
3. (U) This FUNCPLAN supersedes USCINCLANT CJTF 140 Plan GARDEN PLOT (U) and is effective for planning purposes only until directed otherwise by USCINACOM.

H. W. GEHMAN, JR.  
Admiral, U.S. Navy  
Commander in Chief,  
U.S. Atlantic Command

Enclosure: USCINACOM FUNCPLAN 2502-97

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*Final Draft*

HEADQUARTERS, U.S. ATLANTIC COMMAND  
1562 Mitscher Avenue, Suite 200  
Norfolk, VA 23551-2488  
23 July 1998

USCINACOM FUNCTIONAL PLAN 2502-97 (U)  
SECURITY INSTRUCTIONS AND RECORDS OF CHANGE

1. (U) The long title of this plan in USCINACOM Functional Plan 2502-97, Civil Disturbance Plan (U). The short title is USCINACOM FUNCPLAN 2502-97 (U). The nickname is GARDEN PLOT.
2. (U) This document is unclassified. Information contained in USCINACOM FUNCPLAN 2502-97 (U) will be disseminated only to those agencies and personnel whose official duties specifically require knowledge of the plan, including those required to develop supporting plans.
3. (U) This document reviews the policy for the employment of federal military resources for military assistance for civil disturbances (MACDIS) in the 48 contiguous States and the District of Columbia.
4. (U) Reproduction of this document, in whole or in part, is authorized for official use only.

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RECORD OF CHANGES

[illegible]

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COMMAND

HEADQUARTERS, U.S. ATLANTIC

1562 Mitscher Avenue, Suite 200  
Norfolk, VA 23551-2488  
23 July 1998

USCINACOM FUNCPLAN 2502-97 (U)  
PLAN SUMMARY (U)

- (U) REFERENCES:
- a. DoD Civil Disturbance Plan, GARDEN PLOT, 15 February 1991 (U)
  - b. DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," 4 February 1994 (U)
  - c. CJCS Instruction 3110.01, "Joint Strategic Capabilities Plan FY 1996 (JSCP FY96)," 24 March 1995 (TS)
  - d. CJCS Instruction 3216.01, Military Assistance for Civil Disturbances, 28 October 1994 (U)
  - e. Secretary of the Army Message, Implementation Guidance for DoD Directive 3025.12, "Military Assistance for Civil Disturbances," 6 May 1994 (U)
  - f. USACOM Instruction 3440.1, USACOM Policy Directive for Military Support for Civil Authorities and Military Assistance for Civil Disturbances (MSCA/MACDIS), 1 November 1993 (U)
  - g. USACOM Instruction 3440.2, USACOM Policy Directive for Lead Operational Authority (LOA) for MSCA/MACDIS, 1 November 1993 (U)
  - h. DoD Directive 5240.1, "DoD Intelligence Activities," 25 April 1988 (U)

1. (U) Purpose

a. (U) This plan is a supporting plan to reference (a). It supports the missions, functions, and tasks (MFT) outlined in references (a) through (e) regarding the planning and response by USCINACOM to federal, state, and local governments and their law enforcement agencies for civil disturbances and civil disturbance operations (not including response to terrorist incidents) in the USCINACOM Area of Interest (AOI). This planning, response, and operations are hereafter referred to cumulatively as "Military Assistance for Civil Disturbances" (MACDIS). The USCINACOM AOI for MACDIS is defined as the 48 contiguous States and the District of Columbia.

b. (U) This plan reviews USCINACOM policy for the employment of federal military support of civil disturbance operations within USCINACOM AOI, and assigns responsibilities for implementing said policy. Specifically, this plan outlines the

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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responsibilities of involved commands, provides guidance concerning preparedness and response objectives, and delineates the steps required to implement the activities involved.

c. (U) This plan will be conducted in five phases: I. Preparation; II. Assessment/Deployment Operations; III. MACDIS Operations; IV. Transition; and V. Redeployment Operations. This plan establishes a Civil Disturbance Condition (CIDCON) system to provide a structured procedure for the orderly, progressive, and timely increase in preparedness of designated forces. CIDCON standardizes terms to be used by all services and maximizes efficient use of available forces. The CIDCON is integrated in the five phases of this plan as follows:

(1) (U) Phase I is designated forces are at CIDCON 5 and maintained in a normal training and preparedness status.

(2) (U) During Phase II CIDCON levels 4, 3, 2, and 1 are progressive conditions of preparedness in preparation for deployment to an area of operations in response to an actual or threatened civil disturbance.

d. (U) Information contained in this plan is UNCLASSIFIED. The unclassified nickname of this plan is GARDEN PLOT.

### 2. (U) Conditions for Implementation

a. (U) Politico-Military Situation. During any time or condition of peace, war, or transition to war (including any national security emergency), single or multiple domestic civil disturbances may develop simultaneously at different locations within the USCINACOM AOI, which disturbances are beyond the capability of the respective local and state/ territorial governments to control. The President issues an Executive Order which orders and directs the Secretary of Defense and the Attorney General to take appropriate steps to disperse insurgents and restore law and order.

b. (U) Statement. This summary provides military decision-makers a brief recapitulation of the major aspects of this plan. It is based on planning factors and estimates available at the time of preparation and is subject to modification in the context of a specific contingency. Due to the conceptual nature of this plan, detailed time-phased force and deployment data may not be available. If not, detailed deployment information will be developed based on the current situation at the earliest opportunity in a developing crisis, preferably during situation development. The information herein should be reviewed and, if necessary, updated before a Course of Action (COA) is adopted in a particular situation. The options and phases outlined in this plan are intended to serve as a departure point for detailed planning if the situation requires.

c. (U) Legal Considerations

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- (1) (U) The primary responsibility for protecting life and property and maintaining law and order in civilian communities is vested with state/territorial and local governments.
- (2) (U) Army and Air National Guard forces, serving on state active duty and under the command of the governor, have the primary responsibility to provide military assistance to state/territorial and local government agencies in domestic civil disturbances.
- (3) (U) The Posse Comitatus Act (18 U.S. Code 1385) prohibits the use of any part of the Army or the Air Force to execute or enforce the laws, except as authorized by the Constitution or act of Congress. Regulations provide this same prohibition for Navy and Marine Corps forces.
- (4) (U) The President is authorized by the Constitution and laws of the United States to suppress insurrections, rebellions and domestic violence under various conditions and circumstances.
- (5) (U) The employment of federal military forces for MACDIS shall be specifically authorized by the President, except under two (2) emergency circumstances, through an Executive Order which directs the SECDEF to act in a specified civil jurisdiction under specific circumstances.
- (6) (U) MACDIS operations conducted under this plan are distinct from the imposition of martial law. Martial law is the temporary rule by military authorities over the civilian population, following a breakdown of civil authority. Operations conducted under this plan are in support of civil law enforcement authorities to restore law and order.
- (7) (U) The U.S. Attorney General has the responsibility for managing the federal response to domestic civil disturbances.

### 3. (U) Operations To Be Conducted

a. (U) Force Requirements. Forces for MACDIS operations, identified in reference (a), are listed as follows:

(1) (U) Joint Task Force 250 (JTF 250).

(a) (U) General. Forces designated for JTF 250 will be trained, equipped, and maintained in readiness for rapid deployment anywhere in the USCINACOM AOI, unless otherwise noted.

(b) (U) Headquarters

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1. (U) One JTF 250 headquarters designated from III Corps and XVIII Abn Corps, capable of exercising command and control over a JTF consisting of two or more brigade equivalents.
2. (U) One JTF 250 (MDW) headquarters maintained by the Commander, Military District Washington (MDW), capable of exercising command and control over a JTF consisting of two or more brigade equivalents.
3. (U) One additional JTF 250 headquarters designated from active component forces assigned to USCINACOM and based in USCINACOM AOI, capable of exercising command and control over a JTF consisting of one brigade equivalent.

(c) (U) JTF 250 Units

1. (U) One brigade designated from III Armored and XVIII Airborne Corps.
2. (U) Six additional battalions (including two MP battalions), to include brigade level support assets as required, designated from active component CONUS Army forces, for assignment to JTF 250 (MDW), when activated.
3. (U) One infantry battalion(-) designated from active component infantry units based within the MDW, for assignment to JTF 250 (MDW), when activated.
4. (U) One company of Marines designated from the Marine Barracks, Washington, D.C., for protection of the U.S. Capitol Building, under the command of JTF 250 (MDW), when activated.
5. (U) Two Marine battalions designated from COMMARFORLANT, one of which will be employed exclusively with the JTF 250 (MDW), when activated.

(d) (U) Quick Reaction Force. One JTF 250 headquarters from paragraph 3.a.(1)(b)1. and one brigade from paragraph 3.a.(1)(c)1. designated as the Quick Reaction Force (QRF). The QRF will be on a 24-hour alert status and capable of obtaining a civil disturbance condition 4 (CIDCON-4) status in 12 hours.

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(e) (U) Other forces designated for JTF 250 are not on any special alert status and will normally be permitted 72 to 96 hours preparation time to obtain CIDCON-4 status.

(2) (U) Other Units. Other active component Military Police units and Infantry brigades (or brigade equivalents) assigned to USCINACOM and based in USCINACOM's AOI will receive domestic civil disturbance orientation training and will be prepared to receive special equipment and initiate more intensive training upon short notice.

b. (U) Deterrent Options

(1) (U) Reconnaissance. When directed by USCINACOM, COMFORSCOM deploys elements of the Headquarters, JTF 250, to conduct a reconnaissance of the Area of Operations (AO).

(2) (U) Selected Deployment. When directed by USCINACOM, COMFORSCOM deploys and pre-positions initial elements of JTF 250 to or near the AO.

(3) (U) Intelligence. During "normal" or non-emergency conditions where forces have been alerted to the possibility of employment for MACDIS, but an Execution Order has not been issued, the following actions are authorized for the intelligence components of affected forces:

(a) (U) Identification, collection, retention, and dissemination of publicly available information concerning U.S. persons, associations, and corporations responsible for or participating in domestic civil disturbances in the AO.

(b) (U) Gathering of maps and demographic data of the civil disturbance AO.

c. (U) Employment. When directed by USCINACOM, COMFORSCOM deploys, employs, and redeploys a JTF 250 to each AO for MACDIS operations to restore law and order.

d. (U) Deployment

(1) (U) When directed by USCINACOM, COMFORSCOM deploys elements of the Headquarters, JTF 250, to conduct a reconnaissance of the AO.

(2) (U) When directed by USCINACOM, COMFORSCOM deploys and pre-positions initial elements of JTF 250 near or in the AO.

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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(3) (U) When directed by USCINACOM, COMFORSCOM deploys JTF 250 to the AO.

e. (U) Supporting Plans. Subordinate and supporting commands, DoD agencies, and the USCG will promulgate plans or directives, as necessary, in support of this plan.

f. (U) Collateral Plans. USCINACOM FUNCPLAN 2501-97 (U).

### 4. (U) Assumptions

a. (U) That MACDIS does not include DoD responsibility for response to either aircraft piracy or counterdrug operations.

b. (U) That USCINCSOC has the responsibility for the DoD response to terrorist incidents. USCINACOM will retain responsibility for the MACDIS portion of any terrorist incident.

c. (U) That National Guard forces will be trained, equipped, and maintained in readiness for civil disturbance operations in their respective state.

d. (U) That local and state police, the National Guard (on state active duty under Title 32), and federal civilian law enforcement officials have been employed before the arrival of federal military forces for MACDIS operations.

e. (U) That federal military forces assigned to MACDIS operations will remain under military command.

f. (U) That federal military forces will not be placed under the command of National Guard authorities who are not on federal active duty.

g. (U) That federal military forces may conduct MACDIS operations with or otherwise support National Guard forces which are on State active duty.

h. (U) That MACDIS operations may be conducted under conditions of no mobilization, selective call-up, or partial or full mobilization.

i. (U) That DoD components taking part in MACDIS operations shall not take charge of any function of civil government unless absolutely necessary under conditions of extreme emergency.

### 5. (U) Operational Constraints

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- a. (U) The commitment of federal military forces for MACDIS may be required for domestic civil disturbances occurring simultaneously at different locations within the USCINACOM AOI.
  - b. (U) National Guard forces may be ordered into federal service to ensure unified command and control of all military forces for MACDIS operations, if the President determines that action to be necessary in extreme circumstances.
  - c. (U) Unless the President or Congress declares a national emergency and implements 10 USC 673 (a) or 10 USC 672 (a), there is no authority to involuntarily order a unit of the reserve components to active duty other than the fifteen (15) days allowed by 10 USC 672(b).
  - d. (U) Under conditions of selective call-up, partial or full mobilization, federal military forces will be made available for MACDIS based upon the programmed flow in support of executed contingency plans.
  - e. (U) Federal military forces that are allocated to other OPLANs, but which are used in MACDIS operations, may be rapidly recalled and deployed elsewhere.
  - f. (U) Pre-positioning of federal military forces for MACDIS operations near or in the AO will not exceed a battalion-sized unit, unless a larger force has been specifically authorized by the President.
  - g. (U) The collection, retention, and dissemination of intelligence for MACDIS is substantially limited. (See references (a), (e) and (h))
6. (U) Time To Commence Effective Operations. Domestic civil disturbance operations require rapid response. Times are subject to variation, depending on the specific situation(s).
- a. (U) The following forces will be prepared to begin deployment within 24 hours after notification:
    - (1) (U) The QRF to any location within the USCINACOM AOI.
    - (2) (U) The headquarters, JTF 250 (MDW), one Infantry Battalion (-) based within the MDW and one Marine Company from the Marine Barracks to the MDW.
  - b. (U) The remaining headquarters and forces designated for MACDIS operations will be prepared to begin deployment within 84 to 108 hours after notification.
7. (U) Command Relationships
- a. (U) Delegations of Authority

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(1) (U) SECDEF, by reference (b), has designated the Secretary of the Army (SA) as the DoD Executive Agent for MACDIS.

(2) (U) SECDEF, by reference (b), has further designated the USCINACOM as the DoD Planning Agent for MACDIS (not including DoD response to terrorist incidents) in the USCINACOM AOI.

(3) (U) SA, by reference (a), has designated the Director of Military Support (DOMS) as his Action Agent for MACDIS.

(4) (U) USCINACOM, by references (f) and (g), has designated the COMFORSCOM as the Lead Operational Authority (LOA) for MACDIS (not including DoD response to terrorist incidents) in the USCINACOM AOI.

b. (U) USCINACOM is the supported CINC for all MACDIS (not including DoD response to terrorist incidents) within the USCINACOM AOI.

(1) (U) Commander In Chief Pacific (USCINCPAC), Commander In Chief Transportation Command (USCINCTrans), Commander In Chief Southern Command (USCINCSO), Commander In Chief Special Operations Command (USCINCSOC), and Commander In Chief, US Space Command (USCINCSpace) are supporting CINCs.

(2) (U) The military services, DoD agencies, and the USCG are supporting organizations.

c. (U) USCINACOM has Combatant Command (COCOM) and tasking authority over COMFORSCOM.

d. (U) For purposes of carrying out the assigned functions as the LOA, COMFORSCOM has Operation Control (OPCON) over all forces which are under either the COCOM or the OPCON of USCINACOM.

e. (U) Each Commander, JTF 250, (CJTF 250) has OPCON over all assigned forces upon their arrival into his/her AO.

### 8. (U) Logistic Requirements

a. (U) Forces designated for MACDIS operations will deploy to their AO with the equipment and supplies prescribed in Annex D, self-sustaining to the maximum extent possible. Thereafter, supply support of the MACDIS forces will be furnished by the designated Base Support Installation (BSI) and backup installations.

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b. (U) Movements to, within, and from the AO(s) will use the organic surface transportation assets of the JTF 250, whenever possible. Thereafter, the priority of movement is by surface transportation, provided by the BSI or other backup installations; commercial surface transportation; airlift; and sealift.

9. (U) Implementation

a. (U) DOMS will specify the AO(s) and will direct when MACDIS operations will commence in an AO located in the USCINACOM AOI.

b. (U) National Guard or Reserve forces identified for MACDIS operations will be federalized before the CJTF 250 assumes OPCON of these forces.

c. (U) MACDIS operations envisioned in this plan may develop with either little or no prior warning. Time available to prepare a detailed OPORD may be limited. Therefore, it is essential that guidance and instructions in this and supporting plans contain sufficient details to expedite an orderly response to any situation.

d. (U) To facilitate support of MACDIS operations, commands and forces designated for MACDIS should be identified as soon as possible.

e. (U) When alerted of the possible execution of this plan, designated commands will take immediate action to develop specific recommended courses of action in response to the developing civil disturbance situation.

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# APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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COMMAND

HEADQUARTERS, U.S. ATLANTIC

1562 Mitscher Avenue, Suite 200  
Norfolk, VA 23551-2488  
23 July 1998

USCINACOM FUNCTIONAL PLAN 2502-97 (U)  
CLASSIFICATION GUIDANCE (U)

(U) The classification guidance prepared by the planning staff provides users with subjects requiring protection, specifically the level of protection to be afforded those subjects and establishing the time periods during which the protection must be continued. This FUNCPLAN is UNCLASSIFIED during deliberate planning provided it continues to address a generic AOI situation. If the FUNCPLAN is alerted during deliberate planning to address operations in a single, specific state, upgrade of the classification should be considered. When the FUNCPLAN is converted to an OPORD during Crisis Action planning, classification is upgraded to that level necessary to protect information dealing with specific locations, plans, and forces for an operation in a specified area of operations.

SUBJECT

PROTECTION REQUIRED DURING

	Deliberate Planning	Crisis Action Planning	Crisis Action Execution	Post- Operation	
Operation Code Word	NA	U	U	U	
Classification Guide	U	U	U	U	
JOA Boundaries	NA	U	U	U	
Mission	U	C	U	U	
Situation	U	C	U	U	
Concept of Operation	U	C	U	U	
Participating Units	NA	C	U	U	
Date Operations Begins	NA	C	U	U	
Combat Rescue Support	NA	NA	NA	NA	
Operational Area Weather Information	NA	U	U	U	
Concept of Logistics Support	U	U	U	U	

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Concept of Special Operations	U	U	U	U
Deception Operations	NA	NA	NA	NA
Location of Key US and Friendly Military or Civilian Personnel	NA	C	U	U
Branch/Sequel Operations	U	C	C	U
Concept for Transition	U	C	U	U
Redeployment Operations	U	C	U	U
Exit Criteria	U	C	U	U

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USCINACOM FUNCPLAN 2502-97 (U)

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23 July 1998

USCINCCOM FUNCTIONAL PLAN 2502-97 (U)  
CIVIL DISTURBANCE PLAN (GARDEN PLOT) (U)

(U) REFERENCES:

- a. DoD Civil Disturbance Plan, "GARDEN PLOT," 15 February 1991 (U)
- b. DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," 4 February 1994 (U)
- c. CJCS Instruction 3110.01A, "Joint Strategic Capabilities Plan FY 1996 (JSCP FY96)," 15 November 1995 (U)
- d. SECDEF Memorandum, "Military Assistance to Civil Authorities," 12 December 1995 (U)
- e. Secretary of the Army Message, "Implementation Guidance for DoD Directive 3025.12", 6 May 1994 (U)
- f. Annex U to USCINCCOM OPORD 2000-96, "Military Support to Civil Authorities/Military Assistance for Civil Disturbances (MSCA/MACDIS)," 14 June 1996. (U)
- g. USACOM Implementation Plan (establishing United States Atlantic Command as the Joint Force Integrator), 9 September 1993 (U)
- h. USACOM Instruction 3440.1, "USACOM Policy Directive for Military Support to Civil Authorities and Military Assistance for Civil Disturbances (MSCA/MACDIS)," 1 November 1993 (U)
- i. USACOM Instruction 3440.2, "USACOM Policy Directive for Lead Operational Authority (LOA) for Military Support to Civil Authorities/ Military Assistance for Civil Disturbances (MSCA/MACDIS)," 1 November 1993 (U)
- j. DoD Directive 5240.1, "DoD Intelligence Activities," 25 April 1988 (U)
- k. DoD Instruction 7000.14, "DoD Financial Management |Policy and Procedures" (U)
- l. DoD Directive 5240.1R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982 (U)
- m. Executive Order 12333, (US Intelligence Activities), 4 December 1981 (U)

(U) TASK ORGANIZATION: Annex A

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### 1. (U) Situation

#### a. (U) General

(1) (U) This plan is a supporting plan to ref (a). It supports the missions, functions, and tasks (MFT) outlined in references (a) through (e) regarding the planning and response by USCINACOM to federal, state, and local governments and their law enforcement agencies for domestic civil disturbances and domestic civil disturbance operations (not including response to terrorist incidents) in the USACOM Area of Interest (AOI). This planning, response, and operations are hereinafter referred to cumulatively as “Military Assistance for Civil Disturbances (MACDIS)”.

(2) (U) During any time or condition of peace, war, or transition to war (including any national security emergency), single or multiple domestic civil disturbances may develop simultaneously at different locations within the USCINACOM AOI. All or some of these disturbances may be beyond the capability of the respective state, territorial, and local governments to control.

(3) (U) The President, in response to a request(s) from a governor of a state located within the USCINACOM AOI, directs the Secretary of Defense (SECDEF) to provide assistance to civil authorities to restore law and order.

(4) (U) The SECDEF, through the DoD Executive Agent for MACDIS, the Secretary of the Army (SA), directs the USCINACOM to execute MACDIS operations within the USCINACOM AOI.

(5) (U) USCINACOM directs COMFORSCOM, his Lead Operational Authority (LOA) for MACDIS, to execute MACDIS operations for each Area of Operations (AO). MACDIS operations for each AO are conducted by a Civil Disturbance Task Force (CDTF) designated as Joint Task Force (JTF) 250.

#### b. (U) Area of Concern

(1) Area of Responsibility. Not applicable.

(2) (U) Area of Interest. The USCINACOM AOI for MACDIS is defined as the 48 contiguous states and the District of Columbia.

(3) (U) Area of Operations. The Area of Operations is undefined for this FUNCPLAN. The AO for a specific operation must be defined upon conversion of this FUNCPLAN to an OPLAN or OPORD.

#### c. (U) Enemy Forces

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(1) (U) During MACDIS operations, federal military forces will likely confront members of the civilian population who are participating in group acts of violence and who are antagonistic to authority. These acts can fall anywhere along a broad spectrum of violence, from individual acts of terrorism, including Weapons of Mass Destruction, to riots, to insurrection.

(2) (U) Domestic civil disturbances may occur spontaneously, by preplanning, or incidental to some other event. Those participating in such disturbances may be members of any class, age, or ethnic group. Their participation may be motivated by economic, criminal, racial, religious, political, or psychological reasons, or by any combination thereof.

(3) (U) The capabilities of the participants will vary widely. They may use spontaneous or planned tactics that are nonviolent or violent. The technical sophistication can range from crude to sophisticated WMDs. The actions of the participants may be governed by crowd behavior or by leaders exercising command and control through the use of advanced communications. Participants will typically be on foot, though vehicles may be used.

(4) (U) Estimates of the participants' capabilities will be provided by the early warning and threat assessment from the Department of Justice (DoJ) and by the pre-conflict intelligence. These intelligence activities, conducted after receipt of a warning order, include:

(a) (U) Identification, collection, retention, and dissemination of publicly available information concerning U.S. persons, associations, and corporations responsible for or participating in domestic civil disturbances in the AO.

(b) (U) Gathering of maps and demographic data of the AO.

d. (U) Friendly Forces

(1) (U) Department of Justice (DoJ). The Attorney General (AG), as the chief civilian official responsible for coordinating all federal government activities relating to civil disturbances:

(a) (U) Provides early warning and threat information to support civil disturbance planning.

(b) (U) Receives and coordinates preliminary requests from state/territorial governors for the commitment of federal military forces for MACDIS operations.

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(c) (U) Designates a Senior Civilian Representative of the Attorney General (SCRAG) to each city where federal military forces are to be employed in MACDIS operations.

(d) (U) Obtains approval of the President for the pre-positioning of federal military forces in anticipation of MACDIS operations.

(e) (U) Coordinates with CJTF 250 to conduct MACDIS operations through the SCRAG.

(f) (U) Coordinate and deconflict Federal Law Enforcement Agencies (i.e. FBI, DEA, etc.) involved in the specific MACDIS operation. Designate liaison officers (LNOs) from each federal agency which require integration into the MACDIS operation.

(2) (U) Secretary of the Army (SA)

(a) (U) Serves as the DoD Executive Agent for military assistance for civil disturbances (MACDIS) and, in that role, has the authority to task DoD components.

(b) (U) Exercises his Executive Agent authority through the Director of Military Support (DOMS).

(3) (U) Director of Military Support (DOMS)

(a) (U) Serves as the Action Agent for the DoD Executive Agent for MACDIS.

(b) (U) Plans, coordinates and executes DoD support for MACDIS operations.

(c) (U) Executes MACDIS operations through the unified command structure.

(d) (U) Serves as the DoD point of contact with the DoJ and other Federal agencies supporting MACDIS operations. Ensures federal agency LNOs are assigned to JTF 250 as required by the Attorney General, the SCRAG, or the CJTF 250.

(e) (U) Monitors each MACDIS operation to ensure effective liaison and coordination between DoD components and other Federal agencies.

(4) Chairman of the Joint Chiefs of Staff (CJCS)

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- (a) (U) Communicates to the Commanders of Combatant Commands the appropriate guidance issued by the DoD Executive Agent for MACDIS.
  - (b) (U) Assists the DoD Executive Agent in developing MACDIS planning guidance.
  - (c) (U) Ensures the transfer of military resources from supporting CINCs to the supported CINC for MACDIS operations.
  - (d) (U) Advises the National Command Authority of impact of MACDIS operations on current, planned and contingency operations.
  - (e) (U) Advises the Director of Military Support (DOMS) of the impact of MACDIS operations on current, planned and contingency operations.
- (5) (U) Commander In Chief Pacific Command (USCINCPAC)
- (a) (U) As directed by the DoD Executive Agent, provides military resources to USCINACOM for MACDIS operations.
  - (b) (U) On order of the DoD Executive Agent, detaches and provides forces to USCINACOM for MACDIS operations.
  - (c) (U) As requested by USCINACOM, deploys MACDIS forces to the AO in support of JTF 250.
  - (d) (U) Prepares to provide logistical support for detached forces.
  - (e) (U) Ensures readiness of detached forces to conduct MACDIS operations.
- (6) (U) Commander in Chief, US Transportation Command (USCINTRANS)
- (a) (U) On order of the DoD Executive Agent, provides common-user transportation in response to USCINACOM validated transportation requirements from COMFORSCOM.
  - (b) (U) Provides aeromedical evacuation for MACDIS operations in the USCINACOM AOI.
  - (c) (U) Deploy USCINTRANS Liaison Team to COMFORSCOM and deploy other teams in support of the Civil Disturbance Task Force, as required.
- (7) (U) Commander In Chief Southern Command (USCINCSO)

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- (a) (U) As directed by the DoD Executive Agent, provides military resources to USCINACOM for MACDIS operations.
  - (b) (U) On order of the DoD Executive Agent, detaches and provides forces to USCINACOM for MACDIS operations.
  - (c) (U) As requested by USCINACOM, deploys MACDIS forces to the AO in support of JTF 250.
  - (d) (U) Prepares to provide logistical support for detached forces.
  - (e) (U) Ensures readiness of detached forces to conduct MACDIS operations.
- (8) (U) Commander In Chief Special Operations Command (USCINCSOC)
- (a) (U) As directed by the DoD Executive Agent, provides military resources to USCINACOM for MACDIS operations.
  - (b) (U) On order of the DoD Executive Agent, detaches and provides forces to USCINACOM for MACDIS operations.
  - (c) (U) As requested by USCINACOM, deploys MACDIS forces to the AO in support of JTF 250.
  - (d) (U) Prepares to provide logistical support for detached forces.
  - (e) (U) Ensures readiness of detached forces to conduct MACDIS operations.
- (9) (U) Commander in Chief, US Space Command (USCINCSpace)
- (a) (U) As directed by the DoD executive agent, provide space support to USCINACOM for MACDIS operations.
  - (b) (U) Ensures readiness of detached forces to conduct MACDIS operations.
- (10) (U) Services
- (a) (U) As directed by the DoD Executive Agent, designate and provide military resources to USCINACOM for MACDIS operations.

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- (b) (U) Organize, train, and maintain forces in readiness for MACDIS operations IAW Annex A.
- (c) (U) Provide Base Support Installations (BSI) as required.
- (d) (U) Deploy a Logistical Liaison Team (LLT) to each JTF 250.
- (e) (U) Maintain accurate cost records and capture all incremental costs for reimbursement purposes.
- (f) (U) Identify service support redundancies with the state military forces already employed under state control to avoid duplication.

(11) (U) Agencies

- (a) (U) As directed by the DoD executive agent, provide support to USCINACOM for MACDIS operations.
- (b) (U) Maintain accurate cost records and capture all incremental costs for reimbursement purposes.

(12) (U) National Guard Bureau (NGB)

- (a) (U) Ensures that National Guard forces are trained, equipped, and maintained in readiness for MACDIS operations in their respective state.
- (b) (U) Ensures that National Guard State Area Commands (STARCs) plan for the use of National Guard forces for domestic MACDIS operations under three contingencies: state control; state control and supported by MACDIS operations; and under a federalized status.

## (13) (U) U.S. Coast Guard (USCG) Provide coastal and inland water patrolling forces, logistics, and other support IAW Annex M to reference (a).

e. (U) Assumptions

- (1) (U) That MACDIS does not include the DoD responsibility for the response to either aircraft piracy or counterdrug operations.
- (2) (U) That USCINCSOC has the MACDIS responsibility for the DoD response to terrorist incidents.
- (3) (U) That National Guard forces will be trained, equipped, and maintained in readiness for MACDIS operations in their respective state.

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(4) (U) That U.S. military forces assigned to MACDIS operations will remain under military command.

(5) (U) That local and state police, the National Guard (on state active duty under Title 32), and federal civilian law enforcement officials have been employed before the arrival of federal military forces for MACDIS operations.

(6) (U) That federal military forces will not be placed under the command of National Guard authorities who are not on federal active duty.

(7) (U) That federal military forces may conduct MACDIS operations with or otherwise support National Guard forces which are on State active duty.

(8) (U) That MACDIS operations may be conducted under conditions of no mobilization, selective call-up, or partial or full mobilization.

(9) (U) That DoD components taking part in MACDIS operations shall not take charge of any function of civil government unless absolutely necessary under conditions of extreme emergency.

f. (U) Legal Considerations.

(1) (U) The primary responsibility for protecting life and property and maintaining law and order in civilian communities is vested with state and local governments.

(2) (U) Army and Air National Guard forces, serving on state active duty and under the command of the governor, have the primary responsibility to provide military assistance to state and local government agencies in domestic civil disturbances.

(3) (U) The Posse Comitatus Act (18 U.S. Code 1385) prohibits the use of any part of the Army or the Air Force to execute or enforce the laws, except as authorized by the Constitution or act of Congress. Department of the Navy regulations provide this same prohibition for Navy and Marine Corps forces.

(4) (U) The President is authorized by the Constitution and laws of the United States to suppress insurrections, rebellions and domestic violence under various conditions and circumstances.

(5) (U) The employment of federal military forces for MACDIS shall be specifically authorized by the President, except under two emergency circumstances, through an Executive Order which directs the SECDEF to act in a specified civil jurisdiction under specific circumstances. The two emergency exceptions are:

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(a) (U) When duly constituted local or state authorities are unable or decline to provide adequate protection for Federal property or to federal governmental functions, or

(b) (U) When the use of federal military forces is necessary to prevent the loss of life or wanton destruction of property, or to restore government functioning and public order.

(c) (U) This "emergency authority" applies when sudden and unexpected civil disturbances occur and duly constituted local authorities are unable to control the situation and circumstances preclude obtaining prior authorization by the President.

(6) (U) MACDIS operations conducted under this plan are distinct from the imposition of martial law, an extraordinary action directed by the NCA. Martial law is the temporary rule by military authorities over the civilian population, following a breakdown of civil authority. Operations conducted under this plan, in contrast, are authorized by Congress to restore law and order, in support of civil law enforcement authorities.

(7) (U) The U.S. Attorney General has the responsibility for managing the federal response to domestic civil disturbances.

2. (U) Mission. When directed by the DoD Executive Agent, USCINACOM, through COMFORSCOM, designates the CJTF 250 and forces for each AO within the USCINACOM AOI; directs deployment of JTF 250 forces; and through COMFORSCOM and the JTF 250 conducts MACDIS operations within his AO to assist civil authorities to restore law and order.

3. (U) Execution

a. (U) Concept of Operations.

(1) (U) General.

(a) (U) USCINACOM has designated COMFORSCOM as the LOA for MACDIS operations (not including DoD response for terrorist incidents) within the USCINACOM AOI. COMFORSCOM will nominate the CJTF and designate the forces which will comprise the JTF 250 for each AO within the USCINACOM AOI from those assigned forces designated for MACDIS operations (Annex A).

(b) (U) Once appointed by USCINACOM, the CJTF reports directly to COMFORSCOM. On order, the Commander of each JTF plans the employment and deployment; deploys the headquarters element to the AO;

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receives forces assigned OPCON and conducts MACDIS operations to quickly restore law and order in the AO.

(c) (U) The forces comprising each JTF 250 will be combinations of four types.

1. (U) Exclusively for use in MDW AO:

a. (U) JTF 250 (MDW1): Consists of HQS, JTF 250 (MDW1); one company of Marines from the Marine Barracks, Washington, D.C. (which will be exclusively used for the protection of the U.S. Capital Building); and one U.S. Army Infantry battalion(-) from active component Infantry units based within the MDW.

b. (U) JTF 250 (MDW2): Consists of one battalion of active component Marines assigned to COMMARFORLANT and six battalions (including 2 MP battalions), to include brigade level support assets as required, from active component CONUS Army forces based in the USCINACOM AOI.

2. (U) For use anywhere in USCINACOM AOI:

a. (U) JTF 250 (1): Consists of the Quick Reaction Force (QRF). A JTF Headquarters is included as required. (e.g. The first JTF in the AO.)

b. (U) JTF 250 (2): Consists of a MACDIS brigade and JTF 250 headquarters as required. (e.g. The first brigade employed in the AO.) This JTF 250 is the basic force configuration of MACDIS operations.

(2) (U) FUNCPLAN Structure.

(a) This plan will be conducted in five phases: Preparation; assessment/deployment operations; MACDIS operations; transition operations, and; redeployment operations.

(b) (U) The Civil Disturbance Condition (CIDCON) system, reference (a), Appendix 1 to Annex A, has been established to provide a structured procedure for the orderly, progressive, and timely increase in preparedness of designated forces. CIDCON standardizes terms to be used by all services and maximizes efficient use of available forces.

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1. (U) CIDCON 5 - Forces designated for MACDIS operations maintained in normal training and preparedness status.
2. (U) CIDCON 4 - Increased monitoring and analysis of the MACDIS situation and the initiation of detailed planning for MACDIS operations. Establish a tentative H-Hour (time for deployment) if possible. Designated airlift forces are prepared to depart the on-load airfield in 12 hours and/or designated forces are prepared to move from home station in 12 hours.
3. (U) CIDCON 3 - Increase in designated force preparedness to include possible pre-positioning of airlift and forces at on-load airfield, if deploying by air. Complete loading and prepare to deploy within six (6) hours.
4. (U) CIDCON 2 - On attainment of CIDCON 2, units have completed aircraft or vehicle loading to ensure ability to deploy in one hour.
- (5) (U) CIDCON 1 - Maximum force preparedness. CIDCON 1 will be designated one hour prior to H-Hour. On attainment of CIDCON 1, units have deployed first aircraft or vehicle at H-Hour.

(3) (U) Employment(a) (U) Phase I Preparation

1. (U) Predeployment and Crisis Action Operations begin when directed by the SECDEF through DOMS to execute this FUNCPLAN. During this phase, actions are undertaken to ensure maximum readiness for the execution of MACDIS Operations. The actions will include:
  - a. (U) The Commander, JTF 250 (CJTF 250) for each AO is designated.
  - b. (U) The staffs of USCINCOM, COMFORSCOM, and the JTF 250(s) begin crisis action planning.
  - c. (U) The (CIDCON) status of selected MACDIS forces is increased.
  - d. (U) The CJTF 250, with selected members of his staff, in coordination with the Senior Civilian Representative of the

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Attorney General (SCRAG), develops MACDIS Courses of Actions (COAs) for the AO.

e. (U) The federal military forces for each JTF 250 are designated and alerted to begin preparations for deployment to the AO.

2. (U) Phase I ends when elements of JTF 250 commence deployment to or near the AO.

3. (U) Success is when all military and interagency preparations are complete and the JTF 250 is ready for deployment.

(b) (U) Phase II Assessment/Deployment Operations. Phase II begins when elements of JTF 250 commence deployment. During this phase, the CJTF 250 may pre-position a battalion from the JTF 250 to, or near, the AO and JTF 250(-) forces begin to leave their home stations. Phase II ends when the CJTF 250 determines that JTF 250 forces begin to arrive at or near the AO. Success is defined as JTF 250 advance elements are deployed, liaison with the SCRAG is established, and facilities at or near the AO are ready to receive the JTF 250(-).

(c) (U) Phase III MACDIS Operations. This phase begins when the JTF 250(-) arrives at or near the AO. Phase III ends when civilian law enforcement agencies can begin to assume the responsibilities to restore/maintain law and order in the AO. Success is defined as the employment of sufficient federal military forces in the AO so as to allow the SCRAG to recommend that civilian law enforcement authorities assume some of the responsibilities for restoring/maintaining law and order in the AO.

(d) (U) Phase IV Transition Operations. This phase begins when civilian law enforcement agencies can begin to assume the responsibilities to restore/maintain law and order in the AO. Law enforcement responsibilities, by function and/or location, ICW SCRAG, are transferred to civilian law enforcement agencies. Phase IV ends when civilian law enforcement agencies assume the sole responsibility to restore/maintain law and order in the AO. Success is defined as civilian law enforcement agencies assuming the sole responsibility to restore/maintain law and order in the AO.

(e) (U) Phase V Redeployment Operations. This phase begins when civilian law enforcement agencies assume the sole responsibility to restore/maintain law and order in the AO. The intent of this phase is to redeploy the MACDIS forces. Redeployment may begin when transition activities commence. Initially, nonessential forces redeploy. When civilian law enforcement

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agencies assume the sole responsibility to restore/maintain law and order, the remaining forces redeploy. Phase V ends when all forces have returned to home station and JTF 2590 is disbanded. Success is defined as all forces having redeployed to home station and commenced reconstitution actions.

(3) (U) Deployment. Force deployment will be time-phased to support employment operations. During planning, force deployment requirements will be source-based on availability and anticipated size, scope, area and duration of the MACDIS mission.

(4) (U) Concept of Intelligence Operations

(a) (U) The DoJ is the primary federal agency responsible for the identification, collection, use, retention, and dissemination of domestic civil disturbance information.

(b) (U) Substantial limitations have been imposed upon the use of military intelligence components for MACDIS operations (See references (a), (e), (f), (j), (l), and (m). All intelligence operations will be provided in strict adherence to these references.

1. (U) When a Warning Order has been issued, but an Execution Order has not been issued, the following actions are authorized for the intelligence components of affected forces:

a. (U) Identification, collection, retention, and dissemination of publicly available information concerning U.S. persons, associations, and corporations responsible for or participating in domestic civil disturbances in the AO.

b. (U) Gathering of maps and demographic data of the AO.

2. (U) After an Execute Order for a MACDIS operation has been issued:

a. (U) Intelligence may be gathered, stored, and distributed as required by military necessity and by lawful means (as determined by the DoJ).

b. (U) All criminal information containing specifics on U.S. persons will be carefully evaluated to determine its value and retention.

(c) (U) At the conclusion of MACDIS operations, all intelligence data will be turned over to law enforcement agencies.

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(d) (U) Each JTF 250 Directorate of Intelligence will serve as the focal point for all intelligence planning and support.

(5) (U) OPSEC Planning Guidance. OPSEC planning will be based on mission analysis and will be incorporated into the Operations Order.

b. (U) Tasks

(1) (U) Commander in Chief, US Pacific Command (USCINCPAC)

(a) (U) When designated supporting CINC, provide units, personnel, equipment, or support as requested by USCINACOM.

(b) (U) On order of the DoD Executive Agent, detaches and provides forces OPCON to USCINACOM for MACDIS operations.

(c) (U) As requested by USCINACOM, deploys MACDIS forces to the AO in support of the CJTF 250, OPCON upon their arrival in the AO.

(d) (U) Prepares to provide logistical support for detached forces.

(e) (U) Ensures readiness of detached forces to conduct MACDIS operations.

(2) (U) Commander in Chief, US Southern Command (USCINCSO)

(a) (U) When designated supporting CINC, provide units, personnel, equipment, or support as requested by USCINACOM.

(b) (U) Assess requirements and recommend appropriate units to support MACDIS operations.

(c) (U) Provide administrative, logistic, and communications support for deployed forces.

(d) (U) Coordinate plans and operations in support of this plan with USCINACOM service component commanders.

(3) (U) Commander in Chief, US Special Operations Command (USCINCSOC)

(a) (U) When designated supporting CINC, provide units, personnel, equipment, or support as requested by USCINACOM.

(b) (U) Assess requirements and recommend appropriate units to support MACDIS operations.

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- (c) (U) Provide administrative, logistic, and communications support for deployed special operations forces.
- (d) (U) Coordinate plans and operations in support of this plan with USCINACOM service component commanders.
- (4) (U) Commander in Chief, US Transportation Command (USCINCTRANS)
  - (a) (U) Assist USCINACOM as required for deployment planning and execution.
  - (b) (U) During execution, monitor, analyze, and advise USCINACOM and Joint Planning Community (JPC) on matters involving deployments using common user lift and monitor forces deploying by organic lift.
  - (c) (U) Provide common-user land, sea, and airlift and air refueling assets for force deployment operations IAW CJCS common-user lift allocations.
  - (d) (U) Assist USCINACOM in developing a TPFDD which is transportation feasible.
  - (e) (U) Through Military Traffic Management Command (MTMC):
    - 1. (U) Arrange commercial surface transportation within CONUS.
    - 2. (U) Arrange for the use of common-user ocean terminals to meet the requirements for movement between CONUS and the JOA.
  - (f) (U) Through Air Mobility Command (AMC):
    - 1. (U) Provide strategic airlift and aerial refueling as required.
    - 2. (U) Provide combat audiovisual documentation service.
    - 3. (U) Provide aerial port facilities and services as required.
    - 4. (U) Provide aeromedical evacuation for US forces and Coalition forces as required.
    - 5. (U) Provide Director of Mobility Forces (DIRMOBFOR) to control and coordinate airlift flow as required.
  - (g) (U) Through Military Sealift Command (MSC):
    - 1. (U) Provide common-user sealift as directed.

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2. (U) Establish Military Sealift Command Offices (MSCOs) to support MSC shipping.
- (h) (U) Provide liaison cell personnel and equipment to USCINACOM and to JTF 250 headquarters as required.
- (i) (U) Provide medical regulating support through the Global Patient Movements Requirements Center (GPMRC).
- (5) (U) Commander in Chief, US Atlantic Fleet (CINCLANTFLT)
- (a) (U) Provide planning support to COMFORSCOM and the CJTF 250, for MACDIS operations.
- (b) (U) Prepare supporting plans, as directed.
- (c) (U) Provide units, personnel, equipment, or other resources to support MACDIS operations, as directed.
- (d) (U) Provide or arrange for administrative, logistical, and communications support for Service Component provided, deployed, MACDIS forces.
- (e) (U) Coordinate with COMFORSCOM to develop Joint Force Packaging for MACDIS operations.
- (f) (U) Ensure readiness of designated MACDIS headquarters and forces to conduct MACDIS operations.
- (6) (U) Commander, Forces Command (COMFORSCOM)
- (a) (U) Designate for planning, and when directed, form and deploy a Joint Task Force headquarters (JTF 250) to provide command and control of federal military forces conducting MACDIS operations.
- (b) (U) Serves as the USCINACOM LOA for MACDIS operations within the USCINACOM AOI.
- (c) (U) Plans, coordinates, and, when ordered, executes MACDIS operations within the USCINACOM AOI.
- (d) (U) Prepares supporting plan to this plan and, when directed, prepares plans to support the conduct of MACDIS operations for specific AOs.

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- (e) (U) Alerts all supporting commands, services, agencies, and components of possible initiation of MACDIS operations.
- (f) (U) When directed, nominates a Commander, JTF 250, for each AO to the USCINACOM for appointment. When the AO is Washington, D.C., the Commander, JTF 250, will be the Commander, Military District, Washington.
- (g) (U) Tasks component commands of USCINACOM, while keeping USCINACOM informed, to prepare supporting plans and prepare to provide forces and resources for MACDIS operations within the USCINACOM AOI.
- (h) (U) Tasks CJTF 250 to prepare supporting plans and, when directed, prepare an OPORD for a specific AO.
- (i) (U) Requests MACDIS support/tasking outside USACOM through USCINACOM. Once coordination between USCINACOM and the outside agency/supporting command is completed, USCINACOM will normally give COMFORSCOM the tasking authority. COMFORSCOM keeps USCINACOM informed of such activity.
- (j) (U) Coordinates directly with and tasks USCINCTrans for all air, ground, and sea deployments and for planning in support of MACDIS operations within the USCINACOM AOI.
  - 1. (U) The primary means for this tasking is the Time-Phased Force and Deployment Data (TPFDD).
  - 2. (U) FORSCOM will develop and validate the TPFDD. USCINACOM will direct FORSCOM to make any required changes.
- (k) (U) Has Direct Liaison Authority (DIRLAUTH) with respect to all DoD services, agencies, and commands. Provides status in SITREPS.
- (l) (U) Ensures readiness of designated MACDIS headquarters and forces to conduct MACDIS operations.
- (m) (U) Develops functional, capabilities-based JTF 250 for MACDIS operations in accordance with USCINACOM's guidance on Joint Force Packaging.

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(n) (U) Serve as the Financial Executive Agent (FEA) for USCINACOM to recover reimbursable incremental costs incurred as a consequence of MACDIS operations(See ref (k)). As the FEA, COMFORSCOM will:

1. (U) Ensure issuance of mission specific financial guidance upon the execution of a MACDIS operation.
2. (U) Collect the incremental costs, consolidate and forward a consolidated billing to the DoJ, and distribute the reimbursements.

(7) (U) Commander, Air Combat Command (COMACC)

- (a) (U) Be prepared to identify and deploy Commander, Air Component Command (AFFOR) and headquarters (CTF 253) to provide command and control for US Air Force forces assigned to this operation.
- (b) (U) Be prepared to provide personnel and equipment augmentation to the JTF 250 headquarters.
- (c) (U) Be prepared to identify and provide required US Air Force forces upon implementation of this plan and receipt of USCINACOM guidance.
- (d) (U) Provide meteorological services to US Army and US Air Force forces and other USCINACOM components as required.
- (e) (U) Provide Air Rescue and Recovery assets to conduct combat search and rescue operations as required.
- (f) (U) Provide strategic reconnaissance support as required.
- (g) (U) Be prepared to provide echelon above Corps (EAC) tactical communications personnel and equipment support to CJTF 250 in the event COMFORSCOM is unable to provide all required communications.
- (h) (U) Assess requirements and recommend appropriate units to support MACDIS operations.
- (i) (U) Provide administrative and logistical support for deployed USAF forces.
- (j) (U) Develop supporting plan(s) as required to address tasks required by this plan. Minimally, develop CTF 253 supporting plan(s) for employment of forces at execution.

(8) (U) Commander, U.S. Marine Corps Forces Atlantic (COMMARFORLANT)

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- (a) (U) Designate for planning, and when directed, be prepared to form and deploy a Joint Task Force headquarters (JTF 250) to provide command and control of federal military forces conducting MACDIS operations.
  - (b) (U) Provide planning support to COMFORSCOM and the CJTF 250, for MACDIS operations.
  - (c) (U) Prepare supporting plans, as directed.
  - (d) (U) Provide units, personnel, equipment, or other resources to support MACDIS operations, as directed.
  - (e) (U) Provide or arrange for administrative, logistical, and communications support for Service Component provided, deployed, MACDIS forces.
  - (f) (U) Coordinate with COMFORSCOM to develop Joint Force Packaging for MACDIS operations.
  - (g) (U) Ensure readiness of designated MACDIS headquarters and forces to conduct MACDIS operations.
- (9) (U) Commander, Special Operations Command Atlantic Command (COMSOCACOM)
- (a) (U) When designated, provide units, personnel, equipment, or support as requested by USCINACOM.
  - (b) (U) Assess requirements and recommend appropriate units to support MACDIS operations.
  - (c) (U) Provide administrative, logistic, and communications support for deployed special operations forces.
  - (d) (U) Coordinate plans and operations in support of this plan with USCINACOM service component commanders.
- (10) (U) Commander, Iceland Defense Force (COMICEDEFOR).
- (a) (U) Provide support as required. Conduct appropriate coordination with Government of Iceland.
- (11) (U) Commander, US Forces Azores (COMUSFORAZORES).

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(a) (U) Provide support as required. Conduct appropriate coordination with Government of Portugal.

(12) (U) Commander Joint Task Force 250 (CJTF 250)

(a) (U) When designated by USCINACOM or designated component command, commence deliberate planning process to develop supporting plan for JTF operations under this plan.

(b) (U) On receipt of guidance to begin execution or crisis action planning for this operation, provide requirements for JTF 250 staff personnel and equipment augmentation to USCINACOM.

(c) (U) When directed, receive operational control of designated federal military forces operating in the area of responsibility.

(d) (U) When directed by USCINACOM, establish liaison with DoJ, USCINACOM, COMFORSCOM, and state and local authorities in the AOI. Maintain close liaison and coordination with DoJ, USCINACOM, COMFORSCOM, and state and local authorities in the AOI.

(e) (U) When directed by USCINACOM, conduct MACDIS operations within the assigned area of operations.

(f) (U) On receipt of guidance to implement this plan, identify unresolved shortfalls.

(g) (U) On order, transition operations to state and local authorities in the AOI and redeploy US forces out of the area of operations.

(h) (U) On order, relinquish OPCON of forces, disestablish JTF Headquarters, and revert to control of Service Component Headquarters.

(i) (U) Maintain communications with USCINACOM throughout operations.

(j) (U) Submit daily situation reports (SITREPs) to USCINACOM. See Annex V.

(k) (U) Submit an After-Action Report to USCINACOM. See Annex V.

c. (U) Coordinating Instructions

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- (1) (U) This plan provides guidance and direction for component commands of USCINACOM, supporting DoD agencies and supporting commands for MACDIS operations in the USCINACOM AOI.
- (2) (U) This plan is effective upon publication. It is effective for planning upon receipt and for execution on order.
- (3) (U) Coordination is authorized among all components of USACOM.
- (4) (U) COMFORSCOM is authorized to coordinate with USCINTRANS.
- (5) (U) COMFORSCOM has DIRLAUTH with respect to all DoD components and agencies and to supporting commands. COMFORSCOM keeps USCINACOM informed of all DIRLAUTH activity.
- (6) (U) COMMDW has DIRLAUTH with DOMS. COMMDW keeps COMFORSCOM and USCINACOM informed of all DIRLAUTH activity.
- (7) (U) Upon execution of this plan, liaison officers will be provided from appropriate commands and agencies, as required.
- (8) (U) Employment of forces from two or more services will be in accordance with Joint Publication 0-2.
- (9) (U) Plans will be prepared, reviewed and distributed to all listed in Annex Z.
- (10) (U) Reports for MACDIS operations will be submitted in accordance with Annex V.
- (11) (U) All messages and correspondence pertaining to MACDIS plans and operations will include the nick-name GARDEN PLOT.
- (12) (U) Except for the two emergency exceptions which were described in paragraph 1f(5) above, MACDIS operations will be conducted only when specifically authorized. Commanders conducting MACDIS operations under either of the two exceptions will immediately report the actions taken and request further guidance through the appropriate military channels.
- (13) (U) Definitions
  - (a) (U) DoD Executive Agent is the individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense.

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(b) (U) DoD Planning Agent is an individual designated by position to facilitate and coordinate MACDIS contingency planning (and MACDIS operations when ordered) by all the DoD components in an assigned geographic area.

(c) (U) Lead Operational Authority (LOA) is that authority which has been delegated by USCINACOM to a command or component to carry out specific MFT for which it has resident expertise and experience or capabilities to perform. Such a delegation empowers the designated component commander with authority to plan, coordinate, and when directed by USCINACOM, to execute assigned missions.

d. (U) Operational Constraints.

(1) (U) The commitment of federal military forces for civil disturbance may be required for domestic civil disturbances occurring simultaneously at different locations within the USCINACOM AOI.

(2) (U) Only when necessary in extreme circumstances will the President call to federal service the Army National Guard and the Air National Guard of any state for employment in MACDIS operations.

(3) (U) Unless the President or Congress declares a national emergency and implements 10 USC 673 (a) or 10 USC 672 (a), there is no authority to involuntarily order a unit of the reserve components to active duty other than the fifteen (15) days allowed by 10 USC 672 (b).

(4) (U) Under conditions of Presidential Selective Reserve Call-up (PSRC), partial mobilization, or full mobilization, federalized reserve component (RC) forces will be made available for MACDIS based upon the programmed flow in support of executed contingency plans.

(5) (U) Federal military forces that are allocated to other OPLANS, but which are used in MACDIS operations, may be rapidly recalled and deployed elsewhere.

(6) (U) Only certain designated civil disturbance forces can be used exclusively in the MDW. These forces are the HQS, JTF 250 (MDW); one Marine Company from the Marine Barracks, Washington, D.C.; one battalion(-) from active component U.S. Army Infantry units based in the MDW; one active COMMARFORLANT provided U.S. Marine Corps battalion; and six active component CONUS Army battalions (two of which will be MP battalions).

(7) (U) Pre-positioning of federal military forces for MACDIS operations near or in the AO will not exceed a battalion-sized unit, unless a larger force has been specifically authorized by the President.

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**UNCLASSIFIED***Final Draft*4. (U) Administration and Logisticsa. (U) Concept of Support. See Annex D.b. (U) Logistics. See Annex D.c. (U) Personnel. Refer to Annex E and Annex V. The staffing of the JTF 250 will be in accordance with Annex E phased deployment plan. During each of the five (5) phases, manning level decisions will be determined as current civil disturbance situations dictate.

(1) (U) Personnel policies and procedures in support of MACDIS units will conform to applicable Service directives.

(2) (U) The numbers and occupational specialties of personnel assigned will be determined by the nature and scope of MACDIS operations undertaken.

(3) (U) Maintenance of force strengths is a Service responsibility. However, the short duration of the operations envisioned in this plan may preclude the requirement for replacements.

(4) (U) Each CJTF 250 will submit personnel status reports in accordance with Annex E of this plan and any additional guidance given by USACOM J1.

(5) (U) Each CJTF 250 will submit casualty reports in accordance with Annex E of this plan and any additional guidance given by USACOM J1.

d. (U) Public Affairs. Refer to Annex F.

(1) (U) PA will provide support to MACDIS operations in each AO.

(a) (U) The Joint Information Bureau (JIB) will provide the public with prompt and accurate information concerning all aspects of the MACDIS operation.

(b) (U) Each CJTF 250, ensure that:

1. (U) All military personnel designated for MACDIS operations in the AO are kept informed, during all phases of the operation, of the situation; their mission, duties, and responsibilities (including Special Instructions); and their relationship with civilian authorities, the local populace, and the media.

2. (U) Families of military personnel designated for MACDIS operations are informed.

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(c) (U) Other than the troop briefings identified in paragraph 4d(1)(b)1, any release of information pertaining to MACDIS operations will be IAW Annex F.

(2) (U) COMFORSCOM will:

(a) (U) In the event of a single MACDIS operation, appoint a senior public affairs officer as the JTF 250 PAO/JIB Director. Within JTF MDW this function will be assigned to an MDW senior public affairs officer. This officer has staff cognizance to USACOM J02P for all PA activities within the AO and coordinates all DoD PA personnel OPCON to the CJTF 250 and deployed to the AO.

(b) (U) In the event of MACDIS operations at multiple AOs:

1. (U) Appoint a senior public affairs officer as the PAO/JIB Director for all JTF 250s. This officer exercises staff cognizance for USCINACOM for all MACDIS PA activities within the AOI and coordinates all DoD PA operations in the AOs.

2. (U) CJTF 250 appoints a sub-JIB director for each AO. These officers will coordinate all PA activities for their AO through the JTF 250 PAO.

(3) (U) Military services will provide PA personnel and equipment, as required.

e. (U) Civil Affairs. Civil Affairs personnel, when deployed, will support operations by performing limited operational, advisory, and training functions while providing essential support and/or technical assistance to the local government.

f. (U) Meteorological and Oceanographic (METOC) Support. Planned operations may require meteorological and oceanographic support in the area of operations. METOC support will be per Annex H of USCINACOM OPORD 2000-96. METOC assets are available from ACC, LANTFLT and MARFORLANT.

g. (U) Mapping, Charting, and Geodesy (MC&G).

(1) (U) MC&G support for this plan will be in accordance with Annex M, USCINACOM OPORD 2000-96. The most likely products required will be aeronautical charts, hydrographic charts and topographic products in the form of city graphics.

(2) (U) Topographical products and services necessary to support this plan will be coordinated with the USACOM J332MCG. These products may include

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aeronautical, topographical, and hydro graphical charts; aerial photography; map substitutes; digital databases; and terrain analysis products.

(3) (U) Most topographic products for CONUS (1:24,000 and 1:100,000 scale) are obtained from United States Geological Survey (USGS) through coordination with National Imagery and Mapping Agency and USACOM J332MCG.

h. (U) Medical Services. Refer to Annex Q.

(1) (U) COMFORSCOM is responsible for planning and arranging for health service support for military personnel supporting MACDIS operations. USCINACOM Components and the Services will provide medical support as required. The JTF 250 Surgeon will also plan, manage, and implement the agreed upon medical support plan in the JTF 250 AO.

(a) (U) COMFORSCOM will plan appropriate Level II and III medical support using Service component assets.

(b) (U) Each brigade or brigade-equivalent designated for MACDIS operations will deploy with a sufficient health services support slice to provide brigade-level medical and surgical support (appropriate organic Level I medical capability).

(c) (U) Each health services support slice will deploy with a 15 day supply of expendable Class VIII supplies. Resupply will be in accordance with Annex D.

(d) (U) Aeromedical evacuation outside of each AO is the responsibility of USCINTRANS.

(2) (U) Military personnel admitted to civilian hospitals will be transferred to military facilities as soon as their medical condition permits.

(3) (U) Civilian medical facilities have the primary responsibility to meet civilian medical requirements in each AO. As authorized by COMFORSCOM, health services support, within the capability of the JTF 250, may be provided to civilians within the AO.

5. (U) Command and Control

a. (U) Command Relationships. Refer to Annex J.

(1) (U) SECDEF, by reference (b), has designated the Secretary of the Army (SA) as the DoD Executive Agent for MACDIS.

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(2) (U) SECDEF, by reference (b), has further designated the USCINACOM as the DoD Planning Agent for MACDIS (not including DoD response to terrorist incidents) in the USCINACOM AOI.

(3) (U) SA, by reference (a), has designated the Director of Military Support (DOMS) as his Action Agent for MACDIS.

(4) (U) USCINACOM, by references (h) and (i), has designated the COMFORSCOM as the Lead Operational Authority (LOA) for MACDIS (not including DoD response to terrorist incidents) in the USCINACOM AOI.

(5) (U) USCINACOM is the supported CINC for MACDIS not including DoD response to terrorist incidents) within the USCINACOM AOI.

(a) (U) Commander In Chief, Pacific Command (USCINCPAC), Commander In Chief, Transportation Command (USCINCTrans), Commander In Chief, Southern Command (USCINCSO), and Commander In Chief, Special Operations Command (USCINCSOC) are supporting CINCs.

(b) (U) The military services, the DoD agencies, and the USCG are supporting organizations.

(6) (U) USCINACOM retains Combatant Command (COCOM) of and tasking authority over COMFORSCOM.

(7) (U) For purposes of carrying out the assigned function as the LOA, COMFORSCOM has Operational Control (OPCON) over all forces which are under either the COCOM or OPCON of USCINACOM.

(8) (U) Each CJTF 250 has OPCON over all assigned forces upon arrival into the AO.

b. (U) Command Posts. Designation and location of each major headquarters involved in execution will be identified during crisis action planning and the conversion of this plan to an OPORD.

c. (U) Succession of Command. Succession of Command will be established during crisis action planning and the conversion of this plan to an OPORD. See USCINACOM OPORD 2000-96.

d. (U) Command, Control, and Communications Systems. A mix of C4 systems from Headquarters USCINACOM to the Defense Communications System (DCS), FORSCOM, and assigned Commander, (CJTF 250), during all five phases of this operation will be used. COMFORSCOM will establish C4 connectivity to his assigned JTF 250,

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governmental and non-governmental civilian agencies. The system(s) used will depend on the current phase of the operation, the physical location of the headquarters, other agencies, airlift availability, equipment availability, and force availability. COMFORSCOM should plan at a minimum for the following systems: Joint Deployable Intelligence Support System (JDISS) SCI and genser, Global Command and Control System (GCCS), Contingency Tactical Air Control System/Automated Planning System (CTAPS), and SCI/JWICS and genser Video-Teleconferencing (VTC). C4 planning considerations should include provisions for the commercialization of ashore based tactical forces C4 networks if in excess of 180 days.

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Commander in Chief,  
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## Annexes:

A--TASK ORGANIZATION  
B--INTELLIGENCE (Omitted)  
C--OPERATIONS  
D--LOGISTICS  
E--PERSONNEL  
F--PUBLIC AFFAIRS  
G--CIVIL AFFAIRS (Omitted)  
H--ENVIRONMENTAL SERVICES (Omitted)  
J--COMMAND RELATIONSHIPS  
K--COMMAND, CONTROL AND COMMUNICATIONS  
L--OPERATIONS SECURITY (Omitted)  
M--MAPPING, CHARTING AND GEODESY (Omitted)  
N--SPACE OPERATIONS (Omitted)  
Q--MEDICAL SERVICES  
R--CHAPLAIN ACTIVITIES (Omitted)  
V--REPORTS  
X--EXECUTION CHECKLIST  
Z--DISTRIBUTION

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APPENDIX 4: MILITARY ASSISTANCE FOR  
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# APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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23 July 1998

### ANNEX A TO USCINACOM FUNCPLAN 2502-97 (U) TASK ORGANIZATION (U)

- (U) REFERENCES:
- a. DoD Civil Disturbance Plan, GARDEN PLOT, 15 February 1991 (U)
  - b. DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," 4 February 1994 (U)

#### ORGANIZATION

#### COMMANDER

U.S. Pacific Command	USCINCPAC
U.S. Special Operations Command	USCINCSOC
U.S. Transportation Command	USCINCTrans
U.S. Space Command	USCINCSpace
U.S. Atlantic Fleet	CINCLANTFLT
Forces Command	COMFORSCOM
Air Combat Command	COMACC
U.S. Marine Corps Forces, Atlantic	COMMARFORLANT
Joint Task Force	CJTF 250

#### 2. (U) Forces

- a. (U) Specific force requirements and Service composition will be determined by force availability, type, degree of severity, duration, and location(s) of the MACDIS operations.
- b. (U) Forces, designated for the JTF 250 by reference b, will be trained, equipped, and maintained in readiness for rapid deployment anywhere in USACOM AOI, unless otherwise noted.

#### 3. (U) Headquarters, JTF 250

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a. (U) General

(1) (U) The general composition of the Headquarters, JTF 250, will vary, depending on the specific requirements of each MACDIS operation.

(2) (U) At a minimum, personnel outlined in this ANNEX will be considered as the nucleus of a Headquarters, JTF 250.

b. (U) Specific

(1) (U) The Commander, JTF 250, (CJTF 250), will be:

(a) (U) An officer with the rank of a brigadier general or rear admiral (lower half), when JTF 250 does not exceed a brigade equivalent.

(b) (U) An officer with the rank of a major general or rear admiral (upper half), when JTF 250 exceeds a brigade equivalent.

(c) (U) The Commanding General, U. S. Army MDW (Major General) for JTF 250 (MDW).

(2) (U) The Headquarters, JTF 250, will consist of the principal staff and the following:

(a) (U) Transportation Officer

(b) (U) Engineer Officer

(c) (U) Public Affairs Officer

(d) (U) Staff Judge Advocate

(e) (U) Military Intelligence Officer

(f) (U) Provost Marshall Officer

(g) (U) Signal Officer

(h) (U) Surgeon

(i) (U) Chemical Officer

(j) (U) USAF Air Liaison Officer (ALO)

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(k) (U) Liaison Officer from each component which has forces in the JTF 250.

(3) (U) Headquarters for MACDIS operations are:

(a) (U) One JTF 250 headquarters designated from each active component Continental U.S. (CONUS) Army Corps (III Corps, XVIII Corps), capable of exercising command and control over a JTF 250 consisting of two or more brigade equivalents.

(b) (U) One JTF 250 (MDW) headquarters maintained by the Commander, Military District of Washington (MDW), capable of exercising command and control over a JTF 250 consisting of two or more brigade equivalents.

(c) (U) One additional JTF 250 headquarters designated from active component forces assigned to USACOM and based in USACOM AOI, capable of exercising command and control over a JTF 250 consisting of one brigade equivalent.

4. (U) Brigades or their equivalent are the basic unit of employment for MACDIS operations.

a. (U) General

(1) (U) Each such brigade will consist of a brigade headquarters, a support element, and two battalions.

(2) (U) The strength of each MACDIS brigade will range between a minimum of 1,210 and a maximum of 2,150 personnel.

b. (U) Specific. Forces for MACDIS operations, identified in reference a, are listed as follows:

(1) (U) Force Requirements

(a) (U) One brigade designated from III Armored and XVIII Airborne Corps.

(b) (U) Six additional battalions (including two MP battalions) designated from active component CONUS Army forces, for assignment to JTF 250 (MDW), when activated.

(c) (U) One infantry battalion(-) designated from active component infantry units based within the MDW, for assignment to JTF 250 (MDW), when activated.

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(d) (U) One company of Marines designated from the Marine Barracks, WASHINGTON, D.C., for protection of the U.S. Capitol Building, under the command of Commander, JTF 250 (MDW), when activated.

(e) (U) Two U.S. Marine Corps battalions designated from COMMARFORLANT, one of which will be employed exclusively with the JTF 250 (MDW), when activated.

(2) (U) Quick Reaction Forces

(a) (U) One JTF 250 headquarters from paragraph 3b(3)(a) and one brigade from paragraph 3b(3)(b) designated as the Quick Reaction Force (QRF). The QRF will be on a 24-hour alert status and capable of obtaining a civil disturbance condition 4 (CIDCON 4) status in 12 hours.

(b) (U) Other forces designated for the JTF 250 are not on any special alert status and will normally be permitted 72 to 96 hours preparation time to obtain CIDCON 4 status.

(3) (U) Other Forces. Other active component Military Police units and Infantry brigades (or brigade-equivalents) assigned to USCINCOM and based in USACOM AOI will receive domestic civil disturbance orientation training and will be prepared to receive special equipment and initiate more intensive training upon short notice.

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### ANNEX C TO USCINACOM FUNCPLAN 2502-97 (U) OPERATIONS (U)

- (U) REFERENCES:
- a. DoD Civil Disturbance Plan, "GARDEN PLOT", 15 February 1991 (U)
  - b. CJCS Instruction 3110.01, "Joint Strategic Capabilities Plan FY 1996 (JSCP FY96)," 24 March 1995 (U)
  - c. CJCS Instruction 3216.01, "Military Assistance for Civil Disturbances," 28 October 1994 (U)
  - d. Secretary of the Army Message, "Implementation Guidance for DoD Directive 3025.12," 6 May 1994 (U)
  - e. Annex U to USCINACOM OPORD 2000-96, "Military Support to Civil Authorities/ Military Assistance for Civil Disturbances (MSCA/MACDIS)," 14 June 1996 (U)
  - f. USACOM Instruction 3440.2, "USACOM Policy Directive for Lead Operational Authority (LOA) for Military Support to Civil Authorities/ Military Assistance for Civil Disturbances (MSCA/MACDIS)," 1 November 1993 (U)

### (U) TASK ORGANIZATION: Annex A.

#### 1. (U) General

- a. (U) Purpose. This annex provides guidance for the conduct of military assistance for MACDIS operations in the US Atlantic Command (USACOM) Area of Interest (AOI).
- b. (U) Mission. When directed by the DoD Executive Agent, USCINACOM, through COMFORSCOM, will designate the JTF 250 commander (CJTF 250) and forces for each AO within the USACOM AOR. On order, the CJTF 250 will conduct MACDIS operations within the objective area to assist civil authorities to restore law and order.
- c. (U) Alliance Plans. Not applicable.
- d. (U) Area of Operations. The USACOM AOI for MACDIS is defined as the 48 contiguous states and the District of Columbia. The Area of Operations (AO) within that AOI is undefined for this FUNCPLAN. The AO for a specific operation must be defined upon conversion of this FUNCPLAN to an OPLAN or OPORD.

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**UNCLASSIFIED***Final Draft*2. (U) Concept of Operationsa. (U) General

(1) (U) This plan provides guidance for the expeditious response of appropriate military forces in civil disturbance situations. While civil disturbance situations can vary in size, location and intensity they generally reflect the need for relatively lightly armed infantry forces capable of quelling the disorder, restoring, and for a period of time, maintaining the peace. Domestic civil disturbance operations in the USACOM AOR will be conducted by Forces Command (FORSCOM) as USACOM's Lead Operational Authority (LOA). FORSCOM will act in that capacity exercising the authority defined in ref (f).

(2) (U) This plan is designed to provide flexibility of response to the varying types and degrees of support required. The Commander of the Joint Task Force (CJTF 250) will be, at a minimum, an officer with the rank of brigadier general or rear admiral (lower half) when JTF 250 does not exceed a brigade equivalent."

(3) (U) Upon receipt of a DoD approved request for MACDIS operations support (warning order/execute order), USCINACOM will direct COMFORSCOM, as LOA, to execute GARDEN PLOT OPLAN. The CJTF 250, nominated by COMFORSCOM, and approved by USCINACOM, will immediately proceed to the AO and, in coordination with the SCRAG and the State/Territorial Adjutant General (TAG), conduct a reconnaissance of the area and relay to COMFORSCOM an assessment of the situation, with recommendations concerning commitment of federal military forces. This information will be forwarded to USCINACOM, and then sent to the SECDEF, the Joint Staff, and the DOMS.

(4) (U) If the President orders the commitment of federal military forces for civil disturbances, the SECDEF will direct the deployment of forces for MACDIS support. In coordination with the Joint Staff, the DOMS (executive agent for the SECARMY), will issue an execute order to deploy military forces. The USCINACOM will then direct COMFORSCOM to task the designated Corps/MEF to deploy a JTF 250 into the objective area to execute MACDIS operations.

(5) (U) Military forces are deployed in the pretext to assist the local law enforcement agencies, and not usurp or infringe upon the supporting agencies authority/ territory. This is extremely critical in the concept of support operations. Every effort will be made to withdraw and redeploy forces just as soon as it appears they are no longer needed.

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(1) (U) Domestic MACDIS operations will be conducted in five phases; preparation, assessment/deployment operations, MACDIS operations, transition operations and redeployment operations.

(a) (U) Phase I, Preparation. As the requirement for commitment of DoD forces increases the executive agent will raise the civil disturbance conditions (CIDCON) increasing the alert posture of previously identified reaction forces. When commitment is most probable the executive agent with the concurrence of the Secretary of Defense will publish a warning order to USCINACOM to prepare to conduct MACDIS operations. A subsequent warning order will be transmitted to COMFORSCOM. At that time a JTF 250 headquarters will be formed, a JTF 250 Commander will be designated and specific forces will be identified. Success is defined as JTF 250 advance elements are deployed, liaison with SCRAG/TAG established, and Base Support Installations (BSIs) are identified and are ready to receive follow-on forces.

(b) (U) Phase II, Assessment/Deployment Operations. The deploying elements will deploy IAW TPFDL. During this phase, forces deploy to, enter, and secure lodgment areas in the AO. Initial forces and sustainment begin to flow from air, sea, rail and land. Local military installations (designated as Base Support Installations - BSI) will assist in deployment support. Phase II ends when JTF 250 forces have closed into the AO.

(c) (U) Phase III, MACDIS Operations. The CJTF 250 has operational control of all assigned DoD forces in the AO and conducts the assigned JTF 250 mission in support of the local, state and federal law enforcement agencies. Success is defined as the deployment of active forces, in conjunction with, local, state and federal law enforcement agencies to accomplish the objectives to restore/maintain law and order.

(d) (U) Phase IV, Transition Operations. This phase begins when it is determined that federal forces are no longer needed to support local law enforcement agencies. The CJTF 250 begins to transition the JTF 250's responsibilities to local, state and federal law enforcement agencies as those agencies become capable of handling those responsibilities. Success is defined as the transfer of the mission responsibilities assigned to DoD, transferred (or terminated) to local, state and federal law enforcement agencies the response/recovery functions.

(e) (U) Phase V, Redeployment Operations. USCINACOM, in consultation with COMFORSCOM and the CJTF 250, recommends to the executive agent the effective dates and times of redeployment. This is based on the effective completion of the transition phase and the standing requirements of the Lead Federal Agency. The deployed forces are then

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redeploy to their home station or are directed to conduct subsequent missions as directed. Upon completion of redeployment, control of augmenting forces is returned to their respective commands.

(2) (U) MACDIS Operations Center

(a) (U) A USCINACOM MACDIS Response Cell will be activated to direct and coordinate all aspects of MACDIS operations between Joint Staff, SECDEF, DOMS, component commanders, the JTF 250, and all other organizations involved in civil disturbance activities within the USACOM geographic AO.

(b) (U) The Response Cell will be organized and operate IAW USCINACOM Instruction 3120.2/3120.3.

(c) (U) The USACOM Joint Operations Center will be used to the maximum extent possible if not fully activated (Crisis Action Team - CAT) for a military operation occurring simultaneously with the MACDIS operations

(d) (U) Communications will be in accordance with Annex K and current directives at the time of execution of this plan.

3. (U) Conduct of Operations

a. (U) Readiness, Alert, and Marshaling. Civil Disturbance Conditions (CIDCON) 5,4,3,2,1 are used to permit orderly and timely increase in mission preparedness levels. CIDCON levels are set by the DOMS. See Appendix 18 for CIDCON levels and requirements.

b. (U) Air Operations. FORSCOM will coordinate directly with USTRANSCOM for heavy lift air transportation requirements. Fixed wing and rotary aircraft used for reconnaissance flights and transporting personnel will be coordinated by the CJTF 250.

c. (U) Air Defense Operations. Not applicable.

d. (U) Amphibious Operations. Not applicable.

e. (U) Maritime Pre-Positioning Force Operations. Not applicable.

f. (U) Antisubmarine Warfare Operations. Not applicable.

g. (U) Command, Control, and Communications Counter-measures. Not applicable.

h. (U) Counterinsurgency. Not applicable.

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- i. (U) Nuclear Operations. Not applicable.
  - j. (U) NBC Defense Operations; Riot Control Agents and Herbicides. Appendix 2 (TBP).
  - k. (U) Electronic Warfare Operations. Not applicable.
  - l. (U) Psychological Operations. Not applicable.
  - m. (U) Special Operations. Not applicable.
  - n. (U) Search and Rescue Operations. Not applicable.
  - o. (U) Military Deception. Not applicable.
  - p. (U) Rules of Engagement. Per para 1.g, of Annex A, Standing Rules of Engagement (SROE), dated 1 October 1994, with change #1, dated 22 December 1994, the use-of-force policy found in the DoD Civil Disturbance Plan "Garden Plot" (Appendix 1 to Annex C and Director of Military Support message date time group 161639Z Jul 96) is the standing civil disturbance ROE. The LOA will submit supplemental ROE requests to USCINACOM, for NCA approval. The CJTF 250 may also request changes to the ROE, through command channels, as necessary.
  - q. (U) Reconnaissance. CJTF 250 executes reconnaissance of objective area during CIDCON 4. See Appendix 18 to Annex C.
  - r. (U) Counter-C3. Not applicable.
  - s. (U) Air Base Operability. Not applicable.
  - t. (U) Visual Information and Combat Camera Documentation. See Annex F.
  - u. (U) Noncombatant Evacuation Operations. Not applicable.
  - v. (U) Escape and Evasion Operations. Not applicable.
  - w. (U) Counterattack. Not applicable.
  - x. (U) Explosive Ordnance Disposal. Not applicable.
  - y. (U) Amphibious Operations. Not applicable.
4. (U) Operational Constraints. See basic plan.

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Appendixes:

2--Riot Control Agents (TBP)

8--Rules of Engagement (TBP)

18--Civil Disturbance Condition Levels (CIDCON)

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### APPENDIX 18 TO ANNEX C TO USCINACOM FUNCPLAN 2502-97 (U) CIVIL DISTURBANCE CONDITIONS (CIDCON) (U)

(U) REFERENCES: See basic plan.

#### 1. (U) Situation

a. (U) General. The CIDCON system has been established to provide for a structured, methodical system to transition preparedness levels of GARDEN PLOT forces and supporting activities. The CIDCON system consolidates existing procedures and is specifically tailored to civil disturbance missions. This system has been implemented within all services and appropriate commands to provide the SECDEF the necessary response within geographic CINCs' AORs.

(1) (U) Applicability. This appendix applies to federal military personnel (to include federalized National Guard personnel) operating in each civil disturbance AO under USCINACOM authority.

(2) (U) Declaration Authority.

(a) (U) CIDCON changes will be issued, in coordination with the Joint Staff and the DOMS, by the SECDEF. These will be transmitted through command channels.

(b) (U) Commanders will not unilaterally upgrade the CIDCON of forces OPGON, above CIDCON 4. Commanders will not downgrade the CIDCON without approval of SECDEF, via DOMS. USCINACOM will issue guidance in respect to CIDCON downgrades.

(c) (U) Initial notification and subsequent changes in CIDCON postures will be sent by the fastest means available and will be keyed to and confirmed IAW established message procedures.

2. (U) Civil Disturbance Condition Requirements. There are five Civil Disturbance Conditions. Each condition has certain requirements. The following CIDCON definitions apply and listed are the readiness actions to be taken:

a. (U) CIDCON FIVE

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(1) (U) Definition: The normal preparedness that can be sustained indefinitely and which represents an optimum balance between the requirements for deployment preparedness and the routine training and equipping of forces for their assigned missions. Forces designated for MACDIS operations (i.e., designated Corps' DRBs) are maintained in a normal training and preparedness status.

(2) (U) Readiness Requirements

- (a) (U) FORSCOM identifies JTF 250 forces.
- (b) (U) FORSCOM nominates JTF 250 forces.
- (c) (U) JTF 250 conducts unit level training IAW components OPLAN requirements.
- (d) (U) CJTF 250 updates TPFDD.
- (e) (U) CJTF 250 prepares to assume CIDCON FOUR within 12 hours.

b. (U) CIDCON FOUR

(1) (U) Definition: A condition requiring increased monitoring and analysis of civil disturbance developments in the objective area and initiation of detailed planning. Requirements for reconnaissance support by CJTF 250 have been designated and support programmed. At this condition, designated forces are prepared to be "wheels-up" or depart home station within 12 hours.

(2) (U) Readiness Requirements

- (a) (U) Warning order transmitted to JTF 250 forces.
- (b) (U) CJTF 250 executes reconnaissance of objective area. Intel assets focus on same to provide updates.
- (c) (U) FORSCOM coordinates JTF 250 movement with USCINACOM and USCINTRANS.
- (d) (U) FORSCOM identifies and nominates BSI's for area.
- (e) (U) JTF 250 prepares to assume CIDCON THREE within six hours.

c. (U) CIDCON THREE

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(1) (U) Definition: Condition that requires designated ground forces and airlift support forces to assume an increased preparedness posture that will allow for designated forces to be "wheels-up" or depart home station within six hours.

(2) (U) Readiness Requirements

- (a) (U) JTF 250 forces brought to C-1.
- (b) (U) JTF 250 executes specialized CD training.
- (c) (U) FORSCOM identify follow-on forces, if necessary.
- (d) (U) JTF 250 prepares to assume CIDCON TWO within five hours.

d. (U) CIDCON TWO

(1) (U) Definition: Condition that requires designated ground forces and airlift support forces to prepare to deploy to the objective area/BSI by air or surface means within one hour notification, and air movement forces to relocate to staging airfields and load initial aircraft.

(2) (U) Readiness Requirements

- (a) (U) JTF 250 forces commence movement loading operations to depart within one hour notification.
- (b) (U) JTF 250 prepared to assume CIDCON ONE within one hour.
- (c) (U) BSI prepare to receive deploying forces and provide support as required.
- (d) (U) JTF 250 forces draw necessary CD equipment.
- (e) (U) JTF 250 prepared to assume CIDCON ONE within hours.

e. (U) CIDCON ONE

(1) (U) Definition: The maximum state of readiness requiring GARDEN PLOT forces and support structure to be activated, by Joint Staff/DOMS EXORD. NLT one hour after designation of CIDCON one, designated forces have deployed (wheels-up or cross SP by surface means) enroute to the objective area.

(2) (U) Readiness Requirements

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(a) (U) JTF 250 forces execute movement operations within one hour notification.

(b) (U) BSI receive deploying forces and provide support as required.

3. (U) REPORTING. Reporting will be IAW Annex V. Reports will be expedited by fastest means, followed by message.

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### ANNEX D TO USCINACOM FUNCPLAN 2502-97 (U) LOGISTICS (U)

- (U) REFERENCES:
- a. CJCSI 3110.01A, "Joint Strategic Capabilities Plan FY 1996 (JSCP FY96)," 15 November 1995 (TS)
  - b. DoD Instruction 4000.19, "Inter-service, Interdepartmental, and Interagency Support," April, 1992 (U)
  - c. DoD Instruction 3020.37, Continuation of Essential Contractor Services during Crisis, 6 November 1990 (U)
  - d. DoDD 6050.1, "Environmental Effects in the United States of DoD Actions", 30 July 1979 (U)
  - e. DoDI 4715.9, "Environmental Planning and Analysis", 3 May 1996 (U)
  - f. CJCSI 3110.11A, Supplemental Instructions to JSCP (Mobility) (S)
  - g. CJCSI 3110.03 Supplemental Instructions to JSCP (Logistics) (S)
  - h. Joint Pub 3-07.7, "Joint Tactics, Techniques, and Procedures for Domestic Support Operations, Preliminary Coordination, 20 August 1997. (U)
  - i. Joint Pub 4-0, "Doctrine for Logistic Support of Joint Operations," 27 January 1995 (U)
  - j. Joint Pub 4-04, "Joint Doctrine for Civ Engineering Support", 26 September 1995 (U)
  - k. Joint Pub 5-02.1 and CJCSM 3122.03, Joint Operation Planning and Execution System (JOPES), Volumes I and II (U)
  - l. The Federal Response Plan, April 1992 (U)
  - m. CINCUSACOM OPORD 2000, 14 June 1996 (S)
  - n. USCINACOM Publication, "Tactics, Techniques, and Procedures (TTP) for Migrant Camp Operations", 15 April 1995 (U)

#### 1. (U) Situation

- a. (U) Enemy. Refer to basic plan
- b. (U) Friendly. Refer to basic plan.
- c. (U) Assumptions

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- (1) (U) Refer to basic plan.
- (2) (U) That military forces may need to provide emergency logistics support to civilians, non-DoD beneficiaries, during operations.
- d. (U) Resource Availability. Sufficient resources will be provided for forces assigned in the execution of this plan.
- e. (U) Planning Factors
  - (1) (U) Logistics planning will anticipate the possibility of sustained MACDIS operations for a period of up to thirty (30) days.
  - (2) (U) The supply levels of consumption for military forces will be based on Service-approved planning factors.
- 2. (U) Mission. When directed, provide logistic support to USCINACOM forces in support of MACDIS operations.
- 3. (U) Execution
  - a. (U) Concept of Logistic Support
    - (1) (U) Existing Service logistic policies and procedures apply unless otherwise directed herein.
    - (2) (U) To the maximum extent, standard items of military supplies and equipment will MACDIS operations.
    - (3) (U) Maximum use will be made of existing DoD facilities.
    - (4) (U) Employed forces will depart home stations with sufficient days of accompanying supplies to meet enroute requirements and to sustain themselves for a minimum of five days or until resupply can be effected. Each force will be self-sustaining to the maximum extent.
    - (5) (U) Logistic support for employed forces may be provided by a designated Base Support Installation (BSI). The nearest DoD facility to the area of operations may be recommended by COMFORSCOM as the BSI if it possesses the capability to effectively assume that mission.
    - (6) (U) Civil resources will be used first to support civil requirements, with military resources used only as necessary to supplement civil capabilities. Logistical assistance to civil authorities will be temporary and will terminate as

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soon as possible in order to conserve military resources and to avoid infringement on the responsibility and authority of civil government agencies. The Lead Federal Agency for Emergency Support Functions (ESFs), as identified in the FRP, is the validating authority for requests for military support from the civil sector. Most of the military requirements will be in support of FEMA.

(7) (U) Maximum consideration will be given to contracting for services and/or resources required by military forces for their support when such contracting will not inhibit mission accomplishment.

### b. (U) Tasks

#### (1) (U) Commander, Forces Command (COMFORSCOM)

(a) (U) Acts as lead service for common item supplies and services to all US forces in the area of operations, as well as, negotiated support to other agencies in support of the operation.

(b) (U) Acts as lead service for US engineer class IV support.

(c) (U) Assumes contracting lead (unless otherwise specified or directed). Federal and DoD acquisition regulations apply. Fund all US contingency contracting for the area of operations.

(d) (U) Assumes the role as the Executive Agent (EA) for all mortuary affairs support in excess of existing capabilities at the BSI.

#### (2) (U) COMACC, CINCLANTFLT, COMSOCACOM, COMMARFORLANT and USCINCTRANSCOM

(a) (U) Provides/arranges for logistical support of USAF, USN, USMC and Special Operations Forces (SOF) forces supporting MACDIS operations.

(b) (U) Provides logistics planning support to COMFORSCOM as required.

(c) (U) Prepares supporting logistics plans as directed by COMFORSCOM.

(d) (U) Be prepared to augment, with engineer forces, FORSCOM engineer units supporting the operation.

#### (3) (U) Commander, Defense Logistics Agency.

(a) (U) Provide integrated materiel management and supply support for all DLA managed materiel.

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(b) (U) Provide property and HAZMAT disposal.

(c) (U) Provide contract administration services.

(d) (U) When requested by USCINACOM or CJTF, deploy a DLA Contingency Support team (DCST). The DCST will be OPCON to USCINACOM or the CJTF when directed.

#### 4. (U) Administration and Logistics

##### a. (U) Logistics

(1) (U) Supply and Distribution. The support and sustainment concept is built around forces deploying with supplies, while simultaneously pushing supplies into the area of operations; then transitioning to a pull system once stockage objectives are met. Units deploy with Unit Basic Loads (UBLs) and are self-sufficient in all classes of supply, except limited class III-Bulk and Class IV-B while utilizing the BSI for field services. Operations transition to contract support as practical/feasible to minimize the logistics footprint. Initial movement of supplies and equipment is by both strategic and tactical lift (e.g., rail, ground, air).

(a) (U) Service components providing personnel/ units for MACDIS operations will provide/ arrange for support of these personnel/units.

(b) (U) Military equipment such as commercial- type radios, generators, and vehicles may be made available on a temporary basis to US Government agencies performing MACDIS operations. This equipment will normally be operated by accompanying military personnel. The receiving agency is responsible for timely return of the equipment to the issuing authority, and for applicable operating and repair costs. In situations where loaned equipment does not remain under military control, the receiving agency will receipt for the equipment. Military equipment and personnel requirements which would hinder the readiness of component commands to accomplish their primary missions will be provided only with the approval of USACOM.

(c) (U) Distribution and Allocation. Deploying units executing this plan will maintain a minimum operating level of five days and a safety level of three days in the area of operations for necessary classes of supply. No prepositioned stocks other than those currently available to support contingency operations will support this plan.

(d) (U) Level of Supply

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- (1) (U) Service component commanders will determine stockage levels of supplies and equipment required to sustain operations for 30 days. Thereafter, support is furnished by the BSI and other backup installations.
- (2) (U) Account for military supplies and equipment consumed or damaged during operations in accordance with Service directives, and ultimately charge to LFA in-kind.
- (3) (U) Only accredited representatives from approved agencies are allowed to receipt military supplies and equipment for this operation. Such transactions must include:
  - a. (U) Assurance that the military resources are used for MACDIS efforts only.
  - b. (U) Instructions and procedures for return of non-expendable equipment and supplies to the issuing unit upon completion of operations.
- (e) (U) Salvage. Commanders are responsible for coordination of salvage within the area of operations. Where practical, inter-Service use of salvage assets should be emphasized. Dispose of salvage per BSI Defense Reutilization and Marketing Office (DRMO) procedures.
- (f) (U) Captured Enemy Materiel. Not applicable.
- (g) (U) Local Acquisition of Supplies and Services
  - (1) (U) Contracting support will be provided either by the nearest Directorate of Contracting in the operational area or contingency contracting.
  - (2) (U) All procurement actions will be identified as supporting the operation in the execution order.
- (h) (U) Petroleum, Oil, and Lubricants (POL) Support. Military resources will be used initially if readily available. Credit cards will be provided/arranged for by the designated BSI. Defense Energy Supply Center (DESC) will provide bulk POL contracting support.
- (i) (U) Inter-Service Logistic Support. Use of inter-Service support agreements (DD Form 1144) will be considered in the development of supporting plans, if appropriate. Refer to reference (b) for further guidance in this area.

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(j) (U) Mortuary Affairs. Care of remains of deceased members of U.S. forces is the responsibility of each of the military services. The remains of deceased active duty personnel will be processed as prescribed by respective Service's regulations. Civilian mortuary services will be used to support civilian requirements. Military resources will only be used when requested by the LFA to supplement civil requirements.

(k) (U) Non-Nuclear Ammunition. Non-lethal weapons are available. Coordinate requirements with J4, USACOM.

(2) (U) Maintenance and Modification. Where practical and required, establish maintenance facilities for joint, cross-service and state/federal agency use. Where feasible and practical, establish basic service agreements for the procurement of maintenance, recovery, and equipment evacuation services.

(3) (U) Medical Services. Annex Q.

(4) (U) Mobility and Transportation. The Joint Operation, Planning and Execution System (JOPES) is used for the movement of all forces. Force deployment is time-phased to meet operational mission requirements per validated priorities in JOPES.

(a) (U) General. USCINTRANS will provide common user surface transport, airlift, and/or sealift, as required. USCINACOM will validate Special Assignment Airlift Mission (SAAM) requirements, forward the LFA fund cite for such lift, and ensure load planning data is received from donating/providing agencies and forwarded to Air Mobility Command (AMC) Tanker Airlift Control Center Director of Current Operations Division (HQ AMC/XOO) for airlift mission planning.

1. (U) Specific airlift requirements are determined upon plan implementation, based upon tasks assigned and forces/equipment required to accomplish these tasks.

2. (U) Present ocean and air terminal capabilities are sufficient to handle the transportation requirements anticipated in deploying forces and equipment.

(b) (U) Mobility Support Force and Movement Feasibility Analysis

1. (U) All materiel and equipment supporting disaster relief operations will be identified to USCINACOM J4.

2. (U) Establishment of adequate reception control in the area of operations is necessary for effective receipt and disposition of

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relief supplies. Coordination with the DCO/CJTF is required to accomplish distribution.

3. (U) When shipment flow commences, the DCO/CJTF will establish an air and/or surface terminal receiving group to control and expedite receipt and delivery to the consignee.

(5) (U) Civil Engineering Support Plan. The FORSCOM Engineer will develop and coordinate civil engineering requirements with CJTF 250. Civil Disturbance civil engineering requirements will be ultimately determined by the JTF Engineer based on requirements/capabilities at the affected location(s).

(a) (U) Scope of Civil Engineering Support. The scope of engineering support will focus on reestablishing utilities, restoring public facilities and infrastructure, removing debris, providing emergency power, supporting urban search and rescue, and building temporary facilities and structures for displaced persons. Primary civil engineering support for this plan is to assist the designated Base Support Installation(s) and/or the designated commander with construction requirements. Requirements will first be met through the use of existing local facilities, preferably government owned, organic equipment, portable or relocatable substitutes, or field construction.

(b) (U) Construction Standards. In the event field construction is necessary, construction standards will meet minimum requirements consistent with the mission and forces available. Initial construction standards as called for in Reference k, Figures II-2 and II-3, and guidance in Reference l will be used. The initial standard is austere, requiring the minimum expenditure of resources. Initial standards will be used for troop housing, messing, administration, water, electricity, and sewage.

(c) (U) Real Property. No plans for acquisition of real property are forecasted. Forces deployed in support of this plan will rely on the Base Support Installation for real estate needs.

(d) (U) Summary of Critical Factors Affecting the CESP. The lack of defined requirements at the affected location(s), hinders the identification of specific capabilities and any resulting shortfalls.

(e). (U) Environmental Considerations. A civil disturbance emergency is exempt from formal environmental planning documentation required by the National Environmental Policy Act (NEPA). Justification for this exemption is found in Reference n, Section E.5 and Enclosure (2) to Reference o. Care should be taken, however, to ensure that practical means and measures are

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used to protect, restore, and enhance the quality of the environment, and to avoid or minimize adverse environmental consequences. USCINACOM will notify the Deputy Under Secretary of Defense for Environmental Security (DUSD-ES) and the Council on Environmental Security (CEQ) of the emergency action as promptly as possible.

(6) (U) Sustainability Assessment. COMFORSCOM will develop a sustainability assessment to ensure the ability to maintain logistic support to all users throughout the area of operations for the duration of the operation. Logistic momentum must be maintained to ensure that resources arrive where they are needed. In addition, waste of supplies and services must be minimized to prevent a shortage, which may jeopardize continued operations.

(7) (U) Security Assistance. Not applicable.

b. (U) Administration

(1) (U) General. Reporting requirements and formats will be in accordance with reference (m).

(2) (U) Donated Relief Supplies

(a) (U) The movement of donated relief supplies by DoD aircraft or ships is not initiated by USACOM or any of its components. Requests from volunteer agencies to ship supplies to the affected area must be referred to and approved by the LFA.

(b) (U) Donated relief supplies shipped by DoD assets will only be accomplished when approved by the LFA.

5. (U) Command and Signal. Annex K.

a. (U) Command Relationships. See Annex J.

b. (U) Command, Control, and Communications Systems. See Annex K.

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Admiral, U.S. Navy

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Commander-in-Chief,  
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23 July 1998

### ANNEX E TO USCINACOM FUNCPLAN 2502-97 (U) PERSONNEL (U)

- (U) REFERENCES:
- a. Joint Pub 0-2, "Unified Action Armed Forces (UNAAF)," 24 February 1995 (U)
  - b. JCS Pub 1-03.17 "Joint Personnel Reporting Structure (JRS)" (U)
  - c. 10 USC 671, 672, 672d, 673b, 675, and 688 (U)
  - d. DoD Directive 1352.1, "Management and Mobilization of Regular and Reserve Retired Military Members" (U)
  - e. JCS Pub 2-1, "Mobilization" (U)
  - f. JCS Pub 4-05, "Mobilization Planning" (U)
  - g. Army Regulation 140-1, "Mission, Organization, and Training" (U)
  - h. Army Regulation 135-200, "Active Duty for Training, and Active Duty for Special Work of Individual Soldiers" (U)
  - i. Army Regulation 600-8-101, "Personnel Processing (In-Out/Mobilization)" (U)
  - j. AMOPS, "Army Mobilization and Operations Planning System" (U)
  - k. Air Force Regulation 28-5, "USAF Mobilization Planning" (U)
  - l. Air Force Regulation 35-34, "Individual Mobilization Augmentee Program" (U)
  - m. Air Force Regulation 35-41, Volumes I-III (U)
  - n. Marine Corps Mobilization Management Plan, Volumes I-III (U)
  - o. Marine Corps Orders 1001.55A, 1001.57 (U)
  - p. Marine Corps Reserve Administration Management Manual (U)
  - q. COMNAVFORINST 1001.5 and 1571.7G (U)
  - r. BUPERSINST 1001.39.A (U)
  - s. ANNEX E to CINCUSACOM OPORD 2000 (U)

#### 1. (U) General

- a. (U) Purpose. This annex establishes the administrative and personnel responsibilities, policies, and planning guidance necessary to support USCINACOM Functional Plan 2502-97, Military Assistance for Civil Disturbances(MACDIS)/ GARDEN PLOT.

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b. (U) Concept of Personnel Support. The objective of personnel support is to maintain the designated units at authorized strength, ready in all respects to carry out the Concept of Operations outlined in the basic plan. The Commander, Joint Task Force 250 (CJTF 250) will report to USACOM J1, by the most expeditious means, when the strength of any force is forecast to reach, or actually reaches, a point where the capability to accomplish an assigned mission is jeopardized.

(1) (U) Phase I, Preparation. CJTF 250 and JTF 250 component commands will anticipate personnel requirements to fulfill this FUNCPLAN. USACOM will validate JTF 250 Headquarters manning requirements and begin sourcing joint augmentation personnel. CJTF 250 will complete detailed personnel planning to include: rotation/ replacement of personnel, postal, Morale, Welfare and Recreation (MWR), awards, TDY/TAD policy, finance, safety, legal services, interned and detained persons, and entitlements and benefits. USACOM will establish executive agency for military postal and MWR for the JTF 250.

(2) (U) Phase II, Assessment/Deployment Operations. The CJTF 250 will establish Joint Reception Operations in the AO. CJTF 250 and JTF 250 component commands will begin personnel and casualty reporting (JPERSTAT) in accordance with Joint Pub. 1-03.17 "Joint Reporting Structure, Personnel (JRS)."

(3) (U) Phase III, MACDIS Operations. CJTF 250 will coordinate individual staff augmentation with the appropriate USACOM Components (CINCLANTFLT; FORSCOM; HQ ACC; and MARFORLANT), info USACOM J1. JTF 250 Component commands will coordinate personnel replacement for respective units in accordance with existing regulations and procedures for each Service (Department of Army; Bureau of Naval Personnel; HQ AFMPC; HQ CMC).

(4) (U) Phase IV, Transition Operations. A rotation policy will be established for personnel augmentees by USACOM, and reassignment policies will be in accordance with existing Service regulations.

(5) (U) Phase V, Redeployment Operations. Continue with the redeployment/rotation of personnel, as required.

c. (U) Assumptions. Refer to Basic Plan.

d. (U) Planning Factors. Planning factors for computing personnel attrition will be developed in accordance with existing Service procedures.

2. (U) Personnel Policies and Procedures. Refer to ref s.

(a) (U) NEO policies. Not applicable.

(b) (U) US-citizen civilian personnel. Not applicable.

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- (c) (U) Non-US-citizen labor. Not Applicable.
- (d) (U) Enemy prisoners of war, civilian internees, and other detained persons. See Appendix 1 to Annex E.
- (e) (U) Formerly captured, missing, or detained US personnel. Not applicable.
- (f) (U) Morale, Welfare, and Recreation. Refer to ref s.
- (g) (U) Casualty Reporting. Refer to ref s.
- (h) (U) Decorations and Awards. Refer to ref s.
- (i) (U) Hostile fire pay. Not applicable.
- (j) (U) Travel Procedures. Refer to ref s.
- (k) (U) Military Law, Discipline, and Order
  - (1) (U) Section 4, Chapter III of reference (a) gives the policies and responsibilities for military police-type actions and disciplinary measures necessary to support military operations.
  - (2) (U) USCINACOM J1/J02L will act through service member's component commanders, where practicable, to coordinate the administration and discipline of assigned forces. Each component commander will ensure that uniform procedures are developed for police functions within his command in order to carry out specific responsibilities.
- (l) (U) Medical Returnees to Duty. Procedures will be in accordance with existing Service regulations and Annex Q of this plan.
- (m) (U) Spot and field promotions. Not applicable.
- (n) (U) Single/Dual Military Service Parents. Refer to ref s.
- (o) (U) Leave Accumulation. Refer to ref s.
- (p) (U) War zone benefits. Not applicable.
- (q) (U) TAD/TDY Pay. Service members on field duty are not normally entitled to per diem. Only when the CJTF 250 (not individual Service) issues a statement indicating that Government quarters at no charge, and/or government meals at no charge for Service members, were not available during stated periods of the field

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duty will TAD/TDY per diem be authorized. The capability of the individual JTF 250 element locations to provide meals and quarters is the determining factor in whether per diem should be authorized to Service members deployed to a JTF 250. Per diem rates (if any) may vary from site to site within the area of operations. CJTF 250 decisions on per diem affect payments to DoD civilians as well as uniformed Service members. USACOM will provide instructions on a uniform policy for TAD/TDY to ensure equitable treatment of deployed Service personnel. No JTF 250 personnel will be quartered in field tents while others stay in local hotels. Refer to Appendix 3 of this annex.

(r) (U) Use of Reserve Forces Refer to ref s.

3. (U) Finance and Disbursing. Appendix 3, this annex.
4. (U) Legal. Appendix 4, this annex.
5. (U) Military Postal and Courier Service. Appendix 5, this annex.

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Admiral, U.S. Navy  
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Appendixes:

- 1--Civilian Internees, and Other Detained Persons
- 3--Finance and Disbursing
- 4--Legal
- 5--Military Postal Services

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23 July 1998

### APPENDIX 1 TO ANNEX E TO USCINCOM FUNCPLAN 2502-97 (U) CIVILIAN INTERNEES, AND OTHER DETAINED PERSONS (U)

#### 1. (U) General

- a. (U) Purpose. MACDIS contingency plans governing the employment of federal forces will include provisions for providing detention assistance to civilian authorities. Plans for this assistance will cover the full range of possible support, from assisting police in guarding detainees to operating detention facilities. Such assistance will be predicated on the turnover of this responsibility to civil authorities as soon as practicable.
- b. (U) Scope. The primary responsibility for civilian detention operations rests with local, state and federal law enforcement agencies. Federal military forces may also assist civil police officers in the preparation of arrest cards and in other procedures employed by civil police in arresting offenders.
- c. (U) Policy. Federal forces will be used for temporary holding and processing of civilians and for detention only when absolutely necessary.

#### 2. (U) Situation. Refer to basic plan.

- a. (U) Enemy. Not applicable.
- b. (U) Friendly. Refer to basic plan.

#### 3. (U) Execution.

- a. (U) Concept of Operations. When federal military forces are authorized to establish and operate temporary detention facilities, these facilities will be under the professional supervision and control of Army or U.S. Marine Corps Military Police or Air Force or Navy Security Police personnel.
- b. (U) Tasks.
  - (1) (U) Commander, Forces Command (COMFORSCOM)
    - (a) (U) Validate locations, and request USCINCOM approval of the establishment and operation of the temporary detention facility by federal military forces.

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(a) (U) Verify that available federal, state and local confinement facilities and personnel cannot effectively accommodate the number of apprehended persons awaiting arraignment and trial by civil jurisdiction.

(b) (U) Identify locations, and request the establishment and operation of the temporary detention facility by federal military forces.

c. (U) Coordinating Instructions.

(1) (U) The persons to be temporarily detained must have been apprehended by military or civilian authorities for violation of federal, state, or local laws and ordinances. These persons must be awaiting arraignment and trial by civil jurisdiction and not have been arraigned and tried.

(2) (U) Commanders should avoid detaining females in temporary military detention facilities. Females apprehended during MACDIS operations will immediately be turned over to civilian confinement facility personnel for detention. While awaiting turnover of female detainees to civil authorities, female military police should be employed as guards whenever possible.

(3) (U) The establishment and operation of temporary military detention facilities for civil offenders is a temporary expedient. As such, is authorized only until such time as the custody of detained persons can be transferred to and assumed by civil authorities.

(4) (U) To the maximum extent feasible, the operation of temporary military detention facilities will conform to the spirit and intent of regulations and manuals governing the operation of military confinement facilities.

4. (U) Special Guidance. Not Applicable.
5. (U) Administration and Logistics. Refer to basic plan.
6. (U) Command and Control. Refer to basic plan.
7. (U) Reports. Refer to basic plan.

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23 July 1998

### APPENDIX 3 TO ANNEX E TO USCINACOM FUNCPLAN 2502-97 (U) FINANCE AND DISBURSING (U)

1. (U) General Guidance. Finance operations will be conducted IAW DFAS and service financial operation instructions as supplemented by this appendix.
2. (U) Specific Guidance. The following will be handled in accordance with existing Service and DoD directives:
  - a. (U) Currency and Credit Controls. Existing policies on currency control will be followed.
  - b. (U) Pay Functions. Proper handling of military pay for personnel missing, missing in action, interned, etc., remains with the Service component.
  - c. (U) Control of Financial Institutions. Additional information will be promulgated in USCINACOM Financial Management Guidance message as required.
  - d. (U) Inspection and Audit. Additional information will be promulgated in USCINACOM Financial Management Guidance message as required.
  - e. (U) Funding. Service Components of deploying units are responsible for funding costs of operations.
  - f. (U) Cost Data. Component Commanders will capture all costs and expenditures for this operation for possible reimbursement. Project code to be utilized to capture costs for this operation to be assigned in execute order.
  - g. (U) Temporary Additional Duty (TAD)/Temporary Duty (TDY) Per Diem. Per diem remains a Service responsibility, subject to CJTF 250 authorization. Per diem will be standardized for all components. All personnel in a TDY/TAD status will be reimbursed at the same rate.

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23 July 1998

### APPENDIX 4 TO ANNEX E TO USCINACOM FUNCPLAN 2502-97 (U) LEGAL (U)

- (U) REFERENCES:
- a. Sections 331-334 of title 10, United States Code, "The Insurrection Act"
  - b. Section 1385 of title 18, United States Code, "The Posse Comitatus Act"
  - c. DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," 4 February 1994
  - d. Joint Pub 0-2, "Unified Action Armed Forces (UNAAF)," 24 February 1995
  - e. Claims: AR 27-20, DA Pam 27-162, JAGMAN, JAGINST 5890.1 AFM 112-1B, DoD Directives 5515.8, and 5515.9
  - f. Service regulations on Legal Assistance: AFI 51-504, AR 27-3, JAGMAN (USN/USMC) (U) Uniform Code of Military Justice and Manual for Courts-Martial, United States, 1984
  - g. Service regulations on Military Justice: AFI 51-201, AFI 51-202, AR 27-10, JAGMAN
  - h. DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances"
  - i. Section 1535, title 31, United States Code, "The Economy Act"

1. (U) General Guidance. USCINACOM will provide MACDIS support within the 48 contiguous States and the District of Columbia. These operations are guided by the legislative authority at ref (a) and limited by ref (b). Reference (c) provides policy guidance and outlines DoD emergency authority, under the inherent right of a sovereign nation and the U.S. Constitution, to preserve public order and protect federal property. Reference (d) establishes guidelines for addressing legal issues of operational or joint service content. The JTF 250 Staff Judge Advocate (SJA) will advise the commander on legal issues of joint and Service content, and provide an information copy of significant legal issues to the SJA, FORSCOM, which has been assigned Lead Operational Authority (LOA) for the USCINACOM MACDIS mission. SJA, FORSCOM, will keep USACOM (J02L) informed of significant legal issues arising from JTF 250 operations. Except as provided in reference (d), the furnishing of legal advice and services is primarily a Service responsibility, and component legal matters will be resolved by commanders within their extant authority, with the active support of the JTF 250 SJA.

2. (U) Specific Guidance

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**UNCLASSIFIED***Final Draft*a. (U) Claims

(1) (U) Claims responsibility. Reference (e) applies. The Staff Judge Advocate will coordinate with the military installation with area claims responsibility for the deployed task force under appropriate service regulations. In accordance with DoD Directive 5515.9, the Department of the Army (DA) has been assigned Executive Agency for claims filed under provisions of the Federal Tort Claims Act for those claims arising from joint operations. The Staff Judge Advocate should contact the Tort Claims Division, US Army Claims Service, Fort Meade, Maryland, DSN 923-7009, Ext. 213, for assistance.

(2) (U) Claims investigations. Any injury of a civilian or damage to personal property will be reported to the SJA, immediately. The SJA will coordinate with the commanding officer of the service member involved in any alleged claim to ensure that an officer from that component is appointed to conduct a thorough investigation into the matter. Investigating officers are encouraged to document with photographic evidence, where possible. All claims investigations will be promptly completed and forwarded to the SJA for review. Information copies of significant claims will be forwarded to the SJA, FORSCOM. Unless otherwise directed, the SJA, JTF 250, will review the investigation, and after approval by Task Force Commander, forward the report through the appropriate claims channel for adjudication and payment.

b. (U) International Legal Considerations. Not applicable.

c. (U) Legal Assistance. The JTF 250 will make arrangements for legal assistance for deployed military personnel. Service components should ensure maximum use of pre-deployment screening for wills and powers of attorney to reduce demands for emergency legal assistance. Component commanders will make arrangements for legal assistance for personnel assigned or attached to their respective forces. Use inter-service support to maximum extent. Reference (f) applies.

d. (U) Military Justice

(1) (U) The inherent authority and responsibilities for discipline of the commanders of US military personnel assigned to the JTF 250, described in references (d) and (g), remain in effect.

(2) (U) Courts-martial and nonjudicial punishment are normally the responsibility of Service component commands, IAW Service regulations. Joint force commanders may convene courts-martial for the trial of members of another armed force only when specifically empowered to do so by the President or the Secretary of Defense. As a matter of policy, nonjudicial punishment, under the provisions of Article 15, UCMJ, should not be imposed by a joint force commander or by a commander of one Service upon a member of another Service. Specific requests for exception to this policy, or requests for USCINACOM to exercise joint General Court Martial

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Convening Authority, should be directed to USACOM (ATTN: J02L), through the FORSCOM SJA.

(3) (U) Component commanders will establish arrangements for disciplinary jurisdiction, including attachment orders for units and individuals, where appropriate.

(4) (U) Immediately report to component and the JTF 250 SJA all incidents in which civil authorities assume jurisdiction over US forces. The SJA, JTF 250, will coordinate all significant military justice actions with the SJA, FORSCOM.

(5) (U) Criminal investigations. The JTF 250 SJA will coordinate with the commanding officer of any US Service member who is allegedly involved in an act of criminal misconduct to ensure that an official from the appropriate investigative service is appointed to conduct a thorough investigation into the matter. Allegations against civilians should be forwarded to the appropriate civilian investigative service after consultation with the SJA, JTF 250. Completed reports of investigation that involve US service members shall be reviewed by the SJA, approved by the JTF 250 Commander, and forwarded to the appropriate authority, with copies of significant investigations to be forwarded to the FORSCOM SJA, and USACOM, as appropriate.

### e. (U) Reporting Violations

(1) (U) Acts of violence. During the conduct of MACDIS operations, JTF 250 personnel will report all acts of violence, to include homicides, assaults, rapes, robberies, abductions, and instances of mayhem or mass disorder, immediately to their commanding officer. Those officers shall immediately pass reports to the CJTF 250, for dissemination as appropriate. JTF 250 personnel will not interfere with the actions of civilian authorities, and will coordinate their support, as authorized by the rules of engagement.

(2) (U) Rules of Engagement Violations. Component commanders who receive information concerning a possible violation of the ROE will:

(a) (U) Conduct a preliminary inquiry to determine whether violations were committed by US military personnel.

(b) (U) Cooperate with appropriate civilian authorities, should their personnel be involved.

(c) (U) Report all suspected violations to the JTF 250 SJA, as well as through service component channels, according to service regulations, utilizing OPREP-3 procedures.

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(d) (U) When there is substantial evidence that US military have exceeded the authorized force levels in the ROE, or when directed by the Lead Operational Authority, Commanders will conduct a complete investigation, preserve all evidence of the suspected violation, and take appropriate corrective and/or disciplinary action.

(e) (U) Provide copies of all OPREPs, initial reports and reports of investigation to SJA, JTF 250, and (for significant violations of the ROE) the SJA, FORSCOM.

f. (U) Captured weapons, documents, and equipment. Items of potential evidentiary value which are seized during the course of authorized MACDIS operations (e.g., looted goods, arms, or contraband) will be marked, properly accounted for, and turned over to civilian authorities as soon as possible.

g. (U) Fiscal Authority

(1) (U) MACDIS operations are unprogrammed emergency requirements for the Department of Defense. Reference (h) contains basic provisions for financing and reporting costs associated with MACDIS operations. Component commands will comply with the procedures in that instruction to determine whether financing is to be accomplished on a reimbursable or non-reimbursable basis.

(2) (U) Fiscal authority for elements deployed under a Presidential Directive (PD) will be specified in the directive. When the PD does not outline reimbursement or specify the appropriation, DoD support will generally be funded out of component O&M accounts.

(3) (U) Military resources required on an emergency basis will generally be financed from the appropriations of the military service deploying the personnel.

(4) (U) Resources supplied to other Federal agencies will usually be reimbursed, under provisions of ref (i).

h. (U) Legal Review of the Rules of Engagement (ROE). Per paragraph 1g, of Annex A, Standing Rules of Engagement (SROE), dated 1 October 1994 with change #1, dated 22 December 1994, the use-of-force policy found in the DoD Civil Disturbance Plan "Garden Plot" (Appendix 1 to Annex C) is the standing civil disturbance ROE. The LOA will submit supplemental ROE requests to USCINACOM, for NCA approval. The CJTF 250 may also request changes to the ROE, through command channels, as necessary.

i. (U) Law Enforcement and Regulatory Functions. CJTF 250, may promulgate appropriate disciplinary regulations for members of JTF 250.

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j. (U) Component and Supporting Commanders' and Staff Responsibilities. JTF 250 component commanders will:

(1) (U) Ensure that all plans, orders, policies, and procedures, including disciplinary regulations and ROE, comply with applicable law and policy.

(2) (U) Report on all legal issues of joint origin or that effect the military effectiveness, mission accomplishment, or external relations of the JTF 250 to the Task Force SJA.

k. (U) Acquisition during Military Operations

(1) (U) Military forces will acquire goods and services in accordance with DoD procedures for contracting, per the authority discussed in paragraph g, above.

(2) (U) Goods and services to satisfy military-specific requirements will be obtained in accordance with applicable US laws and directives. CJTF 250, does not have the authority to waive any of the statutory or regulatory requirements contained in the Federal Acquisition Regulation.

(3) (U) Only contracting officers may enter into and sign contracts on behalf of the US Government. Only those persons who possess valid contracting warrants may act as contracting officers, and then only to the extent authorized. Small purchase procedures should be used to the maximum extent possible. Only those persons who have been appointed as ordering officers by competent authority may make obligations under small purchase procedures.

(4) (U) Avoid unauthorized commitments. Although an unauthorized commitment is not binding on the US Government, in appropriate cases it may be ratified by an authorized person in accordance with the FAR provisions. Unratified unauthorized commitments are the responsibility of the person who made the commitment. In appropriate cases, such persons may also be subject to disciplinary action.

l. (U) International Agreements and Congressional Enactments. See references (a) and (b) for governing Congressional enactments. Pertinent provisions are summarized below:

(1) (U) 18 USC 1385, "The Posse Comitatus Act," prohibits use of the military to enforce the law, unless specific authority is granted by Congress.

(2) (U) 10 USC 331-334, "The Insurrection Act," authorizes military intervention: to aid state authorities, at the request of the state; or, to enforce the laws of the United States in any state or territory, when the President determines that a state of rebellion or mass unrest exists. In the latter circumstances, the President will issue a proclamation to disperse and retire peaceably, before he issues an Executive Order or Presidential Directive to authorize DoD intervention.

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(3) (U) 10 USC 672 authorizes federalization of the National Guard and activation of the Reserves in times of civil unrest.

m. (U) Nuclear, Biological, and Chemical Weapons. Riot control agents (RCA) may be employed, as a matter of US policy, in domestic civil disturbance operations. Use of RCA will be specifically requested in supplemental ROE.

n. (U) Targeting. Not applicable.

o. (U) Detainees. The CJTF 250 will exercise only that degree of control over civilian personnel that is necessary to establish and maintain essential civic order. When possible, as a matter of policy, apprehension of civilians should be performed by civilian police. Military personnel acting pursuant to Presidential directive, however, have the authority to detain or take into custody rioters, looters, and others committing violations of state and federal laws. Detainees will be delivered to civilian law enforcement officials as soon as possible. Military personnel will detail the circumstances of detention, as much as practicable, to enable civilian law enforcement officials to establish appropriate disposition of the detainee. Further guidance regarding the detention of civilians persons is contained in the DoD Garden Plot ROE (Appendix 1 to Annex C).

p. (U) Interaction with the International Committee of the Red Cross (ICRC). All interaction with non-governmental organizations (NGOs) should be accomplished through the JTF 250 staff; Civil Affairs assets are normally assigned this mission, and provide staff supervision over the Civil Military Operations Center (CMOC). Staff Judge Advocates may assist with NGO interaction, as directed by the Task Force Commander.

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1562 Mitscher Avenue, Suite 200  
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23 July 1998

### APPENDIX 5 TO ANNEX E TO USCINCOM FUNCPLAN 2502-97 (U) MILITARY POSTAL SERVICE (U)

- (U) REFERENCES:
- a. Section 3401 (A) of Title 39 USC (U)
  - b. Executive Order 12556, 16 April 1986 (U)
  - c. DoD 4525.6M Volumes I and II DoD Postal Manual (U)
  - d. DoD 4500.32-R Military Standard Transportation and Movement Procedures (MILSTAMP) (U)
  - e. DoD 4525.6C, DoD Postal Supply Catalog (U)
  - f. DoD 4525.6, Single Manager for Military Postal Service (U)
  - g. DoD 4525.8M, DoD Official Mail Manual (U)
  - h. JCS Pub 3, Joint Logistics and Personnel Policy and Guidance (U)

#### 1. (U) General Guidance

- a. (U) Purpose. To establish policy and provide guidance for the planning and execution of postal support for military units and personnel deployed to the MACDIS area of operations (AO).
- b. (U) Concept of Postal Operations. Postal requirements will be based on the minimum support necessary to provide personal and official mail services to all military units and personnel. Each Service is responsible for providing or arranging for postal support for its own forces.
- c. (U) Assumptions
  - (1) (U) That postal support will be required as long as forces are deployed in the area.
  - (2) (U) That the United States Postal Service (USPS) will continue to distribute to local Post Offices.
  - (3) (U) That there are no initial restrictions on inbound mail. As the operation matures and the number of forces committed grows, restrictions may be applied.
  - (4) (U) That mail service for deployed units will be maintained. If the civil disturbance has also disrupted operations of the US Postal Service, USCINCOM will be prepared to simultaneously support execution of the Postal Augmentation Plan, GRAPHIC HAND.

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(5) (U) That the Armed Forces Courier Service (ARFCOS) will be prepared to provide courier service as required to include transfer of other than TOP SECRET material necessary to implement high priority plans and actions. Use of ARFCOS to transfer other than TOP SECRET material will be restricted to matters of extreme emergency and when personnel from other sources are unavailable.

d. (U) Planning Factors. Not applicable.

e. (U) Responsibilities

(1) (U) Military Postal Service Agency will provide technical guidance.

(2) (U) Commanders of unified commands will provide overall guidance to supporting commanders.

(3) (U) USCINACOM will task a component to be in General and Direct Support for postal operations.

2. (U) Postal Policies and Procedures. Refer to DoD Manual 4525.6-M, Volume 1, Chapter 2.

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### ANNEX F TO USCINACOM FUNCPLAN 2502-97 (U)

#### PUBLIC AFFAIRS (U)

- (U) REFERENCES:
- a. Joint Pub 6-61, Doctrine for Public Affairs in Joint Operations, 14 May 1997. (U)
  - b. DoD Regulation 5200.1-R, "DoD Information Security Program," 30 May 1986 (U)
  - c. DoD Directive 5230.9, "Clearance of DoD Public Information for Public Release," 2 April 1982 (U)
  - d. DoD Directive 5120.20, "Armed Forces Radio and Television Service (AFRTS)," 17 December 1991 (U)
  - e. DODINST 5410.15, "Delineation of DoD Audio-Visual Public Affairs Responsibilities and Policies," 3 November 1966 (U)
  - f. DODINST 5435.2, "Delegation of Authority to Approve Travel In and Use of Military Carriers for Defense Public Affairs Purposes," 25 April 1975 (U)
  - g. BUMEDINST 6230.1H/AR 40562/AFR 16113, "Immunization Requirements and Procedures," 7 June 1977 (U)
  - h. CINCLANTINST 4641.1A, "Procedures for Approval of Travel In and Use of Military Carriers for Public Affairs Purposes," 14 May 1973 (U)
  - i. DoD Directive 5122.5, Change 2, Encl. 3, "DoD Principles of Information," 19 May 1992 (U)
  - j. AFRTS CONPLAN 91-1, "AFIS Concept Plan for Peacetime Engagement and Wartime Operation for AFRTS," 27 Jan 92 (U)
  - k. CJCS MSG 182305ZMAY90, DoD National Media Pool Planning Requirements (U)
  - l. USCINACOM OPORD 2000-96, "Basic Operations Order," 14 June 1996 (U)
  - m. DoD Instruction 5700.5, development of proposed Public Affairs Guidance" (U)

#### 1. (U) Situation

- a. (U) General. This annex assigns responsibilities and provides guidance for the conduct of public affairs for US military support of domestic civil disturbance operations, as outlined in the basic plan, and is in consonance with procedures outlined in references (a) through (i). HQ USACOM Directorate of Public Affairs (J02P) is ultimately responsible for military public affairs activities in the USACOM Area of Operations (AO). Office of the Assistant to the Secretary of Defense for Public Affairs (OASD(PA)) is the lead DoD

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agency for military public affairs for these operations. The US Department of Justice (DoJ) is the US government lead agency for civil disturbances in the 50 states, the District of Columbia, and US territories and possessions. Military support for these operations is coordinated through the Secretary of Defense by the Secretary of the Army, utilizing the Director of Military Support (DOMS) who will be the DoD point of contact with DoJ and other federal agencies.

b. (U) Enemy. See Basic Plan.

c. (U) Friendly

(1) (U) US Department of Justice (DoJ)

(a) (U) Is responsible for the overall coordination and release of information concerning civil disturbances in the United States, its territories, and its possessions.

(b) (U) Designates Senior Civilian Representative of the Attorney General (SCRAG) as the senior on-scene representative.

(c) (U) Handles media queries on non-military aspects of civil disturbances.

(2) (U) Office of the Assistant to the Secretary of Defense for Public Affairs (OASD(PA))

(a) (U) Coordinates all military public affairs activities at the national level and at the seat of government.

(b) (U) Delegates release authority to USACOM Public Affairs Directorate (J02P) as soon as feasible following initial announcement of military support at the seat of government.

(c) (U) Delegates approval authority to USACOM J02P for transportation of news media into the area aboard military aircraft, ships, or vehicles.

(d) (U) Coordinates with DoJ and issues approved Public Affairs Guidance.

d. (U) Policy

(1) (U) DoD policy requires pursuing a vigorous program to inform the American public and military internal audiences of military operations in support of this plan. PA activities are an integral part of military operations, and close coordination with the DoJ will be essential.

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(2) (U) The DoJ and OASD(PA) will establish policy concerning release of information. This policy will be detailed in the Public Affairs Guidance message sent to USCINACOM, information to JTF 250 and ALCON. Close coordination on the scene between the SCRAG and the senior military public affairs officer (PAO) will be essential. An active public affairs program will be conducted to keep families of deployed service members informed of military operations in support of this plan.

(3) (U) Emphasis will be on the fact the President has tasked US military forces to assist civil authorities in restoring and/or maintaining law and order.

e. (U) Assumptions

(1) (U) That national news media will be on scene prior to arrival of military public affairs personnel.

(2) (U) That the use of U.S. forces in a domestic dispute will raise political questions on using the military as a 'police force'.

(3) (U) That the media will quickly consume available billeting, communications facilities, transportation resources, and office space.

(4) (U) That commercial communication facilities may not be available or may be severely limited.

2. (U) Mission. The USACOM public affairs mission is to support the SCRAG and provide factual and timely information to public and internal communities concerning the military's contributions to operations under this plan, consistent with policy guidance provided by higher authority.

3. (U) Execution

a. (U) Concept of Operations

(1) (U) Initial public announcement of implementation of this plan will be made at the U.S. seat of government. Delegation of release authority to USACOM J02P will be made as soon as feasible after the announcement. USCINACOM will further delegate release authority to the Joint Task Force 250 Public Affairs Officer (JTF 250 PAO)/Joint Information Bureau (JIB) Director. Public affairs offices at participating units may confirm their units' participation immediately following announcement at the seat of government.

(2) (U) Public affairs activities will be as authorized by DoJ and OASD(PA). The responsibility for planning, coordinating, and directing military public affairs will remain with USACOM J02P, in close coordination with OASD(PA); US Army

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Forces Command (FORSCOM); the Commander, Joint Task Force 250 (CJTF 250); and other component and subordinate commands.

(3) (U) FORSCOM will be responsible to USCINACOM for planning, coordinating, and directing the public affairs activity in the AO.

b. (U) Tasks

(1) (U) Commander in Chief, U.S. Atlantic Command (USCINACOM)

- (a) (U) Directs all military public affairs activities in the AO during the contingency.
- (b) (U) Provides policy guidance on PA matters to all component and subordinate commanders participating in the operation and to the JTF 250 PAO and Sub-JIB Directors.
- (c) (U) Coordinates the release of all information concerning military activities, functions, and responsibilities.
- (d) (U) Delegates release authority to the JTF 250 PAO and subordinate commands as soon as practicable.
- (e) (U) Supports the deployment of the DoD national media pool, if deployed.
- (f) (U) Coordinates with Headquarters, Air Mobility Command (HQ AMC) to ensure that priority airlift is provided for JIB and/or Sub-JIB and Mobile Public Affairs Team (MPAT) personnel and equipment on the first or second AMC aircraft moving US military forces to locations within the USACOM AO.

(2) (U) Commander, Forces Command (COMFORSCOM)

- (a) (U) Provides a senior public affairs officer to serve as JTF 250 PAO/JIB Director, responsible to USACOM J02P for all public affairs activity and with OPCON of all public affairs personnel in the AO. Within JTF MDW this function will be assigned to an MDW senior public affairs officer.
- (b) (U) Establishes a Joint Information Bureau (JIB) and Sub-JIB(s) as necessary, to support public affairs operations.
- (c) (U) Provides augmentation personnel, including Mobile Public Affairs Teams (MPATs), to JIB and/or Sub-JIB(s) as tasked by USACOM J02P.

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Ensures deployed MPAT(s) report for OPCON to JTF 250 PAO or Sub-JIB Director(s).

(d) (U) Establishes, equips, and staffs a sub-JIB, as directed by USACOM J02P.

(e) (U) Provides dedicated communications support, including tactical radio, MARS, SATCOM, field telephone, telex, and telefax, for JIB and/or Sub-JIB(s).

(f) (U) As directed by USACOM J02P, coordinates and provides support for deployment of JIB or Sub-JIB personnel as well as Fleet Imaging Command, Atlantic (FLTIMGCOMLANT), Combat Camera, or Aerospace Audiovisual Service (AAVS) personnel covering the operations, including the following: transportation in or between areas of operations; messing and billeting support as necessary; personnel interviews; photo opportunities of unclassified operations; and, if commercial communications are unavailable, story filing on a not-to-interfere-with-operations basis via Army communications.

(g) (U) When directed by USACOM J02P, provides an audiovisual documentation team and equipment to support public affairs in accordance with paragraph 9 of this annex.

(h) (U) Provides news courier service as described in paragraph 6(g).

(i) (U) Supports the deployment of the DoD national media pool, if deployed, or media pools organized by USACOM, as directed.

(j) (U) Conducts internal and public information programs in accordance with guidance provided by OASD(PA) through USACOM J02P.

(k) (U) Coordinates with FORSCOM logisticians to ensure TPFDD requirements include required space for JIB, Sub-JIB, and MPAT personnel; equipment; and vehicle(s) on the first or second AMC aircraft moving US military forces to locations within USACOM's AO.

(l) (U) Provides suitable dedicated vehicle(s) for deployment to support the operational needs of JIB, Sub-JIB, and/or MPAT personnel for transport of media, equipment, and public affairs personnel.

### (3) (U) Commander in Chief, US Atlantic Fleet (CINCLANTFLT)

(a) (U) Provides augmentation personnel to JIB and/or Sub-JIB(s), as tasked by USACOM J02P.

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- (b) (U) Establishes, equips, and staffs a Sub-JIB (ashore or afloat), as directed by USACOM J02P.
  - (c) (U) Provides communications support for the JIB and Sub-JIB(s) ashore and afloat as appropriate, when directed by USACOM J02P.
  - (d) (U) As directed by USACOM J02P, coordinates and provides support for at-sea embarkations of media pool members, JIB personnel, Combat Camera, and FLTIMAGCOMLANT personnel, to include the following: transportation from shore to afloat units and return, messing and berthing facilities, command orientation, unclassified situation briefings, crew interviews, and story filing by naval message on a not-to-interfere-with-operations basis.
  - (e) (U) Provides news courier service, as described in paragraph 6(g).
  - (f) (U) When directed by USACOM J02P, provides a quick-reaction audiovisual documentation team and equipment in accordance with paragraph 9 of this annex.
  - (g) (U) Conducts internal and public information programs in accordance with guidance provided by OASD(PA) through USACOM J02P.
  - (h) (U) If tasked, provides suitable dedicated vehicle(s) for deployment to support the operational needs of JIB, Sub-JIB, and/or MPAT personnel for transport of media, equipment, and public affairs personnel.
- (4) (U) Commander, Air Combat Command (COMACC)
- (a) (U) Provides augmentation to the JIB, as tasked by USACOM J02P.
  - (b) (U) Establishes, equips, and staffs a Sub-JIB, as directed by USACOM J02P.
  - (c) (U) Provides news courier service, as described in paragraph 6(g).
  - (d) (U) Coordinates with AMC to provide an audio-visual documentation team to support the JIB.
  - (e) (U) Supports the deployment of the DoD national media pool, if deployed, or media pools organized by USACOM, as directed.
  - (f) (U) Conducts internal and public information programs in accordance with guidance provided by USACOM J02P.

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(g) (U) Coordinates airlift of JIB or Sub-JIB personnel, equipment, and dedicated vehicle(s) with HQ AMC to ensure that public affairs personnel are provided priority airlift on first or second aircraft deploying.

(h) (U) When directed by USACOM J02P, provides communications support for JIB and Sub-JIB(s) as appropriate. Provides communications for media story filing on a not-to-interfere-with-operations basis if commercial communications are not available.

(i) (U) If tasked, provides suitable dedicated vehicle(s) for deployment to support the operational needs of JIB, Sub-JIB and/or MPAT personnel for transport of media, equipment, and public affairs personnel.

(5) (U) Commander, U.S. Marine Corps Forces, Atlantic (COMMARFORLANT)

(a) (U) Provides augmentation to the JIB, as tasked by USACOM J02P.

(b) (U) Establishes, equips, and staffs a Sub-JIB, as directed by USACOM J02P.

(c) (U) Provides news courier service, as described in paragraph 6(g).

(d) (U) Supports the deployment of the DoD national media pool, if deployed, or media pools organized by USACOM, as directed.

(e) (U) Conducts internal and public information programs in accordance with guidance provided by USACOM J02P.

(f) (U) When directed by USACOM J02P, provides communications support for JIB and Sub-JIB(s) as appropriate. Provides communications for media story filing on a not-to-interfere-with-operations basis if commercial communications are not available.

(g) (U) If tasked, provides suitable dedicated vehicle(s) for deployment to support the operational needs of JIB, Sub-JIB and/or MPAT personnel for transport of media, equipment, and public affairs personnel.

(6) (U) Commander in Chief, US Transportation Command (USCINTRANS)

(a) (U) Tasks Headquarters, Air Mobility Command (HQ AMC) to ensure that priority airlift is provided for JIB, Sub-JIB and MPAT personnel, equipment, and public affairs dedicated vehicles on the first or second AMC aircraft moving US military forces to locations within USACOM's AOI.

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(b) (U) Through HQ AMC, provides Mission Essential Ground Personnel (MEGP) status on all AMC aircraft supporting military operations to JIB, Sub-JIB, and MPAT public affairs personnel as well as FLTIMGCOMLANT, Combat Camera, and/or AAVS audiovisual personnel conducting public affairs programs supporting operations within USACOM's AOI.

(c) (U) Provides qualified public affairs officer(s) and/or NCO(s) as augmentation to JIB and/or Sub-JIB(s), as requested by USACOM J02P.

(d) (U) Supports the deployment of the DoD national media pool, if deployed, or media pools organized by USACOM, as directed.

(7) (U) Commander, Joint Task Force 250 (CJTF 250)

(a) (U) With concurrence of SCRAG, provides daily unclassified briefings on military support for the news media.

(b) (U) When directed by USACOM J02P, coordinates and provides support for FLTIMGCOMLANT, Combat Camera and/or AAVS personnel, including transportation from shore to afloat units and return, if applicable, ground transportation in and between site(s), messing and berthing facilities, situation briefings, and personnel interviews.

(c) (U) Prepares to host or otherwise support the deployment of the DoD national media pool (or media pools organized by USACOM J02P). Preparations should include coordination of transportation from shore to afloat units and return, if applicable; ground transportation in and/or between operations sites; messing and berthing facilities, as applicable; command orientation; unclassified situation briefings; personnel interviews; and story filing by message on a not-to-interfere-with-operations basis if commercial facilities are not available.

c. (U) Coordinating Instructions

(1) (U) Command Relationships

(a) (U) The JTF 250 PAO will maintain close liaison with the SCRAG for coordination of public affairs matters. A military public affairs officer or senior NCO should be assigned to any command post or operations center established in the area.

(b) (U) Military public affairs officers at all levels are authorized and encouraged to communicate directly with each other and with other military organizations for coordination required to support this plan. Public affairs

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officers should inform their immediate higher headquarters of possible actions or problems identified through this communication. Such coordination, however, must not be used in any situation in which it would interfere with the responsibility and authority of a commander. In view of the high-technology, instantaneous communication capabilities of the news media, public affairs communication must be real-time. The use of informal voice, fax and e-mail transmission is encouraged.

(2) (U) Coordination of Release of Information. Until release authority is delegated to them, units will forward queries and proposed news releases to USACOM J02P. However, after announcement of MACDIS operations at the seat of government, public affairs offices at units involved may confirm their units' participation.

(3) (U) Other Coordinating Instructions

(a) (U) Briefings and News Releases. Upon delegation of release authority, component and subordinate commanders may hold briefings and issue news releases within the bounds of policy and guidance set forth by USACOM J02P and JTF 250 PAO.

1. (U) A verbatim record of releases and responses to queries will be maintained.

2. (U) Subordinate commanders are directed to report, by message, to USACOM J02P the substance of any news conference or news interviews.

3. (U) News conferences and interviews will be tape recorded for documentation purposes.

(b) (U) Reports. The JTF 250 PAO and Sub-JIB Director(s) will file a daily summary with USACOM J02P, with information copies to component commands, indicating the number of correspondents present along with a narrative of the day's public affairs operations.

(c) (U) Forwarding/Filing Materials. Unless release authority is delegated, all materials for release will be forwarded to USACOM J02P via the fastest available means (specifically, by direct communication or priority air transportation).

(d) (U) Hometown News Items. Upon delegation of release authority, COMFORSCOM, CINCLANTFLT, COMACC, COMMARFORLANT, and CJTF 250 will handle hometown news items in accordance with service Hometown News Center directives, unless otherwise directed by USACOM J02P.

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- (e) (U) Coordination with USIS and American Embassy. Not applicable.
  - (f) (U) Delegation of Authority. As soon as possible after initial announcement at the seat of government, release authority for information concerning implementation of this plan will be delegated to the JTF 250 PAO and Sub-JIB(s).
  - (g) (U) Coordination with PSYOP Commands or Staffs. Not applicable.
4. (U) Accreditation. As determined by CJTF 250/SCRAG. Refer to Ref. 1, OPORD 2000, for generic accreditation instructions.
5. (U) Security Review. Public affairs officers submitting or staffing proposed news releases or statements to the media will ensure that the information contained therein is fully coordinated and is properly classified until approved for release.
6. (U) Arrangements for News Media Representatives. News media representatives can be expected to be in the area prior to arrival of military public affairs representatives. News media representatives are expected to be responsible for their own billeting, messing, and transportation requirements. Media representatives will not be furnished transportation or communications services except in circumstances in which the military is the only source capable of providing such support.
- a. (U) Facilities
    - (1) (U) Members of the DoD media pool or other media will be supported as directed by this annex, the USCINACOM, and OASD(PA).
    - (2) (U) In the absence of commercial facilities, PAT or JIB PA personnel sent to the AO should provide liaison between the CJTF 250, his staff, and the media. The CJTF 250 will provide, if necessary, messing, billeting, transportation, and communication support to allow for filing of news stories on an expedited basis and other support to the media.
    - (3) (U) The PAT should take with it sufficient supplies to function until resupply material identified in the TPFDD arrives in the AO.
  - b. (U) Inoculations. Correspondents accompanying troop in the field will be required to have immunizations consistent with those required of the military personnel and current DoD directives on immunizations.
  - c. (U) Expenses. Services will be provided to the media on a reimbursable basis when practical. Requirements for reimbursement should not interfere with the media's mission.

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d. (U) Simulated Rank. News media representatives will normally be afforded the privileges of an officer in the grade of O-4 for messing, billeting, and transportation.

e. (U) Daily Briefing. With concurrence of the SCRAG, the JTF 250 PAO and Sub-JIB Director(s) may schedule a daily unclassified briefing for news media representatives. This briefing may be held in conjunction with, or as part of, a daily DoJ briefing.

f. (U) Communications. Commands where the JIB or Sub-JIB(s) are physically located will provide communications services of all available types on a priority basis to JIB and/or Sub-JIB(s). Media may use unclassified military communications channels to transmit copy on a not-to-interfere-with-operations basis when commercial facilities are not available. Transmission of commercial copy by military communications facilities from the area of operations will be accomplished on the channel designated for information bureau use in USACOMINST C2000.2 (series) until commercial facilities become available and will be done free of charge.

g. (U) Courier Service. Subordinate commands will provide for courier service from the area of operations or the area of the JIB or Sub-JIB for materials such as news copy, tape recordings, exposed film, and videotape to transportation/ communications terminals for fastest possible movement to OASD (PA), USACOM J02P, or other points designated by USACOM J02P. If commercial facilities are not available, media products may be moved on a space-available basis.

h. (U) Transportation. News media representatives will travel at their own expense to the area. In exceptional situations in which military transportation of media representatives to the AO is necessary or is an integral part of the news coverage, such transportation will be governed as specified in reference (f). Travel within the AO via military vehicles can be authorized by the JTF 250 PAO.

i. (U) Travel Orders. When using military aircraft or ships, correspondents will travel only on Invitational Travel Orders issued or authorized by USACOM J02P or higher authority.

j. (U) Pools. Depending upon the circumstances, the National Media Pool may be deployed by DoD. The JTF 250 PAO may also determine a small group or pool of news media representatives should be selected to cover certain aspects of military support operations. In forming the pool, all types of media should be represented. Size of the pool should be limited to the number that can be supported, given transportation, and other operational limitations. The selection of news media representatives to fill the pool should be determined by the media representatives and not the JIB staff.

7. (U) Security of Operations and Personnel. All military operations in support of this plan can reasonably be expected to be unclassified. There is no need for a security review of media products. However, there may be an occasion involving sensitive equipment or procedures that may need to be protected. Security at the source is the best policy. If a reporter is inadvertently

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exposed to classified information, the escort officer will explain the situation and ask for the reporter's cooperation in not using the classified material. Material will not be confiscated.

8. (U) Operations Security. Not applicable.

9. (U) Audiovisual

a. (U) Documentation of MACDIS operations will be by Combat Camera Teams from the Joint Combat Camera Office. One person in the JIB will be designated as liaison with Combat Camera. A Combat Camera representative should be identified for coordination with the JIB.

b. (U) The JTF 250 PAO will have release authority for Combat Camera products for public affairs purposes.

c. (U) In the event news media are not permitted on scene or are delayed in reaching the area, military audiovisual documentation will be the only source of information for dissemination to the public.

d. (U) Component commands will provide audiovisual teams to document the operations with still photography (black and white/color slide) and on videotape. Subordinate commands may be tasked to support the audiovisual teams.

e. (U) Because the audiovisual teams will not be able to cover all aspects of the operation, subordinate commands should document their own operations with available audiovisual assets. Further, subordinate commands may be requested to supply additional photographic/video personnel to assist the audiovisual teams.

f. (U) All JIB audiovisual materials will be forwarded by the most expeditious means to OASD(PA) with a resume of scenes shot, classification, and special project number. Film shipped by commercial air will be marked "Hold at airport, telephone OASD(PA) (703) 695-7118 / pager: (202) 896-2621." The package should either be prepaid or marked "Convert to Government Bill of Lading at Destination." The flight number, ETA, and arrival airport of the aircraft transporting the audiovisual products will be passed to OASD(PA) by message, telephone, telegraph, or any other means available. The use of quicker electronic transmission of digital photos and other materials is encouraged.

10. (U) Internal Information. Component and subordinate commanders will ensure that all personnel are kept fully informed of their roles in and the objectives of the operation. The JIB Internal Information Chief will conduct a program to provide current news and service information to deployed military personnel and to provide their home units and family members with information on their activities in the AO. This may include, but is not limited to:

(a) (U) Production and distribution of a newsletter.

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- (b) (U) Deployment of Armed Forces Radio and Television Service (AFRTS) assets.
- (c) (U) Distribution of Service publications and commercial publications.
- (d) (U) Establishing a "news service" for home units and USACOM components.
- (e) (U) Supporting Service-unique requirements.
- (f) (U) Clearance procedures for written materials.
- (g) (U) Hometown news programs.
- (h) (U) Internet and e-mail for internal information flow.
- (i) (U) Ensuring a timely flow of commercial information, command policy, world news, and sports to deployed troops.

11. (U) Community Relations. Community relations actions may be required during MACDIS operations. The JIB may be requested to provide a community relations specialist to work with the CJTF 250 and the SCRAG to enhance the relationship between military forces, the local population and the American public in general.

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Captain, U.S. Navy  
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23 July 1998

ANNEX J TO USCINACOM FUNCPLAN 2502-97 (U)  
COMMAND RELATIONSHIPS (U)

- (U) REFERENCES:
- a. DoD Civil Disturbance Plan, GARDEN PLOT (U), 15 Feb 91
  - b. DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," 4 Feb 94
  - c. Annex U to USCINACOM OPORD 2000-96, Military Support to Civil Authorities/Military Assistance for Civil Disturbances (MSCA/MACDIS) (U), draft
  - d. USACOM Instruction 3440.1, "USACOM Policy Directive for Military Support to Civil Authorities and Military Assistance for Civil Disturbances (MSCA/MACDIS)," 1 Nov 93
  - e. USACOM Instruction 3440.2, "USACOM Policy Directive for Lead Operational Authority (LOA) for Military Support to Civil Authorities/ Military Assistance for Civil Disturbances (MSCA/MACDIS)," 1 Nov 93

1. (U) General

- a. (U) Purpose. This annex establishes the relationships between USCINACOM and:

- (1) (U) National Command Authorities (NCA)
- (2) (U) Chairmen of the Joint Chief of Staff (CJCS)
- (3) (U) Secretary of the Army (SA), Director of Military Support (DOMS).
- (4) (U) USCINCPAC, USCINCTRANS.
- (5) (U) COMFORSCOM.
- (6) (U) CINCLANTFLT, COMACC, COMMARFORLANT.
- (7) (U) Commander, Joint Task Force 250 (CJTF 250).
- (8) (U) Department of Justice (DoJ).

- b. (U) Scope. This annex established the command relationships pertaining to USACOM MACDIS operations within the USACOM AOI, as is prescribed in the references.

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(1) (U) Secretary of Defense, by reference (b), has designated SA as the DoD Executive Agent for MACDIS for the United States, its territories, possessions, and administrative entities. SA, by reference (a), has designated DOMS as its MACDIS Action Agent.

(2) (U) SECDEF, by reference (a), has designated USCINACOM as the DoD planning agent and the supported CINC for MACDIS operations (not including DoD response to terrorist incidents) in the USACOM AOI--the 48 contiguous States and the District of Columbia.

(3) (U) USCINACOM, by references (d) and (e), has designated COMFORSCOM as its Lead Operational Authority (LOA) for MACDIS (not including DoD response to terrorist incidents) in the USACOM AOI.

### 2. (U) Command Lines

#### a. (U) Service Components

(1) (U) USCINACOM retains Combatant Command (COCOM) of and tasking authority over COMFORSCOM.

(2) (U) COMFORSCOM, for purposes of carrying out the assigned function as the MACDIS LOA, has Operational Control (OPCON) over all forces which are under the COCOM or OPCON of USCINACOM.

(3) (U) Component Services will retain administrative and logistic support responsibilities.

#### b. (U) Other Subordinate Commands

(1) (U) COMFORSCOM will nominate and USCINACOM will appoint a CJTF 250, for each AO. When the AO is Washington, D.C., the Commander JTF 250 (JTF MDW) will be the Commanding General, Military District of Washington.

(2) (U) COMFORSCOM will designate forces for each JTF 250 for each AO.

(3) (U) Each CJTF 250, has OPCON over all assigned MACDIS forces upon their arrival into his/her AO.

#### c. (U) Augmentation Forces. Not applicable.

### 3. (U) Support and Coordination Relationships

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- a. (U) Supporting Military Forces. COMFORSCOM has direct liaison authorized (DIRLAUTH) with respect to all DoD Services, agencies, and commands which provide support to USCINACOM as the supported CINC for MACDIS.
  - b. (U) Coordinating Authorities. COMFORSCOM, as the MACDIS LOA, directly coordinates with and tasks USCINTRANS, CINCLANTFLT, COMACC, COMMARFORLANT, and COMSOCACOM.
  - c. (U) Supporting Agencies. Each CJTF 250, will conduct MACDIS operations in his/her AO ICW the SCRAG for each AO.
  - d. (U) Interservice Support Arrangements. See Annex D, subparagraph 4a(1)(g), Inter-Service Logistic Support.
  - e. (U) Coordination With Diplomatic Agencies. Not applicable.
4. (U) Relationships with International and Foreign Commands. Not applicable.
  5. (U) Planning Relationships. Same as outlined in Appendix 1 to this annex.

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Commander in Chief,  
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Appendix:  
1--Command Relationship Diagram

Official:

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APPENDIX 1 TO ANNEX J TO USCINCCOM FUNCPLAN 2502-97 (U)  
COMMAND RELATIONSHIP DIAGRAM (U)

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23 July 1998

ANNEX K TO USCINCOM FUNCPLAN 2502-97 (U)  
COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS (U)

- (U) REFERENCES:
- a. USACOM Emergency Actions Procedures (EAP) Volume 1
  - b. DISANMOC CONEXPLAN 10-93
  - c. USACOM OPORD 2000-96
  - d. USACOM INST C3100.1 (SERIES), "Joint Reporting Structure (U)"
  - e. Joint User Handbook for Message Text Formats (JUH-MTF) Revision 5.2, 1 Oct 92
  - f. AFR 55-3, AR 105-3, MCO 03430.3, OPNAVINST C3430.18 (SERIES), "Reporting, Meaconing Intrusion, Jamming, and Interference of Electromagnetic Systems"

1. (U) General

a. (U) Purpose. This plan provides C4 Systems guidance, identifies requirements, and assigns planning and execution responsibilities for communications during MACDIS operations.

b. (U) Situation

(1) (U) General. See basic plan.

(2) (U) Enemy

(a) (U) General. See basic plan.

(b) (U) Opposition forces may possess electronic warfare equipment of an undetermined type and capability.

(3) (U) Friendly

(a) (U) The Joint Staff. Approves requirements for and identifies sources of Joint Staff controlled tactical and gateway communications-electronics assets requested by USACOM.

(b) (U) COMFORSCOM. Acts as Lead Operational Authority (LOA) in providing Army-controlled commercial and tactical communications assets.

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(c) (U) Defense Information System Agency

1. (U) Provides access to appropriate DISA gateway facilities to terminate circuitry from the AO or garrison locations.
2. (U) Provides use of existing DISA assets to meet validated operational requirements within the AO.
3. (U) Provides a DISA support plan (gateway and SHF access request) reflecting primary and alternate routing of DCS circuitry supporting Headquarters USACOM and deployed JTF 250.
4. (U) Provides DISA liaison personnel to USCINACOM and selected USACOM forces as may be required and mutually coordinated.
5. (U) Provides procurement coordination for commercial communications services.
6. (U) Provides procedures for the use of alternate DCS entry stations and facilities on short notice to restore connectivity in the event of failures of primary stations or facilities.
7. (U) Provides space on the Defense Satellite Communications System (DSCS) for access by SHF/GMF ground stations into the DCS through gateway stations at Fort Meade, Fort Belvoir, Fort Detrick, and NAVSATCOMMFAC Northwest, VA.

(d) (U) The National Security Agency (NSA)

1. (U) Provides COMSEC Materials System (CMS) support as required.
2. (U) Provides Joint Communications Electronics Operating Instructions (JCEOI) assistance as required by USCINACOM.
3. (U) Provides cryptographic support as required.

(4) (U) Assumptions

- (a) (U) That planning must be based on the assumption that Joint Staff controlled assets may not be available.
- (b) (U) That USCINACOM and its Service component commanders will operate from their permanent land-based locations.

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2. (U) Mission. Install, operate and maintain C4 systems and equipment supporting joint military operations as set forth in the basic plan.

3. (U) Execution

a. (U) Guiding Principles

(1) (U) Communications for C2 will support established command channels and procedures prescribed in USCINCOM contingency plans and other existing Joint Standing Operating Procedures.

(2) (U) Minimum essential C2 communications will be established in support of command requirements in accordance with policies and procedures established in references (a) through (f).

b. (U) Operational Concept

(1) (U) COMFORSCOM will plan and implement a communications system based upon this annex.

(a) (U) The C4 plan will be implemented in three phases.

1. (U) PHASE I (Deployment). During this phase, COMFORSCOM will establish C4 connectivity with USCINCOM. COMFORSCOM may employ four types of JTF 250s. C4 systems will be provided to support all types of JTF 250 forces during deployment. C4 systems Phase I aligns with Phase I (Pre-Civil Disturbance) and Phase II (Assessment/Deployment Operations) of the basic plan.

2. (U) PHASE II (Employment). COMFORSCOM will maintain C4 connectivity with USCINCOM. C4 systems will adequately support deployed forces. C4 systems Phase II aligns with Phase III (MACDIS Operations) and Phase IV (Transition Operations) of the basic plan.

3. (U) PHASE III (Redeployment). COMFORSCOM will maintain C4 connectivity with USCINCOM and provide adequate C4 systems in support of the redeployment operations. C4 systems Phase III aligns with Phase V (Redeployment Operations) of the basic plan.

c. (U) Tasks and Responsibilities

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(1) (U) Commander Forces Command (COMFORSCOM)

- (a) (U) Develops the C4 plan for all phases of the operation.
- (b) (U) Provides funding and procurement for C4 services in support of military operations.
- (c) (U) On order, be prepared to provide C4 systems to civilian agencies.
- (d) (U) Promulgate the COMSEC callout. Serves as the lead agency for resolution and coordination of all COMSEC issues.
- (e) (U) Provides frequency management support, as required, to the CJTF 250.
- (f) (U) Provides JCEOI for JTF 250 as required by USCINACOM.

(2) (U) Commander in Chief US Atlantic Fleet (CINCLANTFLT)

- (a) (U) If required, be prepared to provide appropriate shipboard and shore-based communications facilities necessary to establish Joint communications systems/circuits and DCS terminations.
- (b) (U) Provide communications support as required for USACOM Headquarters, Norfolk, VA.
- (c) (U) Provide UHF and SHF satellite facilities.
- (d) (U) Provide and operate circuit hubbing capability at NCTAMS LANT for designated circuits.
- (e) (U) Provide communications liaison personnel, as required.
- (f) (U) Be prepared to provide communications support to COMFORSCOM and Navy forces deployed in MACDIS operations, as required.

(3) (U) Commander US Marine Corps Forces Atlantic (COMMARFORLANT). Be prepared to provide communications support to COMFORSCOM and Marine Corps forces deployed in MACDIS operations, as required.

(4) (U) Commander Air Combat Command (COMACC). Be prepared to provide communications support as required for COMFORSCOM and Air Force forces deployed in MACDIS operations, as required.

(5) (U) Commander, Joint Task Force 250 (CJTF 250)

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- (a) (U) Provide C4 systems in support of domestic operations, as required.
- (b) (U) Develop C4 plan, as required.
- (c) (U) Provide input to JTF 250 JCEOI, as required.
- d. (U) Intelligence and Reconnaissance. Not used.
- e. (U) Special Measures
  - (1) (U) Frequency Management. JFMO LANT will act as the focal point for objective area frequency management. Frequency changes will be coordinated with the appropriate systems and/or technical control centers after JFMO has cleared/provided the new frequency.
  - (2) (U) Intertheater COMSEC Package (ICP) materials will be used to secure joint and other specific circuits as directed by the CJTF 250.
- 4. (U) Administration and Logistics
  - a. (U) Logistics
    - (1) (U) Funding support will be provided by COMFORSCOM unless otherwise directed.
    - (2) (U) Maintenance and logistic support of communications resources tasked to support Joint requirements will be the responsibility of support services except in those cases where other arrangements have been made through prior coordination.
  - b. (U) Administration
    - (1) (U) Reports
      - (a) (U) A Communications Spot Report (COMMSPOT) will be submitted to report major communications outages. Message identification caveats will be included in all messages.
      - (b) (U) All communications After Action Items which require action by a senior headquarters will be included in After Action Reports (AAR) submitted IAW current JULLS software format. The AAR will contain: observation, discussion, lesson learned, recommended action and pertinent comments for each problem identified.

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(c) (U) Joint and commercial-based circuit activations, outages, and terminations will immediately be reported to the cognizant Joint Systems Control Office.

(d) (U) Reports of Cryptographic Insecurity. Components will follow existing service procedures when reporting cryptographic insecurities. USACOM//J643// will be an INFO addressee on all required reports.

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ANNEX Q TO USCINACOM FUNCPLAN 2502-97 (U)  
MEDICAL SERVICES (U)

- (U) REFERENCES:
- a. DoD Civil Disturbance Plan, GARDEN PLOT, 15 Feb 91 (U)
  - b. The Federal Response Plan, ESF 8, health and Medical Services Annex (U)

1. (U) Situation

a. (U) General

(1) (U) Purpose. To provide general guidance for health services support to federal military forces assigned in support of MACDIS operations.

(2) (U) Applicability. See Annex A, Task Organization.

b. (U) Enemy Forces. Refer to basic plan.

c. (U) Friendly Forces. Refer to basic plan.

d. (U) Assumptions

(1) (U) That medical response forces may need to provide emergency medical care to civilian, non DoD beneficiaries, during operations.

(2) (U) That Service medical treatment facilities in the area of operations will support military forces as their capabilities will permit.

(3) (U) Army and Air National Guard forces, serving on state active duty may already be in place. These forces serve under the command of the Governor and have the primary responsibility to provide military assistance to state and local government agencies in domestic civil disturbances.

f. (U) Limitations. Depending on the geographical location, initial military medical support may be austere.

2. (U) Mission. To provide health service support to military forces assigned to MACDIS operations.

3. (U) Execution

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### a. (U) Concept of Operations

(1) (U) Transition. On order from USCINACOM or higher authority, COMFORSCOM will plan MACDIS operations. FORSCOM medical planners will plan and coordinate with USCINACOM/J02M medical support strategies for the deployed and in place forces.

(2) (U) Responsibility. The CJTF 250, in consonance with the USCINACOM Surgeon will appoint a JTF 250 Surgeon. The JTF 250 Surgeon will plan, implement, and arrange for medical support for military personnel assigned to the operation.

### (3) (U) Hospitalization

(a) (U) Level I Care: Deployed units will provide Level I Medical Care from organic medical assets.

(b) (U) Level II Care: COMFORSCOM will ensure deployed forces are supported by appropriate Level II medical units.

(c) (U) Level III Care: COMFORSCOM will arrange for definitive Level III health care support under the supervision of the appropriate Service element.

(4) (U) Evacuation. Aeromedical evacuation is the preferred means of transport for patients requiring medical care outside of each JTF 250 AO. USCINTRANS will provide aeromedical evacuation when appropriate.

(5) (U) Local Civilian Support. Use local medical capabilities for military personnel for emergency cases only. Maximize the use of local civilian medical system for civilian patients.

(6) (U) Adjunct Medical Support. Not Applicable.

(7) (U) Joint Blood Program. Request blood from the nearest military or civilian medical treatment facility, or through the Armed Services Blood Program Office.

(8) (U) Preventive Medicine and Veterinary Services. The JTF 250 Surgeon will maintain a vigorous preventive medicine and should the circumstances warrant, a veterinary program to protect and maintain the health of military personnel.

(9) (U) Theater Evacuation Policy. The CJTF 250, will determine the evacuation policy for military patients from the AO.

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(10) (U) Medical Regulating. Medical units will regulate patients through the Global Patient Movements Requirements Center (GPMRC).

(11) (U) Ancillary Support. Not Applicable.

b. (U) Tasks

(1) (U) USCINACOM Responsibilities

(a) (U) Coordinate/approve medical courses of action in support of MACDIS operations.

(b) (U) Arbitrate resource allocation and tasking issues among components.

(c) (U) Coordinate Service requirements through the components or Joint Staff.

(2) (U) Component Responsibilities

(a) (U) COMFORSCOM has medical planning responsibility for MACDIS operations. COMFORSCOM may also provide medical assets in support of the MACDIS operation.

(b) (U) The Commander, Air Combat Command (COMACC) and the Commander, Atlantic Fleet (CINCLANTFLT) will provide medical support as requested by COMFORSCOM. USCINACOM/J02M will arbitrate any medical resource allocation and tasking issues.

(3) (U) Component-Specific Responsibilities. Not applicable.

(4) (U) Supporting Command Responsibilities.

(a) (U) USCINCTrans will provide patient and logistics transportation as necessary to support MACDIS operations.

(b) (U) Service Commands: Service hospitals in the area of MACDIS operations should expect to support military operations. The CJTF 250, through the JTF 250 Surgeon will include the local military hospitals in their planning activities when appropriate. Should circumstances warrant, the Services should prepare to support the operation when USCINACOM component resources are unavailable or not the most optimal choice.

c. (U) Coordinating Instructions. COMFORSCOM will coordinate medical plans with USCINACOM/J02M and the appropriate Service components.

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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### 4. (U) Administration and Logistics

a. (U) Medical Materiel. COMFORSCOM will establish the logistics support policy for medical forces deploying in response to civil disturbances consistent with the guidelines outlined in paragraph 4d of the basic plan.

b. (U) Reports. COMFORSCOM will report the following information to USCINACOM daily:

- (1) (U) Number of patients (military/civilian) treated on an outpatient basis.
- (2) (U) Number of military inpatients in area civilian or military hospitals as a result of the civil disturbance.
- (3) (U) Patients evacuated out of the AO.

### 5. (U) Command and Control

a. (U) Command. The JTF 250 Surgeon will be appointed by the CJTF 250, in consonance with the USCINACOM Surgeon. The CJTF 250, has operational control over medical units in the AO (deployed and in place) assigned to the task force. The USCINACOM Surgeon exercises directive authority for USCINACOM over assigned medical resources and will ensure their efficient use.

b. (U) Medical Communications. The Surgeons of USCINACOM, FORSCOM, Components, Services, and JTF 250 will communicate by telephone whenever possible. Send official plans, orders, reports, and requests via AUTODIN message.

H. W. GEHMAN, JR.  
Admiral, U.S. Navy  
Commander in Chief,  
U.S. Atlantic Command

OFFICIAL:

R.W. Rowley  
Rear Admiral, MC, U.S. Navy  
Command Surgeon

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23 July 1998

## ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U) REPORTS (U)

### 1. (U) General

- a. (U) Purpose. This annex prescribes the requirements and procedures for submitting reports. Reports provide USCINACOM and other senior headquarters with current valid data on operational forces conducting MACDIS Operations.
- b. (U) Scope. The information herein applies to all federal military forces in MACDIS Operations in the USACOM AOI.

### 2. (U) Reports

- a. (U) The Joint Staff implemented Message Text Format (MTF). All commands and units are responsible for understanding and using appropriate MTF in MACDIS Operations.
- b. (U) Other functional reports required by this plan will be as applicable annex/appendix indicate.
- c. (U) Format reports are used to save time through continuity; however, do not delay vital information because of this requirement. Information that, if delayed, could result in the loss of life, serious bodily injury, or great property damage should be reported by the most expeditious means to any organization or person with the capability to provide assistance.

H. W. GEHMAN, JR.  
Admiral, U.S. Navy  
Commander in Chief,  
U.S. Atlantic Command

#### Appendixes:

- 1--Situation Report (SITREP)
- 2--Operational Report (OPREP-3)
- 3--After Action Report (AAR)

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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- 4--Cost Report
- 5--Daily Intelligence Summary Report (DINSUM)
- 6--Casualty Report (CASREP)

OFFICIAL:

G. L. GILE  
Major General, U.S. Army  
Director for Operations

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23 July 1998

## APPENDIX 1 TO ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U) SITUATION REPORT (SITREP) (U)

1. (U) Subject and Purpose. To keep USCINACOM, DOMS, the Chairman of the Joint Chiefs of Staff, and, as appropriate, other commanders, Services, and agencies continuously informed of significant activities to include the following:

- a. (U) Significant critical or disastrous incidents/ situations.
- b. (U) Existing political, military, and operational situations and plans.
- c. (U) Narrative reports expanding on and complementing information provided in other operational reports as required. Significant changes will be reported as they occur. The report will include an assessment of personnel status, operations and training status, logistics status, and communications status, in addition to a commander's summary.

2. (U) Submitted By

- a. (U) SITREPs will be prepared by all DoD installations involved in MACDIS operations in the USACOM AOI. The CONUSA will consolidate the installation SITREPs, as required, and submit a SITREP to COMFORSCOM for the CONUSA AOR.
- b. (U) Each CJTF 250 will submit a SITREP to COMFORSCOM.
- c. (U) COMFORSCOM and all supporting commands will submit each of their consolidated SITREPs to USACOM J33.

3. (U) Submitted To. USCINACOM, J33.

4. (U) When Submitted. Reports will initiated at the start of Phase II and will be prepared daily or more frequently if required. Negative reports are required unless otherwise stipulated.

- a. (U) Information contained in the SITREPs from the installations and the CJTF 250s will be as of 2000Z, with precedence and transmission to ensure receipt at FORSCOM, NLT 2200Z.
- b. (U) COMFORSCOM and supporting commanders will submit their consolidated SITREPs to USACOM J33 NLT 0200Z, information as of 2400Z.

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5. (U) How Submitted. This report will be submitted by record communications using a precedence and classification deemed appropriate by the originator. Submission of SITREPs will not be affected by MINIMIZE.
6. (U) Specific Reporting Instructions
  - a. (U) The SITREP is a semi-narrative report designed to keep addressees informed of accomplishments and problems/shortfalls, and enables all concerned to anticipate and prepare for potential effects derived from the latter as they affect overall mission accomplishment.
  - b. (U) Use the SITREP format found in the Joint Users Handbook-Message Text Format (JUH-MTF).
  - c. (U) Each paragraph of the SITREP will be classified separately and will carry the lowest permissible security classification.
  - d. (U) Duplicate reporting is not desired, but information already presented in another report may be referenced to ensure that operational impacts are noted.
7. (U) Report Content. SITREPs will be arranged using the following paragraph headings:
  - a. (U) Own Situation.
  - b. (U) Situation.
  - c. (U) Operations.
  - d. (U) Logistics.
  - e. (U) Personnel.
  - f. (U) Medical.
  - g. (U) Commander's Evaluation.
8. (U) Report Content - Amplification
  - a. (U) SITREP paragraphs may be subdivided to any extent necessary by the originator. The following guidelines for the content of specific paragraphs may be used in determining the types or level of information needed by USCINACOM.
    - (1) (U) Own Situation. List units involved in MACDIS Operations by name and location. Include disposition of forces as approved. List units not ready, reason not ready, capability of reporting command to make ready, and estimate of ready date.

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(2) (U) Situation. State the overall assessment of the situation, including any events, circumstances, or conditions that increase or materially detract from the capability and readiness of the forces. Include a statement on corrective action(s) taken and the date or time when it is anticipated the problem(s) will be resolved.

(3) (U) Operations. Provide an operations summary for the previous 24 hours. Include a plans summary for the next 24 hours and any deviations from existing plans. Address priorities for the next 24 hours. In addition, list any planned major unit deployment/redeployment.

- (a) (U) Significant events which occurred during last reporting period.
- (b) (U) Departure and estimated closure times of deploying units.
- (c) (U) Major unit locations.
- (d) (U) Troop List (initial and then changes from previous reports).
- (e) (U) Priorities for next 24 hours.
- (f) (U) Outstanding operational issues.
- (g) (U) Number of SCRAG mission taskings received.

(4) (U) Logistics. List any significant deficiencies affecting support for planned operations. Problem areas beyond the commander's capability to overcome or alleviate in a timely manner will be included.

- (a) (U) Major capability.
- (b) (U) Critical stocks.
- (c) (U) Miscellaneous logistics issues.
- (d) (U) DoD-controlled shelter status (number planned and operational, capacity, occupation).
- (e) (U) Mobile Kitchen Trailer (MKT) (number operational, number of sites, number fed).
- (f) (U) Meals (number fed by type during the last 24 hours, and the number to date).

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(g) (U) Critical equipment receipts (number and type of all equipment received, point of origin, and date of receipt).

(h) (U) Critical shortages (i.e., electrical generators).

(i) (U) Transportation issues.

(5) (U) Personnel.

(a) (U) Personnel assigned and strength changes during the last 24 hours in the MACDIS AO, by component.

(b) (U) Number of personnel expected to arrive within the next reporting period, by component.

(c) (U) Outstanding personnel issues.

(6) (U) Medical.

(a) (U) Hospitalization (military and civilian; report total and change in the last 24 hours).

(b) (U) Evacuation (military and civilian in the last 24 hours).

(c) (U) Outpatient treatment (military and civilian; report total and change in the last 24 hours).

(d) (U) Report in narrative form significant activities in preventive medicine, mental health, veterinary services, dental services, medical logistics, and medical C2.

(7) (U) Commander's Evaluation. List key points from previous paragraphs highlighting areas requiring FORSCOM or higher action or decisions.

b. (U) The emphasis on content should be to highlight key activities and to build on previous reports. Duplication of information is not desirable, nor is inclusion of information solely to "fill the blocks." Significant information already reported should be referenced vice repeated. Brevity is paramount.

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23 July 1998

## APPENDIX 2 TO ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U) OPERATIONAL REPORT (OPREP-3) (U)

1. (U) Subject and Purpose. To provide USCINACOM, DOMS, Chairman of the Joint Chiefs of Staff and, as appropriate, other commanders, Services, and agencies notification of a significant or unusual incident where national level interest is not indicated or has not been determined, such as the following:

- a. (U) Serious personnel injuries.
- b. (U) Damage to major items of equipment.
- c. (U) Damage to the environment.
- d. (U) Incidents that seriously change or may seriously change current operations.
- e. (U) Receipt of critical intelligence/information.

2. (U) Submitted By. OPREP-3 reports will be prepared by the lowest command level having knowledge of the incident.

3. (U) Submitted To. USCINACOM, J33.

4. (U) When Submitted. OPREP-3 reports will be submitted by voice communications, with record transmission as backup. Precedence will be IMMEDIATE. The security classification will be as deemed appropriate by the originator, based on the content of the report.

5. (U) Specific Reporting Instructions.

- a. (U) The OPREP-3 is a formatted report designed to keep addressees immediately informed of incidents that may have indications of national level interest.
- b. (U) OPREP-3 reports will contain:
  - (1) (U) Identification of the type of event.
  - (2) (U) Reference to the voice report in the record message report of the event.

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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- (3) (U) A brief account of the event. Use concise statements to answer: What happened? Who is/was involved? Where did it happen? When did it happen? Why did it happen? What action is ongoing? What future action is being contemplated?
  - (4) (U) A statement in the record message telling whether a follow-up OPREP-3 report might be needed.
  - (5) (U) Serialize all OPREP-3 messages by unit, using the message serial number field of set message identification. The first OPREP-3 will be 001, beginning with the first incident reported in a calendar year. For each amplifying report about the incident, add an alphabetic suffix (001A, 001B, etc.). Serialize reports of subsequent incidents numerically (002, 003, etc.).
  - (6) (U) Follow-up or amplifying messages will continue to be submitted as long as the event/incident continues or as directed by FORSCOM or higher headquarters.
6. (U) Report Content. Use the OPREP-3 format found in JUH-MTF.

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## APPENDIX 3 TO ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U) AFTER ACTION REPORT (U)

(U) REFERENCES: a. Joint Pub 1-03.30

1. (U) Subject and Purpose. To provide USCINACOM, DOMS, and, as appropriate, other commanders, Services, and agencies an assessment of the operation.

2. (U) Submitted By. After Action Reports (AAR) will be prepared by the CJTF 250, installations, and CONUSA. CONUSA will consolidate the AAR and submit to FORSCOM.

3. (U) Submitted To. USCINACOM, ATTN: J33.

4. (U) When Submitted

a. (U) All units and installations tasked to support MACDIS operations will submit a First Impressions Report (FIR) to COMFORSCOM within 10 days of release from tasking, not including redeployment, and will submit an AAR within 45 days of release of tasking.

b. (U) COMFORSCOM and supporting commands will submit consolidated AARs to USCINACOM within 45 days of DCO release.

5. (U) How Submitted. FIR will be submitted by record communications. All AARs will be submitted in Joint Universal Lessons Learned System (JULLS) format.

6. (U) Specific Reporting Instructions

a. (U) Each section of FIR and AAR must stand alone without reference to any other section or document. All acronyms and abbreviations must be spelled out the first time they are used in each section. Command designations must be explained the first time they are used in each section. Each section should be written to be understood by personnel from all Services.

b. (U) FIR is a narrative-type report which provides an initial assessment of operations.

c. (U) Each FIR will include:

(1) (U) Mission and Objectives. Brief synopsis of the mission of the tasked unit or installation.

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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- (2) (U) Overview. Brief overview of how the operation unfolded.
- (3) (U) Significant Problems. The following paragraph headings will be used to organize and describe problems:
  - (a) (U) Commander's Remarks.
  - (b) (U) Command and Control.
  - (c) (U) Logistics.
  - (d) (U) Operations.
  - (e) (U) Personnel.
- d. (U) Each paragraph should include a clear and concise list of significant problems.
- e. (U) AAR provide official description of operations and identify significant lessons learned.
- f. (U) They will be submitted by mail, courier, or WWMCCS Intercomputer Network (after command approval). AAR will be submitted in two formats: electronic database and a paper copy of electronic form. Electronic format is created using the JULLS computer program. It enables AAR to be part of the pool of lessons learned and, therefore, more efficiently categorized, managed, and accessed.
- g. (U) The first section of each AAR will summarize the operations.
  - (1) (U) JULLS Number. A 10-digit number that uniquely identifies the section. Also include the name of the organization and point of contact.
  - (2) (U) Operation. Nickname of the operation, along with operation-supported command.
  - (3) (U) Keywords. List of short words or phrases that describe JULLS entry.
  - (4) (U) Title. Title of the summary will be: Summary -MACDIS Operations.
  - (5) (U) General Description. Short description of operations, including general statements of scope and purpose.
  - (6) (U) Dates. Dates of operations. Also include deployment, employment, redeployment, or other significant dates.
  - (7) (U) Location of Operations. Self explanatory.

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- (8) (U) Location of Personnel. Location(s) of participants, if different from locations of operations.
- (9) (U) Objectives. Short list of major operation objectives. A detailed list of all objectives is not necessary.
- (10) (U) Limitations. Specific operation limitations.
- (11) (U) Major Participants. List of major units, by command and Service.

h. (U) One or more lessons learned sections will follow the summary. Lessons learned may cover better ways of doing things, as well as overcoming problems. Each lesson learned should describe either a problem encountered and actions taken to bypass or alleviate that problem, a problem encountered for which no solutions were found, or successful actions that should be noted for future operations. Lessons learned section(s) should also include the following paragraphs:

- (1) (U) JULLS Number. Same description as above.
- (2) (U) Operation. Same description as above.
- (3) (U) Keywords. Same description as above.
- (4) (U) Title. Title should reflect both the subject area and the nature of the problem.
- (5) (U) Observation. Short factual statement of the problem. Where feasible, full problem (symptom and cause) should be stated, not just one symptom. List each lesson learned to a single problem or successful action.
- (6) (U) Discussion. Amplify problem statement and answer who, what, where, when, why, and how. If lessons learned describe positive action taken to work around the problem, explain those actions in detail.
- (7) (U) Lessons Learned. Statement of positive action that was taken or should have been taken to avoid or alleviate the problem. Lessons Learned is a statement of how to work around the problem, which other commanders can use, while a permanent solution is being accomplished.
- (8) (U) Recommended Action. Statement of how to permanently correct the problem and who should make the correction.
- (9) (U) Comments. Other information the submitter wishes to add.

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### 7. (U) Report Content

- a. (U) First Impressions Report. Refer to Tab A.
- b. (U) Consolidated After Action Report. Refer to Tab B.

#### TABS:

A--First Impressions Report

B--Consolidated After Action Report

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23 July 1998

TAB A TO APPENDIX 3 TO ANNEX V TO USCINCOM FUNCPLAN 2502-97 (U)  
FIRST IMPRESSIONS REPORT (U)

OPER/MACDIS OPERATIONS (2502-97) (YY)/(COMMAND)/(OPTION)//  
MSGID/SYS.RRM/(ORIGINATOR)/(SERIAL NUMBER)/(MONTH)//  
AMPN/SUBJECT: FIRST IMPRESSIONS REPORT - MACDIS OPERATIONS (YY)//  
RMKS/1. MISSION AND OBJECTIVES. (Use Narrative).  
2. OVERVIEW. (Use Narrative).  
3. SIGNIFICANT PROBLEMS. (Use subparagraphs to organize significant problems).//  
DECL/(Use if message is classified).//

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23 July 1998

## TAB B TO APPENDIX 3 TO ANNEX V TO USCINCOM FUNCPLAN 2502-97 (U) CONSOLIDATED AFTER ACTION REPORT (U)

### FIRST SECTION OF AAR

1. JULLS NUMBER. XXXXX-XXXXX, Submitted by (ORGANIZATION), (POC), TELEPHONE (DSN AND COMMERCIAL).
2. OPERATION. MACDIS OPERATIONS, CONDUCTED BY FORSCOM (dates).
3. KEYWORDS. (Examples) DISASTER, FBI, EARTHQUAKE, ATLANTA.
4. TITLE. SUMMARY - MACDIS OPERATIONS.
5. GENERAL DESCRIPTION. (Use Narrative).
6. DATES.
  - a. DEPLOYMENT: (Dates).
  - b. EMPLOYMENT: (Dates).
  - c. REDEPLOYMENT: (Dates).
7. LOCATIONS OF OPERATIONS: (self-explanatory).
8. LOCATION OF PERSONNEL: (If Different From Location of Operations).
9. OBJECTIVES: (List Objectives).
10. LIMITATIONS: (Use Narrative).
11. MAJOR PARTICIPANTS.
  - a. HEADQUARTERS, JOINT TASK FORCE(S): (List Designation(s)).
  - b. ARMY FORCES (ARFOR): List Major Unit Designations).
  - c. AIR FORCE FORCES (AFFOR): List Major Unit Designations).
  - d. MARINE FORCES (MARFOR): List Major Unit Designations).
  - e. NAVY FORCES (NAVFOR): List Major Unit Designations).
  - f. SUPPORT INSTALLATIONS: List Supporting Installations, Identify Service).

### SECOND SECTION OF AAR

1. JULLS NUMBER. XXXXX-XXXXX, Submitted by (ORGANIZATION), (POC), TELEPHONE (DSN AND COMMERCIAL).
2. OPERATION. MACDIS OPERATIONS, CONDUCTED BY FORSCOM (Dates).
3. KEYWORDS. (Examples) RIOTS, CIVIL DISTURBANCE, TELETYPE, JIB, PUBLIC AFFAIRS.
4. TITLE. (Example) EFFECT OF CIVIL DISTURBANCE ON MISSION ACCOMPLISHMENT.
5. OBSERVATION. (Example) CIVIL DISTURBANCE DELAYED MISSION ACCOMPLISHMENT.
6. DISCUSSION.

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7. LESSONS LEARNED. (Example) COMMANDERS SHOULD OBTAIN PHOTO IMAGERY OF AO PRIOR TO ENGAGING IN MACDIS OPERATIONS.
8. RECOMMENDED ACTION. (Example) PROVIDE DETAILED PHOTO IMAGERY OF AO PRIOR TO ENGAGING IN MACDIS OPERATIONS.
9. COMMENTS. (Example) NONE.//

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23 July 1998

## APPENDIX 4 TO ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U) COST REPORT (U)

1. (U) Purpose. To establish the format and detail required by units/installations involved in MACDIS operations for reporting costs applicable to this plan. Reports will be forwarded to the USACOM J-8.

2. (U) Reporting Format

a. (U) Procurement

- (1) (U) Issues to military personnel.
- (2) (U) Assistance to other federal agencies (by agency).
- (3) (U) Total procurement.

b. (U) Operation and Maintenance (OM)

- (1) (U) Temporary duty costs.
  - (a) (U) Military.
  - (b) (U) Civilian.
- (2) (U) Civilian overtime.
- (3) (U) Transportation.
  - (a) (U) AMC transportation.
  - (b) (U) Military motor.
  - (c) (U) Military air.
  - (d) (U) Civilian transportation.
- (4) (U) Assistance to other federal agencies (by agency).
- (5) (U) Support of other DoD components and agencies (identify separately).

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- (6) (U) Support to National Guard on state status.
  - (7) (U) Support to civilian law enforcement agencies (identify separately).
  - (8) (U) Construction costs (identify individual line items whose cost exceeds \$500).
  - (9) (U) Material and supplies.
  - (10) (U) Other OM costs (identify individual line items whose costs exceed \$500 - include commercial transportation).
  - (11) (U) Total OM Costs.
- c. (U) Number of forces employed.

<u>ACTIVE</u>	<u>#DAYS</u>
Officer	
Enlisted	
<u>NATIONAL GUARD (on Federal Active Duty)</u>	
	<u>#DAYS</u>
Officer	
Enlisted	
<u>TOTALS</u>	
	<u>#DAYS</u>
Officer	
Enlisted	

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APPENDIX 5 TO ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U)  
DAILY INTELLIGENCE SUMMARY REPORT (DINSUM) (U)

1. (U) Purpose. To provide a consolidated intelligence summary to USCINACOM (and other headquarters, as required) on a daily basis.
2. (U) Preparing Agency. COMFORSCOM.
  - a. (U) Frequency: Once daily as of 2000Z and submitted NLT 2400Z (frequency can be increased/decreased as required by USCINACOM). **This report will only be prepared by assigned intelligence elements if the restrictions imposed by Executive Order 12333 have been lifted or modified.**
  - b. (U) Preparation: USCINACOM will be the TO addressees. Classification, as appropriate, will be assigned by COMFORSCOM.
  - c. (U) Subject Line: MACDIS OPERATIONS DINSUM -- Number (REPORT SEQUENCE NUMBER) MACDIS OPERATIONS
4. (U) Preparation Instructions. Information will be provided in the following format:
  - a. (U) Reporting period: From (DATE-TIME GROUP) to (DATE-TIME GROUP).
  - b. (U) Summary of MACDIS activity during reporting period:
    - (1) (U) Location of each MACDIS AO (geographical area).
    - (2) (U) Description of MACDIS Operations by AO.
    - (3) (U) Description of civil disturbance activity and ability of civil law enforcement authorities to restore/ maintain law and order for each AO.
    - (4) (U) Other significant information pertaining to the civil disturbance in each AO.

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APPENDIX 4: MILITARY ASSISTANCE FOR  
CIVILIAN AUTHORITIES

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1562 Mitscher Avenue, Suite 200  
Norfolk, VA 23551-2488  
23 July 1998

APPENDIX 6 TO ANNEX V TO USCINACOM FUNCPLAN 2502-97 (U)  
CASUALTY REPORTS (U)

(U) REFERENCE: a. Joint Pub 1.03.17, 15 June 94

1. (U) General. The Event/Incident Report (OPREP-3) should be used to notify appropriate commanders immediately of an accident where casualties have occurred.
2. (U) The CJTF 250 will ensure all casualty information is included in the daily PERSTAT report. OPREP-3 information and the PERSTAT should agree regarding the number and type of casualties involved.
3. (U) The Joint Casualty Report (CASREP) found in reference (a), provides tabulated total data to the Joint Staff for use in monitoring and evaluating the status of personnel casualties under the operational control of a combatant commander. The Services will submit the CASREP when directed by the Chairman of the Joint Chiefs of Staff. The information derived from analysis of this report is used to prepare personnel and casualty status reports for the National Command Authorities (NCA). CJTF 250 and USCINACOM will be information addressees on this report for monitoring purposes. Other reports will be submitted as directed.

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 23 July 1998

ANNEX X TO USCINACOM FUNCPLAN 2502-97 (U)  
 EXECUTION CHECKLIST (U)

1. (U) Purpose. This annex defines actions required in the execution of this plan. It is intended primarily for use by parallel and subordinate headquarters, commanders, and staffs in execution.
2. (U) Abbreviations. The following abbreviations are used throughout this annex:

CAT-----Crisis Action Team  
 CJTF 250-----Commander, Joint Task Force 250  
 JTF 250-----Joint Task Force 250  
 CIDCON-----Civil Disturbance Condition  
 COMFORSCOM---Commander, Forces Command  
 DOMS-----Director of Military Support  
 JOC-----Joint Operations Center  
 MACDIS-----Military Assistance for Civil Disturbances  
 SCRAG-----Senior Civilian Representative of the Attorney General  
 SUPPCINC-----Supporting CINC

ACTION	HEADQUARTERS AGENCY	TIMING
<b>Phase I (Pre-Civil Disturbance)</b>		
Review/Update policies and procedures	All	Continuous
Establish and update watch sections	All	Continuous
Exercise recall and watch procedures	USACOM	Quarterly
Acknowledge receipt of WO	USACOM	1 hour
Read WO and notify LOA	USACOM	3 hours
Activate CAT and Stand up JOC	USACOM	As required

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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Nominate CJTF 250 and designate primary JTF 250 staff	COMFORSCOM	Within 1 hr of WO
Appoint CJTF 250	USACOM	Immediately
Begin Crisis Action Planning	All	Immediately
Increase CIDCON Status of selected MACDIS forces	DOMS	As Required
Conduct Reconnaissance of AO and recommend COA for AO	CJTF 250 and SCRAG	When directed
Choose COA	USCINACOM	
Prepare MACDIS OPORD	CJTF 250	
Approve MACDIS OPORD	COMFORSCOM, USCINACOM, AND DOMS	
Designate MACDIS forces for MACDIS Operations and alert for movement	USCINACOM	Within 1 hr of WO
Acknowledge execute order	USACOM	Immediately
Read Execute Order and notify COMFORSCOM	USACOM	Within 1 hr
Report JTF 250 ready for deployment to the AO	CJTF 250	As Required
<b>Phase II (Assessment/Deployment)</b>		
Initiate Reports per Annex V	CJTF 250	Daily
Liaison established with SCRAG	CJTF 250	Immediately
Submit TPFDD	SUPPCINC	Within 4 hrs of WO
Commence deployment of Bn(-)	CJTF 250	As directed by SCRAG
Report movement and status of all forces and equipment	CJTF 250 and COMFORSCOM	As required

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Establish communications at AO	CJTF 250	Upon arrival
Identify gaps in communications	All	Continuous
<b>Phase III (Operations)</b>		
Report Arrival of JTF 250(-) (forces and equipment) at AO	CJTF 250	Continuous
Conduct MACDIS Operations in AO	CJTF 250	As coordinated with SCRAG
<b>Phase IV (Transition)</b>		
Transition MACDIS missions to civil law enforcement authorities	CJTF 250	When directed by SCRAG
<b>Phase V (Redeployment)</b>		
Begin redeployment of MACDIS forces to home station	CJTF 250	When directed by USACOM
Monitor troop/equipment redeployment	USACOM	Continuous
Report completion of redeployment	SUPPCINC	When completed
<b>Commence reconstitution actions</b>		
Submit AAR	COMFORSCOM and SUPP CINC's	To USCINACOM within 60 days

H. W. GEHMAN, JR.  
 Admiral, U.S. Navy  
 Commander in Chief,  
 U.S. Atlantic Command

OFFICIAL:

G. L. GILE

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APPENDIX 4: MILITARY ASSISTANCE FOR  
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Major General, U.S. Army  
Director for Operations

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# APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

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23 July 1998

## ANNEX Z TO USCINACOM FUNCPLAN 2502-97 (U) DISTRIBUTION (U)

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Commandant, Marine Corps		5
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Defense Intelligence Agency		4
NSA/Central Security Service		4
Defense Information Systems Agency	1	
Defense Logistic Agency		1
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USCINTRANS		5
Air Mobility Command		1
Military Sealift Command		1

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Military Traffic Management Command	1
USCINCPAC	10
USARPAC	5
CINCPACFLT	2
MARFORPAC	5
USCINCSOC	2
USCINCSO	2
USCINCSpace	2
CINCLANTFLT	7
COMMARFORLANT	7
COMFORSOM	15
1ST USA	1
5TH USA	1
III CORPS	1
XVIII ABN CORPS	1
COMACC	7
COMSOMCOM	7
COMICEDEFOR	2
COMUSFORAZORES	2
COMLANTAREA COGARD, New York, NY	2
USCINCOM (J01RC/J02G/J02L/J02M/J02P/J1/J2/J3/J33/ J34/J35/JOC/J4/J4PPP/J4LRC/J5/J52/J54/J55/J6/J64 J7/J8)	25

H. W. GEHMAN, JR.  
Admiral, U.S. Navy  
Commander in Chief,  
U.S. Atlantic Command

OFFICIAL:

JOHN F. MILLER, JR.  
Major General, U. S. Air Force  
Director for Plans and Policy

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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

### APPENDIX 4-19: DA PAM 27-162, TABLE 2-1, CLAIMS OFFICES—CONUS ACTIVE ARMY AREAS

DA Pam 27-162 - 8 August 2003

Table 2-1 Claims offices – CONUS active Army areas		
Area of responsibility	Area claims office	Claims processing office(s)
Area No. 1		
States of Idaho, Oregon, Washington, Montana	Fort Lewis, WA Office code 011	Madigan Army Medical Center, WA Office code 012
Area No. 2		
State of California – less counties assigned to Fort Irwin. State of Nevada – less Clark County	Presidio of Monterey,CA Office code 031	Sharp Army Depot,CA Office code 032 MTMC Western Area Office code 023
Area No. 3		
State of California – the following counties: Imperial, Kern, River-side, San Bernardino, San Diego	Fort Irwin, CA Office code 041	
State of Nevada – the following county: Clark		
Area No. 4		
State of Arizona	Fort Huachuca, AZ Office code 051	Yuma Proving Ground, AZ Office code 052
Area No. 5		
State of Colorado – the following counties: Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Conejos, Costilla, Crowley, Custer, Delta, Dolores, El Paso, Fremont, Gunnison, Hinsdale, Huerfano, Kiowa, Kit Carson, Lake, La Plata, Las Animas, Lincoln, Mesa, Mineral, Montezuma, Montrose, Otero, Park, Pitkin, Prowers, Pueblo, Quray, Rio Grande, Saguache, San Juan, San Miguel, Teller	Fort Carson,CO Office code 061	Dugway Proving Ground, UT, Office code 062
State of Utah		
Area No. 6		
State of Colorado – the following counties: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Jackson, Jefferson, Larimer, Logan, Moffat, Morgan, Phillips, Rio Blanco, Routt, Sedgewick, Summit, Washington, Weld, Yuma	U.S. Army Garrison – Fitzsimons, CO Office code 071	Rocky Mountain Arsenal, CO, Office code 072
State of Wyoming		
Area No. 7		
State of New Mexico	White Sands Missile Range, NM Office Code 081	
Area No. 8		

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State of Kansas—the following counties: Barber, Barton, Butler, Chase, Chautauqua,<sup>1</sup> Cheyenne, Clark, Clay, Cloud, Com-manche, Cowley, Decatur, Dickinson, Edwards, Elk, Ellis, Elliswor-th, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jewell, Kearney, Kingman, Kiowa, Lane, Lincoln, Logan, Lyon, Marion, Marshall, McPherson, Meade, Mitchell, Morris, Morton, Ness, Norton, Osbourne, Ottawa, Phillips, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Sa-line, Scott, Sedgewick, Sheridan, Sherman, Smith, Stafford, Stan-ton, Stevens, Summer, Thomas, Trego, Wabaunsee, Wallace, Washington, Wichita

Fort Riley, KS Office code 09

States of Nebraska, North Dakota, South Dakota

Area No. 9

**Table 2-1**  
**Claims offices—CONUS active Army areas—Continued**

Area of responsibility	Area claims office	Claims processing office(s)
State of Oklahoma	Fort Sill, OK Office code 101	
State of Arkansas—the following counties: Baxter, Benton, Boone, Carroll, Clark, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton, Garland, Hempstead, Hot Springs, Howard, Independence, Izard, Johnson, Lawrence, Little River, Logan, Madison, Marion, Montgomery, Nevada, Newton, Perry, Pike, Polk, Pope, Pulaski, Randolph, Sa-line, Scott, Searcy, Sebastian, Sharp, Siever, Stone, Van Buren, Washington, Yell		
State of Texas—the following counties: Armstrong, Briscoe, Car-son, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Armer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler		
Area No. 10		
State of Texas—the following counties: Andrews, Bailey, Borden, Brewster Cochran, Coke, Concho, Cottle, Crane, Crockett, Crosby, Culberson, Dawson, Dickens, Ector, El Paso, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Hale, Haskell, ockley, Howard, Hudspeth, Irion, Jeff Davis, Jones, Kent, Kimble, King, Knox, Lamb, Loving, Lubbock, Lynn, Martin, Menard, Midland, Mitchell, Motley, Nolan,	Fort Bliss, TX Office code 121	William Beaumont Army Medical Center, TX Office code 122

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

Pecos,

Presidio, Reagan, Reeves, Runnels, Schleicher, Scurry, Sterling,

Stonewall, Sutton, Taylor, Terrell, Terry, Tom Green, Upton,

Ward,

Winkler, Yoakum

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### Area No. 11

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State of Texas—the following counties: Anderson, Archer,  
Baylor,

Fort Hood, TX

Bell, Bernet, Bosque, Bosque, Bowie, Brazos, Brown, Burleson,

Office code 131

Callahan, Camp, Cherokee, Clay, Coleman, Collin, Commanche,

Cooke, Coryell, Dallas, Delta, Denton, Eastland, Ellis, Erath,  
Falls,

Fannin, Franklin, Freestone, Grayson, Grimes, Hamilton,  
Hender-

son, Hill, Hood, Hopkins, Houston, Hunt, Jack, Johnson,

Kaufman,

Lamar, Lampasas, Leon, Limestone, Llano, Madison, Mason,

McCulloch, McLennon, Milam, Mills, Montague, Montgomery,  
Mor-

ris, Navarro, Palo Pinto, Parker, Polk, Rains, Red River,

Robertson, Rockwall, San Jacinto, San Saba,

Shackleford, Smith, Somervell, Stephens, Tarrant,  
Throckmorton,

Titus, Travis, Trinity, Upshur, Van Zandt, Walker, Washington,

Wichita, Wilbarger, Williamson, Wise, Young

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### Area No. 12

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State of Texas—the following counties: Aransas, Atascosa,  
Austin,

Fort Sam Houston, TX

Corpus Christi Army Depot, TX

Bandera, Bastrop, Bee, Bexar, Blanco, Brazoria, Brooks,  
Caldwell,

Office code 141

Office code 142

Calhoun, Cameron, Colorado, Comal, De Witt, Dimmit, Duval,  
Ed-

wards,

Brooke Army Medical Center, TX

Fayette, Fort Bend, Frio, Galveston, Gillespie, Goliad, Gonzalez,

Office code 143

Guadalupe, Harris, Hays, Hidalgo, Jackson, Jim Hogg, Jim  
Wells,

Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, LaSalle,

LaVaca,

Lee Live Oak, Matagorda, Maverick, McMullen, Medina, Nueces,

Real,

Refugio, San Patricio, Starr, Uvalde, Val Verde, Victoria, Waller,

Webb, Wharton, Willacy, Wilson, Zapata, Zavala

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### Area No. 13

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**Table 2–1 Claims offices—CONUS active Army areas—Continued**

Area of responsibility	Area claims office	Claims processing office(s)
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State of Louisiana State of Arkansas—the following counties: Arkansas, Ashley, Bradley, Calhoun, Chicot, Clay, Cleveland, Columbia, Craighead, Crittenden, Cross, Dallas, Desha, Drew, Grant, Greene, Jackson, Jefferson, Lafayette, Lee, Lincoln, Lonoke, Miller, Mississippi, Monroe, Ouachita, Phillips, Poinsett, Prairie, St. Francis, Union, White, Woodruff State of Texas—the following counties: Angelina, Cass, Chambers, Gregg, Hardin, Harrison, Jasper, Jefferson, Liberty, Marion, Nacogdoches, Newton, Orange, Panola, Rusk, Sabine, San Augustine, Shelby, Tyler	Fort Polk, LA Office code 151	Pine Bluff Arsenal, AR Office code 152
Area No. 14		
State of Missouri—St. Louis City and the following counties: Adair, Audrain, Barry, Barton, Bates, Benton, Bollinger, Boone, Butler, Callaway, Camden, Cape, Girardeau, Carter, Cass, Cedar, Christian, Clark, Cole, Cooper, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Franklin, Gasconade, Greene, Henry, Hickory, Howard, Howell, Iron, Jasper, Jefferson, Johnson, Knox, Laclede, Lawrence, Lewis, Lincoln, Macon, Madison, Maries, Marion, McDonald, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Newton, Oregon, Osage, Ozark, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, St. Louis, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Stone, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Wright	Fort Leonard Wood, MO Office code 161 U.S. Army Reserve	Components Personnel and Administration Center, MO Office code 163
State of Illinois—the following counties: Adams, Alexander, Bond, Brown, Calhoun, Cass, Clay, Clinton, Edwards, Fayette, Franklin, Gallatin, Greene, Hamilton, Hancock, Hardin, Jackson, Jefferson, Jersey, Johnson, Macoupin, Madison, Marion, Massac, Monroe, Montgomery, Morgan, Perry, Pike, Pope, Pulaski, Randolph, St. Clare, Saline, Schuyler, Scott, Union, Washington, Wayne, White, Williamson		
*Command terminates 1 October 1997		
Area No. 15		
State of Kansas—the following counties: Allen, Anderson, Atchison, Bourbon, Brown, Cherokee, Coffey, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Labette, Leavenworth, Linn, Miami, Montgomery, Nemaha, Neosho, Osage, Shawnee, Wilson, Woodson, Wyandotte	Fort Leavenworth, KS Office code 171	Fort McCoy, WI Office code 172
State of Minnesota		
State of Iowa		
State of Illinois—less counties assigned to Fort Leonard Wood		
State of Missouri—the following counties: Andrew, Atchison, Buchanan, Caldwell, Carroll, Chariton, Clay, Clinton, Daviess, Dekalb, Gentry, Grundy, Harrison, Holt, Jackson, Lafayette, Linn, Livingston, Mercer, Nodaway, Platte, Putnam, Ray, Saline, Sullivan, Worth		
Area No. 16		
Table 2-1 Claims offices—CONUS active Army areas—Continued		

## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

Area of responsibility	Area claims office	Claims processing office(s)
State of Indiana	Fort Knox, KY Office code 201	U.S. Army Tank Automotive Command, MI
State of Michigan		Office code 192
State of Kentucky—less counties assigned to Fort Campbell		
State of Ohio		
Area No. 17		
State of Kentucky—the following counties: Ballard, Butler, Caldwell,  Calloway, Carlisle, Christian, Crittenden, Daviess, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Muhlenberg, Ohio, Simpson, Todd, Trigg,  Union,  Warren, Webster	Fort Campbell, KY Office code 211	
State of Tennessee—the following counties: Bedford, Benton, Cannon, Carroll, Cheatham, Chester, Clay, Coffee, Crockett, Davidson, Decatur, DeKalb, Dickson, Dyer, Fayette, Fentress, Franklin, Gibson, Giles, Grundy, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lake, Lauderdale, Lawrence, Lewis, Lincoln, Macon, Madison, Marion, Marshall, Maury, McNairy, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Sequatchie, Shelby, Smith, Stewart, Summer, Tipton, Trousdale, Van Buren, Warren, Wayne, Weakley, White, Williamson, Wilson		
Area No. 18		
State of Alabama—the following counties: Colbert, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall, Morgan	Redstone Arsenal, AL Office code 221	U.S. Army Strategic Defense Command, AL  Office code 222
Area No. 19		
State of Mississippi—the following counties: Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, DeSota, Grenada, Holmes, Humphreys, Issaquena, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Washington, Webster, Winston, Yalobusha	Fort McClellan, AL Office code 231	
State of Alabama—the following counties: Bibb, Blount, Calhoun,		

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Chambers, Cherokee, Clay, Cleburne, Coosa, Cullman, DeKalb,  
Etowah, Fayette, Jefferson, Lamar, Marion, Pickens, Randolph,  
Saint  
Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker

## Area No. 20

State of Alabama—the following counties: Autauga, Baldwin, Bar-  
bour, Bullock, Butler, Chilton, Choctaw, Clarke, Coffee, Fort Rucker, AL  
Conecuh, Office code 241  
Covington, Crenshaw, Dale, Dallas, Elmore, Escambia, Geneva,  
Greene, Hale, Henry, Houston, Lowndes, Macon, Marengo, Mo-  
bile, Monroe, Montgomery, Perry, Pike, Washington, Wilcox

State of Mississippi—the following counties: Adams, Amite, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George,  
Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson,  
Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence,  
Leake, Lincoln, Madison, Marion, Neshoba, Newton, Pearl River,  
Perry, Pike, Rankin, Scott, Simpson, Smith, Stone Walthall, War-  
ren, Wayne, Wilkinson, Yazoo

State of Florida—the following counties: Bay, Calhoun, Escambia,  
Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washing-  
ton

## Area No. 21

**Table 2–1 Claims offices—CONUS active Army areas—Continued**

Area of responsibility	Area claims office	Claims processing office(s)
State of Georgia—the following counties: Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth	Fort Benning, GA Office code 251	
State of Alabama—the following counties: Lee, Russell		
State of Florida—the following counties: Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon Liberty, Madison, Suwannee, Taylor, Wakulla		
Area No. 22		
State of Georgia—the following counties: Appling, Atkinson, Bacon, Brantley, Bryan, Bulloch, Camden, Candler, Charlton, Chatham, Coffee, Effingham, Evans, Glynn, Jeff Davis, Liberty, Long, McIntosh, Montgomery, Pierce, Tattnall, Telfair, Toombs, Treutlen, Ware, Wayne, Wheeler	Fort Stewart, GA Office code 261	



## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

State of South Carolina—the following counties: Beaufort, Jasper

State of Florida—the following counties: Alachua, Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Dade, DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Levy, Manatee, Marion, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Saint Johns, Saint Lucie, Sarasota, Seminole, Sum-ter, Union, Volusia

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### Area No. 23

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State of Georgia—the following counties: Barrow, Bartow, Butts, Carroll, Catoosa, Chattooga, Cherokee, Clayton, Cobb, Coweta, Dada, Daws, DeKalb, Douglas, Fannin, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Heard, Henry, Jas-per, Lumpkin, Murray, Newton, Paulding, Pickens, Polk, Rabun, Rockdale, Spalding, Towns, Union, Walker, Walton, White, Whit-field

Fort McPherson, GA  
Office code 271

State of Tennessee—the following counties: Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Clairborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Mor-gan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, Washington

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### Area No. 24

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State of Georgia—the following counties: Baldwin, Banks, Burke, Clarke, Columbia, Elbert, Emanuel, Franklin, Glascock, Greene, Hancock, Hart, Jackson, Jefferson, Jenkins, Johnson, Laurens, Lincoln, Madison, McDuffie, Morgan, Oconee, Oglethorpe, Putnam, Richmond, Screvens, Stephens, Taliaferro, Warren, Wash-ington, Wilkes, Wilkinson

Fort Gordon, GA Office code 281

State of North Carolina—the following counties: Buncombe, Cher-okee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Polk, Swain, Transylvania

State of South Carolina—the following counties: Abbeville, Aiken, Allendale, Anderson, Barnwell, Edgefield, Greenville, Greenwood, Hampton, Laurens, McCormick, Oconee, Pickens, Saluda, Spar-tanburg

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**Table 2–1 Claims offices—CONUS active Army areas—Continued**

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Area of responsibility	Area claims office	Claims processing office(s)
<hr/> Area No. 25 <hr/>		
State of South Carolina—the following counties: Bamberg, Berke-ley, Calhoun, Charleston, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Dorchester, Fairfield, Florence, Georgetown, Horry, Kershaw, Lancaster, Lee, Lexington, Marion, Marlboro, Newberry, Orangeburg, Richland, Sumter, Union, Williamsburg, York	Fort Jackson, SC Office code 291	

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State of North Carolina—the following counties: Alexander, Alleghany, Anson, Ashe, Avery, Burke, Cabarrus, Caldwell, Catawba, Cleveland, Davie, Gaston, Iredell, Lincoln, McDowell, Mecklenburg, Mitchell, Rowan, Rutherford, Stanly, Surry, Unions, Watauga, Wilkes, Yadkin, Yancey

## Area No. 26

State of North Carolina—the following counties: Alamance, Beaufort, Bertie, Bladen, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenior, Martin, Montgomery, Moore, Nash, New Hanover, Northhampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, Stokes, Tyrrell, Vance, Wake, Warren, Washington, Wayne, Wilson	Fort Bragg, NC Office code 301	Womack Army Medical Center Office Code 302
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## Area No. 27

State of Virginia—less areas assigned to Military District of Washington, Fort Belvoir, and Fort Eustis State of West Virginia—less areas assigned to Fort Belvoir	Fort Lee, VA Office code 311	The Judge Advocate General School, VA Office code 312
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## Area No. 28

State of Virginia—the following counties: Accomack, Isle of Wight, James City, Nansemond, Northampton, Southampton, Surry, Sussex, York The following independent cities: Charles City, Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg	Fort Eustis, VA Office code 321	Fort Monroe, VA Office code 322
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## Area No. 29

State of Virginia—the following counties: Caroline, Clarke, Culpeper, Fauquier, Frederick, Greene, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Stafford, Warren	Fort Belvoir, VA Office code 331
State of West Virginia—the following counties: Berkely, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton	

## Area No. 30

District of Columbia State of Virginia—the following counties: Arlington, Fairfax Independent cities of: Alexandria, Fairfax, Falls Church New York City Long Island State of New Jersey—the following counties: Bergen, Essex, Hudson, Passaic, Union	Military District of Washington, DC Office code 341
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U.S. Army Materiel Command, VA Office code 343 Walter Reed Army Medical Center, DC Office code 344 Fort Hamilton, NY Office code 391

## Area No. 31

**Table 2–1 Claims offices—CONUS active Army areas—Continued**

Area of responsibility	Area claims office	Claims processing office(s)
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## APPENDIX 4: MILITARY ASSISTANCE FOR CIVILIAN AUTHORITIES

State of Maryland—less counties assigned to Aberdeen Proving Ground	Fort Meade, MD Office code 351	Fort Detrick, MD Office code 352
State of Pennsylvania—less counties assigned to Fort Dix		Fort Ritchie, MD Office code 353
		Carlisle Barracks, PA Office code 354
Area No. 32		
State of Maryland—the following counties: Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	Aberdeen Proving Ground, MD Office code 361	
State of Delaware		
Area No. 33		
State of New Jersey—the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, Salem	Fort Dix, NJ Office code 371	
States of Maine, Massachusetts, New Hampshire, Rhode Island, Vermont		Fort Devens, MA Office code 372
State of Pennsylvania—the following counties: Berks, Bradford, Bucks, Carbon, Chester, Columbia, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, Schuylkill, Sullivan, Susquehanna, Wayne, Wyoming		
Area No. 34		
State of New Jersey—the following counties: Hunterdon, Mercer, Middlesex, Monmouth, Morris, Somerset, Sussex, Warren	Fort Monmouth, NJ Office code 381	
Area No. 35 [Reserved]		
Area No. 36		
State of Connecticut—Affirmative claims including the states of: Massachusetts, Rhode Island and the following counties in New Jersey: Bergen, Passaic, Essex	U.S. Military Academy NY, Office code 401	Watervliet Arsenal, NY Office code 402
State of New York—the following counties: Albany, Columbia, Delaware, Dutchess, Fulton, Greene, Montgomery, Orange, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Sullivan, Ulster, Warren, Washington, Westchester		
Area No. 37		
All of New York not assigned to the U.S. Military Academy and Military District of Washington	Fort Drum, NY Office Code 421	
Area No. 38		
Alaska	Fort Richardson, AK Office code 431	Fort Wainwright, AK Office code 432
		Fort Greely, AK Office code 433
Area No. 39		
New Jersey—Bayonne (personnel claims only) North Carolina-Brunswick County	MTMC, Eastern Area Bayonne, NJ Office code 441	
Area No. 40		

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Puerto Rico and Virgin Islands

Fort Buchanan, PR Office code 451

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Area No. 41

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**Table 2-1 Claims offices—CONUS active Army areas—Continued**

Area of responsibility	Area claims office	Claims processing office(s)
State of Hawaii— and the following possessions or territories: American Samoa, Baker Island, Guam, Howland Island, Jarvis Is-land, Johnson Island, Kingman Reef, Midway Atoll, Northern Mariana Islands, Palmyra, Wake Atoll,	25th Infantry Div (L) and U. S. Army Hawaii Office code P05	

Army—Single-Service, Responsibility per DODD, 5515.8  
Marshall Islands and Kwajalein Atoll

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## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### APPENDIX 5 NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

#### APPENDIX 5-1: EXECUTIVE ORDER 12241

##### Executive Order 12241, September 29, 1980, National Contingency Plan

By the authority vested in me as President of the United States of America under Section 304 of Public Law 96-295 (94 Stat. 790) and Section 301 of Title 3 of the United States Code, and in order to provide for the publication of a plan to protect the public health and safety in case of accidents at nuclear power facilities, it is hereby ordered as follows:

1-101. The functions vested in the President by Section 304 of Public Law 96-295 (94 Stat. 790) are delegated to the Director, Federal Emergency Management Agency.

1-102. A copy of the National Contingency Plan shall, from time to time, be published in the Federal Register.

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#### AMENDMENT(S)

EO 12657, November 18, 1988

#### APPENDIX 5-2: EXECUTIVE ORDER 12472

##### Executive Order 12742 (1991), National Security Industrial Responsiveness

Section 101. Policy The United States must have the capability to rapidly mobilize its resources in the interest of national security. Therefore, to achieve prompt delivery of articles, products, and materials to meet national security requirements, the Government may place orders and require priority performance of these orders.

Section 102. Delegation of Authority under 50 U.S.C. App. 468.

Subject to paragraph (b) of this section, the authorities vested in the President, under 50 U.S.C. App. 468, with respect to the placing of orders for prompt delivery of articles or materials, except for the taking authority under 50 U.S.C. App. 468 (c), are hereby delegated to:

- (1) the Secretary of Agriculture with respect to all food resources;
- (2) the Secretary of Energy with respect to all forms of energy;
- (3) the Secretary of Transportation with respect to all forms of civil transportation; and
- (4) the Secretary of Commerce with respect to all other articles and materials, including construction materials.

The authorities delegated by paragraph (a) of this section shall be exercised only after:

- (1) a determination by the Secretary of Defense that prompt delivery of the articles or materials for the exclusive use of the armed forces of the United States in the interest of national security, or
- (2) a determination by the Secretary of Energy that the prompt delivery of the articles or materials for the Department of Energy's atomic energy programs is in the interest of national security.

All determinations of the type described in paragraph (b) of this section and all delegations -- made prior to the effective date of this order under the Defense Production Act of 1950, as amended, and under its implementing rules and regulation

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Section 103. Delegation of Authority under 10 U.S.C. 4501 and 9501, and 50 U.S.C. 82.

Subject to paragraph (b) of this section, the authorities vested in the President under 10 U.S.C. 4501 and 9501 with respect to the placing of orders for necessary products or materials, and under 50 U.S.C. 82 with respect to the placing of orders for ships or war materials, except for the taking authority vested in the President by these acts, are hereby delegated to:

- (1) the Secretary of Agriculture with respect to all food resources;
- (2) the Secretary of Energy with respect to all forms of energy;
- (3) the Secretary of Transportation with respect to all forms of civil transportation; and
- (4) the Secretary of Commerce with respect to all other products and materials, including construction materials.

The authorities delegated in paragraph (a) of this section may be exercised only after the President has made the statutorily required determination.

Section 104. Implementation. (a) The authorities delegated under sections 102 and 103 of this order shall include the power to redelegate such authorities, and the power of successive redelegation of such authorities, to departments and agencies, officers, and employees of the Government. The authorities delegated in this order may be implemented by regulations promulgated and administered by the Secretaries of Agriculture, Defense, Energy, Transportation, and Commerce, and the Director of the Federal Emergency Management Agency, as appropriate.

All departments and agencies delegated authority under this order are hereby directed to amend their rules delegated herein that are to be relied upon to carry out their functions. To the extent authorized by law, including 50 U.S.C. App. 486, 10 U.S.C. 4501 and 9501, and 50 U.S.C. 82, all rules and regulations issued under the Defense Production Act of 1950, as amended, with respect to the placing of priority orders for articles, products, ships, and materials, including war materials, shall be deemed, where appropriate, to implement the authorities delegated by section 102 and 103 of this order, and shall remain in effect until amended or revoked by the respective Secretary. All orders, regulations, and other forms of administrative actions pursuant to the Defense Production Act of 1950, as amended, shall, until amended or revoked by the respective Secretaries or the Director of the Federal Emergency Management Agency, as appropriate, remain in full force and effect, to the extent supported by any law or any authority delegated to the respective Secretary or the Director pursuant to this order.

Upon the request of the Secretary of Defense with respect to particular articles, products, or materials that are determined to be needed to meet national security requirements, and other official receiving a delegation of authority under this Executive order to place orders or to enforce precedence of such orders, shall exercise such authority within 10 calendar days of the receipt of the request; provided, that if the head of any department or agency having delegated responsibilities hereunder disagrees with a request of the Secretary of Defense, such department or agency head shall, within 10 calendar days from the receipt of the request, refer the issue to the Assistant to the President for National Security Affairs, who shall ensure expeditious resolution of the issue.

Proposed department and agency regulations and procedures to implement the delegated authority under this order, and any new determinations made under sections 102 (b)(1) or (2), shall be coordinated by the Director of the Federal Emergency Management Agency with all appropriate departments and agencies.

Section 105. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

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## AMENDMENT(S)

### **Executive Order 13286 (2003), Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security**

Sec. 36. Executive Order 12742 of January 8, 1991 ("National Security Industrial Responsiveness"), is amended by:

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

inserting "Homeland Security," after "Transportation," in section 104(a); and striking "the Director of the Federal Emergency Management Agency" in section 104(d) and inserting "the Secretary of Homeland Security" in lieu thereof.

### **APPENDIX 5-3: EXECUTIVE ORDER 12580**

#### **Executive Order 12580, January 23, 1987, Superfund Implementation**

##### Section 1. National Contingency Plan.

(a)

(1) The National Contingency Plan ('the NCP') shall provide for a National Response Team ('the NRT') composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and regional response teams as the regional counterpart to the NRT for planning and coordination of regional preparedness and response actions.

(2) The following agencies (in addition to other appropriate agencies) shall provide representatives to the National and Regional Response Teams to carry out their responsibilities under the NCP: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, United States Coast Guard, and the Nuclear Regulatory Commission.

(3) Except for periods of activation because of a response action, the representative of the Environmental Protection Agency ("EPA") shall be the chairman and the representative of the United States Coast Guard shall be the vice chairman of the NRT and these agencies' representatives shall be co-chairs of the Regional Response Teams ('the RRTs'). When the NRT or an RRT is activated for a response action, the chairman shall be the EPA or United States Coast Guard representative, based on whether the release or threatened release occurs in the island or coastal zone, unless otherwise agreed upon by the EPA and United States Coast Guard representatives.

(4) The RRTs may include representatives from State governments, local governments (as agreed upon by the States), and Indian tribal governments. Subject to the functions and authorities delegated to Executive departments and agencies in other sections of this Order, the NRT shall provide policy and program direction to the RRTs.

(b)

(1) The responsibility for the revision of the NCP and all of the other functions vested in the President by Sections 105(a), (b), (c), and (g), 125, and 301(f) of the Act is delegated to the Administrator of the Environmental Protection Agency ('the Administrator').

(2) The function vested in the President by Section. II 8(p) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) ('SARA') is delegated to the Administrator.

(c) In accord with Section 107(f)(2)(A) of the Act and Section 31 I (f)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321 (f)(5)), the following shall be among those designated in the NCP as Federal trustees for natural resources:

- (1) Secretary of Defense;
- (2) Secretary of the Interior,
- (3) Secretary of Agriculture;
- (4) Secretary of Commerce;
- (5) Secretary of Energy.

(d) Revisions to the NCP shall be made in consultation with members of the NRT prior to publication for notice and comment. Revisions shall also be made in consultation with the Director of the Federal Emergency Management Agency and the Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.

(e) All revisions to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director of the Office of Management and Budget ("OMB").

##### Sec. 2. Response and Related Authorities.

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(a) The functions vested in the President by the first sentence of Section 104(b)(1) of the Act relating to "illness, disease, or complaints thereof" are delegated to the Secretary of Health and Human Services, who shall, in accord with Section 104(i) of the Act, perform those functions through the Public Health Service.

(b) The functions vested in the President by Sections 104(e)(7)(C), 113(k)(2), 119(c)(7), and 121(f)(1) of the Act, relating to promulgation of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the NRT.

(c)

(1) The functions vested in the President by Sections 104(a) and the second sentence of 126(b) of the Act, to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for, are delegated to the Director of the Federal Emergency Management Agency.

(2) Subject to subsection (b) of this Section, the functions vested in the President by Sections 117(a) and (c) and 119 of the Act, to the extent such authority is needed to carry out the functions delegated under paragraph (1) of this subsection, are delegated to the Director of the Federal Emergency Management Agency.

(d) Subject to subsections (a), (b), and (c) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretaries of Defense and Energy, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated. These functions must be exercised consistent with the requirements of Section 120 of the Act.

(e)

(1) Subject to subsections (a), (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), and 121 of the Act are delegated to the heads of Executive departments and agencies, with respect to remedial actions for releases or threatened releases which are not on the National Priorities List ('the NPL') and removal actions other than emergencies, where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated. The Administrator shall define the term 'emergency,' solely for the purposes of this subsection, either by regulation or by a memorandum of understanding with the head of an Executive department or agency.

(2) Subject to subsections (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(b)(2), 113(k), 117(a) and (c), and 119, of the Act are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated.

(f) Subject to subsections (a), (b), (c), (d), and (e) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretary of the Department in which the Coast Guard is operating ("the Coast Guard"), with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(g) Subject to subsections (a), (b), (c), (d), (e), and (f) of this Section, the functions vested in the President by Sections 101(24), 104(a), (b), (c)(4), and (c)(9), 113(k), 117(a) and (c), 119, 121, and 126(b) of the Act are delegated to the Administrator. The Administrator's authority under Section 119 of the Act is retroactive to the date of enactment of SARA.

(h) The functions vested in the President by Section 104(c)(3) of the Act are delegated to the Administrator, with respect to providing assurances for Indian tribes, to be exercised in consultation with the Secretary of the Interior.

(i) Subject to subsections (d), (e), (f), (g), and (h) of this Section, the functions vested in the President by Section 104(c) and (d) of the Act are delegated to the Coast Guard, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and the Administrator in order to carry out the functions delegated to them by this Section.

(j)

(1) The functions vested in the President by Section 104(e)(5)(A) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments or agencies, to be exercised with the concurrence of the Attorney General.



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

(2) Subject to subsection (b) of this Section and paragraph (1) of this subsection, the functions vested in the President by Section 104(e) are delegated to the heads of Executive departments and agencies in order to carry out their functions under this Order or the Act.

(k) The functions vested in the President by Section 104(f), (g), (h), (I)(11), and (j) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Section. The exercise of authority under Section 104(h) of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

### Sec. 3. Cleanup Schedules.

(a) The functions vested in the President by Sections 116(a) and the first two sentences of 105(d) of the Act are delegated to the heads of Executive departments and agencies with respect to facilities under the jurisdiction, custody or control of those departments and agencies.

(b) Subject to subsection (a) of this Section, the functions vested in the President by Sections 116 and 105(d) are delegated to the Administrator.

### Sec. 4. Enforcement.

(a) The functions vested in the President by Sections 109(d) and 122(e)(3)(A) of the Act, relating to development of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(b)

(1) Subject to subsection (a) of this Section, the functions vested in the President by Section 122 (except subsection (b)(1)) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases not on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(2) Subject to subsection (a) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 122 of the Act, are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases not on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(c)

(1) Subject to subsection (a) and (b)(1) of this Section, the functions vested in the President by Sections 106(a) and 122 of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(2) Subject to subsection (a) and (b)(2) of this Section, the functions vested in the President by Section 109 of the Act relating to violations of Sections 103 (a) and (b) and 122 of the Act, are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(d)

(1) Subject to subsections (a), (b)(1), and (c)(1) of this Section, the functions vested in the President by Sections 106 and 122 of the Act are delegated to the Administrator.

(2) Subject to subsections (a), (b)(2), and (c)(2) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Sections 103 and 122 of the Act, are delegated to the Administrator.

(e) Notwithstanding any other provision of this Order, the authority under Sections 104(e)(5)(A) and 106(a) of the Act to seek information, entry, inspection, samples, or response actions from Executive departments and agencies may be exercised only with the concurrence of the Attorney General.

### Sec. 5. Liability.

(a) The function vested in the President by Section 107(c)(1)(C) of the Act is delegated to the Secretary of Transportation.

(b) The functions vested in the President by Section 107(c)(3) of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 107(c)(3) of the Act are delegated to the Administrator.

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(d) The functions vested in the President by Section 107(f)(1) of the Act are delegated to each of the Federal trustees for natural resources designated in the NCP for resources under their trusteeship.

(e) The functions vested in the President by Section 107(f)(2)(B) of the Act, to receive notification of the state natural resource trustee designations, are delegated to the Administrator.

### Sec. 6. Litigation.

(a) Notwithstanding any other provision of this Order, any representation pursuant to or under this Order in any judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Act shall be the responsibility of the Attorney General.

(b) Notwithstanding any other provision of this Order, the authority under the Act to require the Attorney General to commence litigation is retained by the President.

(c) The functions vested in the President by Section 133(g) of the Act, to receive notification of a natural resource trustee's intent to file suit, are delegated to the heads of Executive departments and agencies with respect to response actions for which they have been delegated authority under Section 2 of this Order. The Administrator shall promulgate procedural regulations for providing such notification.

(d) The functions vested in the President by Sections 310 (d) and (e) of the Act, relating to promulgation of regulations, are delegated to the Administrator.

### Sec. 7. Financial Responsibility.

(a) The functions vested in the President by Section 107(k)(4)(B) of the Act are delegated to the Secretary of the Treasury.

The Administrator will provide the Secretary with such technical information and assistance as the Administrator may have available.

(b)

(1) The functions vested in the President by Section 108(a)(1) of the Act are delegated to the Coast Guard.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the act, relating to violations of Section 108(a)(1) of the Act, are delegated to the Coast Guard.

(c)

(1) The functions vested in the President by Section 108(b) of the Act are delegated to the Secretary of Transportation with respect to all transportation-related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(a)(3) of the Act, are delegated to the Secretary of Transportation.

(3) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(b) of the Act, are delegated to the Secretary of Transportation with respect to all transportation-related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(d)

(1) Subject to subsection (c)(1) of this Section, the functions vested in the President by Section 108 (a)(4) and (b) of the Act are delegated to the Administrator.

(2) Subject to Section 4(a) of this Order and subsection (c)(3) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108 (a)(4) and (b) of the Act, are delegated to the Administrator.

### Sec. 6. Employee Protection and Notice to Injured.

(a) The functions vested in the President by Section 110(e) of the Act are delegated to the Administrator.

(b) The functions vested in the President by Section 111(g) of the Act are delegated to the Secretaries of Defense and Energy with respect to releases from facilities or vessels under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 111(g) of the Act are delegated to the Administrator.

### Sec. 9. Management of the Hazardous Substance Superfund and Claims.

(a) The functions vested in the President by Section III (a) of the Act are delegated to the Administrator, subject to the provisions of this Section and other applicable provisions of this Order.

(b) The Administrator shall transfer to other agencies, from the Hazardous Substance Superfund out of sums appropriated, such amounts as the Administrator may determine necessary to carry out the purposes of the Act. These amounts shall be consistent with the President's Budget, within the total approved by the Congress, unless a revised amount is approved by OMB. Funds appropriated specifically for the Agency

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

for Toxic Substances and Disease Registry ("ATSDR"), shall be directly transferred to ATSDR, consistent with fiscally responsible investment of trust fund money.

(c) The Administrator shall chair a budget task force composed of representatives of Executive departments and agencies having responsibilities under this Order or the Act. The Administrator shall also, as part of the budget request for the Environmental Protection Agency, submit to OMB a budget for the Hazardous Substance Superfund which is based on recommended levels developed by the budget task force. The Administrator may prescribe reporting and other forms, procedures, and guidelines to be used by the agencies of the Task Force in preparing the budget request, consistent with budgetary reporting requirements issued by OMB. The Administrator shall prescribe forms to agency task force members for reporting the expenditure of funds on a site-specific basis.

(d) The Administrator and each department and agency head to whom funds are provided pursuant to this Section, with respect to funds provided to them, are authorized in accordance with Section 111(f) of the Act to designate Federal officials who may obligate such funds.

(e) The functions vested in the President by Section 112 of the Act are delegated to the Administrator for all claims presented pursuant to Section 111 of the Act.

(f) The functions vested in the President by Section 111 (o) of the Act are delegated to the Administrator.

(g) The functions vested in the President by Section 117(e) of the Act are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(h) The functions vested in the President by Section 123 of the Act are delegated to the Administrator.

(i) Funds from the Hazardous Substance Superfund may be used, at the discretion of the Administrator or the Coast Guard, to pay for removal actions for releases or threatened releases from facilities or vessels under the jurisdiction, custody or control of Executive departments and agencies but must be reimbursed to the Hazardous Substance Superfund by such Executive department or agency.

### Sec. 10. Federal Facilities.

(a) When necessary, prior to selection of a remedial action by the Administrator under Section 120(e)(4)(A) of the Act, Executive agencies shall have the opportunity to present their views to the Administrator after using the procedures under Section 1-6 of Executive Order No. 12088 of October 13, 1978, or any other mutually acceptable process. Notwithstanding subsection 1-602 of Executive Order No. 12088, the Director of the Office of Management and Budget shall facilitate resolution of any issues.

(b) Executive Order No. 12088 of October 13, 1978, is amended by renumbering the current Section 1-802 as Section 1-803 and inserting the following new Section 1-802:

"1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person."

### Sec. 11. General Provisions.

(a) The function vested in the President by Section 101(37) of the Act is delegated to the Administrator.

(b)

(1) The function vested in the President by Section 105(f) of the Act, relating to reporting on minority participation in contracts, is delegated to the Administrator.

(2) Subject to paragraph 1 of this subsection, the functions vested in the President by Section 105(f) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Order. Each Executive department and agency shall provide to the Administrator any requested information on minority contracting for inclusion in the Section 105(f) annual report.

(c) The functions vested in the President by Section 126(c) of the Act are delegated to the Administrator, to be exercised in consultation with the Secretary of the Interior.

(d) The functions vested in the President by Section 301(c) of the Act are delegated to the Secretary of the Interior.

(e) Each agency shall have authority to issue such regulations as may be necessary to carry out the functions delegated to them by this Order.

(f) The performance of any function under this Order shall be done in consultation with interested Federal departments and agencies represented on the NRT, as well as with any other interested Federal agency.

(g) The following functions vested in the President by the Act which have been delegated or assigned by this Order may be redelegated to the head of any Executive department or agency with his consent: functions set forth in Sections 2 (except subsection (b)), 3, 4(b), 4(c), 4(d), 5(b), 5(c), and 8(c) of this Order.

(h) Executive Order No. 12316 of August 14, 1981, is revoked.

## AMENDMENT(S)

### **Executive Order 13016 (1996), Amendment to Executive Order No. 12580, Superfund Implementation**

Section 1. A new subsection (c)(3) is added to read as follows:

"(3) Subject to subsections (a) and (b)(1) of this section, the functions vested in the President by sections 106(a) and 122 (except subsection (b)(1)) of the Act are delegated to the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, and the Secretary of Energy, to be exercised only with the concurrence of the Coast Guard, with respect to any release or threatened release in the coastal zone, Great Lakes waters, ports, and harbors, affecting (1) natural resources under their trusteeship, or (2) a vessel or facility subject to their custody, jurisdiction, or control. Such authority shall not be exercised at any vessel or facility at which the Coast Guard is the lead Federal agency for the conduct or oversight of a response action. Such authority shall not be construed to authorize or permit use of the Hazardous Substance Superfund to implement section 106 or to fund performance of any response action in lieu of the payment by a person who receives but does not comply with an order pursuant to section 106(a), where such order has been issued by the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, or the Secretary of Energy. This subsection shall not be construed to limit any authority delegated by any other section of this order. Authority granted under this subsection shall be exercised in a manner to ensure interagency coordination that enhances efficiency and effectiveness."

Section. 2. A new subsection (d) (3) is added to section 4 to read as follows:

"(3) Subject to subsections (a), (b)(1), and (c)(1) of this section, the functions vested in the President by sections 106(a) and 122 (except subsection (b)(1)) of the Act are delegated to the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, and the Department of Energy, to be exercised only with the concurrence of the Administrator, with respect to any release or threatened release affecting (1) natural resources under their trusteeship, or (2) a vessel or facility subject to their custody, jurisdiction, or control. Such authority shall not be exercised at any vessel or facility at which the Administrator is the lead Federal official for the conduct or oversight of a response action. Such authority shall not be construed to authorize or permit use of the Hazardous Substance Superfund to implement section 106 or to fund performance of any response action in lieu of the payment by a person who receives but does not comply with an order pursuant to section 106(a), where such order has been issued by the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, or the Secretary of Energy. This subsection shall not be construed to limit any authority delegated by any other section of this order. Authority granted under this subsection shall be exercised in a manner to ensure interagency coordination that enhances efficiency and effectiveness."

### **Executive Order 13286 (2003), Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security**

Sec. 43. Executive Order 12580 of January 23, 1987 ("Superfund Implementation"), as amended, is further amended by:

- (a) inserting "Department of Homeland Security," after Department of Energy," in section 1(a)(2); and
- (b) striking "Federal Emergency Management Agency" in section 1(a)(2)

## **APPENDIX 5-4: EXECUTIVE ORDER 12657**

### **Executive Order 12657, November 18, 1988, Federal Emergency Management Agency Assistance In Emergency Preparedness Planning At Commercial Nuclear Power Plants**

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Disas-

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Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, and Section 301 of Title 3 of the United States Code, and in order to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction, it is hereby ordered as follows:

### SEC 1. Scope.

(a) This Order applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to satisfy Nuclear Regulatory Commission ("NRC") licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise, or use of such plans.

(b) In order to request the assistance of the Federal Emergency Management Agency ("FEMA") provided for in this Order, an affected nuclear power plant applicant or licensee ("licensee") shall certify in writing to FEMA that the situation described in Subsection (a) exists.

### SEC. 2. Generally Applicable Principles and Directives.

(a) Subject to the principles articulated in this Section, the Director of FEMA is hereby authorized and directed to take the actions specified in Sections 3 through 6 of this Order.

(b) In carrying out any of its responsibilities under this Order, FEMA:

(1) shall work actively with the licensee, and, before relying upon its resources or those of any other Department or agency within the Executive branch, shall make maximum feasible use of the licensee's resources;

(2) shall take care not to supplant State and local resources. FEMA shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation;

(3) is authorized, to the extent permitted by law, to enter into inter-agency Memoranda of Understanding providing for utilization of the resources of other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies of any of the functions and duties assigned to FEMA under this Order; however, any such Memorandum of Understanding shall be subject to approval by the Director of the Office of Management and Budget ("OMB") and published in final form in the FEDERAL REGISTER; and

(4) shall assume for purposes of Sections 3 and 4 of this Order that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radiological emergency preparedness plan.

(c) The Director of OMB shall resolve any issue concerning the obligation of Federal funds arising from the implementation of this Order. In resolving issues under this Subsection, the Director of OMB shall ensure:

(1) that FEMA has utilized to the maximum extent possible the resources of the licensee and State and local governments before it relies upon its appropriated and lawfully available resources or those of any Department or agency in the Executive branch;

(2) that FEMA shall use its existing resources to coordinate and manage, rather than duplicate, other available resources;

(3) that implementation of this Order is accomplished with an economy of resources; and

(4) that full reimbursement to the Federal Government is provided, to the extent permitted by law.

### SEC. 3. FEMA Participation in Emergency Preparedness Planning

(a) FEMA assistance in emergency preparedness planning shall include advice, technical assistance, and arrangements for facilities and resources as needed to satisfy the emergency planning requirements under the Atomic Energy Act of 1954, as amended, and any other Federal legislation or regulations pertaining to issuance or retention of a construction permit or an operating license for a nuclear power plant.

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(b) FEMA shall make all necessary plans and arrangements to ensure that the Federal Government is prepared to assume any and all functions and undertakings necessary to provide adequate protection to the public in cases within the scope of this Order. In making such plans and arrangements,

(1) FEMA shall focus planning of Federal response activities to ensure that:

(A) adequate resources and arrangements will exist, as of the time when an initial response is needed, given the absence or inadequacy of advance State and local commitments; and

(B) attention has been given to coordinating (including turning over) response functions when State and local governments do exercise their authority, with specific attention to the areas where prior State and local participation has been insufficient or absent;

(2) FEMA's planning for Federal participation in responding to a radiological emergency within the scope of this Order shall include, but not be limited to, arrangements for using existing Federal resources to provide prompt notification of the emergency to the general public; to assist in any necessary evacuation; to provide reception centers or shelters and related facilities and services for evacuees, to provide emergency medical services at Federal hospitals, including those operated by the military services and by the Veterans' Administration; and to ensure the creation and maintenance of channels of communication from commercial nuclear power plant licensees or applicants to State and local governments and to surrounding members of the public.

### SEC. 4. Evaluation of Plans.

(1) FEMA shall consider and evaluate all plans developed under the authority of this Order as though drafted and submitted by a State or local government.

(2) FEMA shall take all actions necessary to carry out the evaluation referred to in the preceding Subsection and to permit the NRC to conduct its evaluation of radiological emergency preparedness plans including, but not limited to, planning, participating in, and evaluating exercises, drills, and tests, on a timely basis, as necessary to satisfy NRC requirements for demonstrations of off-site radiological emergency preparedness.

### SEC. 5. Response to a Radiological Emergency.

(1) In the event of an actual radiological emergency or disaster, FEMA shall take all steps necessary to ensure the implementation of the plans developed under this Order and shall coordinate the actions of other Federal agencies to achieve the maximum effectiveness of Federal efforts in responding to the emergency.

(2) FEMA shall coordinate Federal response activities to ensure that adequate resources are directed, when an initial response is needed, to activities hindered by the absence or inadequacy of advance State and local commitments. FEMA shall also coordinate with State and local governmental authorities and turn over response functions as appropriate when State and local governments do exercise their authority.

(3) FEMA shall assume any necessary command-and-control function, or delegate such function to another Federal agency, in the event that no competent State and local authority is available to perform such function.

(4) In any instance in which Federal personnel may be called upon to fill a command-and-control function during a radiological emergency, in addition to any other powers it may have, FEMA or its designee is authorized to accept volunteer assistance from utility employees and other nongovernmental personnel for any purpose necessary to implement the emergency response plan and facilitate off-site emergency response.

### SEC. 6. Implementation of Order.

(a) FEMA shall issue interim and final directives and procedures implementing this Order as expeditiously as is feasible and in any event shall issue interim directives and procedures not more than 90 days following the effective date of this Order and shall issue final directives and procedures not more than 180 days following the effective date of this Order.

(b) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary revisions of, all FEMA regulations, directives, and guidance to conform them to the terms and policies of this Order.

(c) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary renegotiations of, all interagency agreements to which FEMA is a party, so as to conform them to the terms and policies of this Order. This directive shall include, but not be limited to, the Federal Radiological Emergency Response Plan (50 Fed. Reg. 46542 (November 8, 1985)).

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(d) To the extent permitted by law, FEMA is directed to obtain full reimbursement, either jointly or severally, for services performed by FEMA or other Federal agencies pursuant to this Order from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

### SEC. 7. Amendments.

This Executive Order amends Executive Order Nos. 11490 (34 Fed. Reg. 17567 (October 28, 1969)), 12148 (44 Fed. Reg. 43239 (July 20, 1979)), and 12241 (45 Fed. Reg. 64879 (September 29, 1980)), and the same are hereby superseded to the extent that they are inconsistent with this Order.

### SEC. 8. Judicial Review.

This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

### SEC. 9. Effective Date.

This Order shall be effective November 18, 1988.

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## AMENDMENT(S)

### Executive Order 13286

Sec. 41. Executive Order 12657 of November 18, 1988 ("Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants"), is amended by:

- (a) striking "Federal Emergency Management Agency" in the title and inserting "Department of Homeland Security" in lieu thereof;
- (b) striking "Federal Emergency Management Agency ('FEMA')'" in section 1(b) and inserting "Department of Homeland Security ('DHS')'" in lieu thereof;
- (c) striking "FEMA" wherever it appears in sections 1(b), 2(b), 2(c), 3, 4, 5, and 6, and inserting "DHS" in lieu thereof; and
- (d) striking "the Director of FEMA" in section 2(a) and inserting "the Secretary of Homeland Security" in lieu thereof.

## APPENDIX 5-5: EXECUTIVE ORDER 13286

### Executive Order 13286, February 28, 2003, Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Homeland Security Act of 2002 (Public Law 107-296) and section 301 of title 3, United States Code, and in order to reflect the transfer of certain functions to, and other responsibilities vested in, the Secretary of Homeland Security, the transfer of certain agencies and agency components to the Department of Homeland Security, and the delegation of appropriate responsibilities to the Secretary of Homeland Security, it is hereby ordered as follows:

Sec 1. Executive Order 13276 of November 15, 2002 ("Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region"), is amended by:

- (a) striking "The Attorney General" wherever it appears in section 1 and inserting "The Secretary of Homeland Security" in lieu thereof; and
- (b) striking "the Attorney General" wherever it appears in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

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Sec. 2. Executive Order 13274 of September 18, 2002 ("Environmental Stewardship and Transportation Infrastructure Project Reviews"), is amended by inserting "Secretary of Homeland Security," after "Secretary of Defense," in section 3(b).

Sec. 3. Executive Order 13271 of July 9, 2002 ("Establishment of the Corporate Fraud Task Force"), is amended by:

- (a) inserting "(b) the Secretary of Homeland Security;" after "(a) the Secretary of the Treasury;" in section 4; and
- (b) relettering the subsequent subsections in section 4 appropriately.

Sec. 4. Executive Order 13260 of March 19, 2002 ("Establishing the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security"), is amended by:

- (a) striking "the Assistant to the President for Homeland Security (Assistant)" in section 1(c) and inserting "the Secretary of Homeland Security (Secretary)" in lieu thereof;
- (b) striking "the Assistant" wherever it appears in sections 2 and 3 and inserting "the Secretary" in lieu thereof;
- (c) striking "the Office of Administration" in section 3(d) and inserting "the Department of Homeland Security" in lieu thereof;
- (d) striking "the Administrator of General Services" in section 4(a) and inserting "the Secretary of Homeland Security" in lieu thereof; and
- (e) inserting "of General Services" after "Administrator" in section 4(a).

Executive Order 13260 of March 19, 2002, is hereby revoked effective as of March 31, 2003.

Sec. 5. Executive Order 13257 of February 13, 2002 ("President's Interagency Task Force to Monitor and Combat Trafficking in Persons"), is amended by:

- (a) inserting "(v) the Secretary of Homeland Security;" after "(iv) the Secretary of Health and Human Services;" in section 1(b); and
- (b) renumbering the subsequent subsections in section 1(b) appropriately.

Sec. 6. Executive Order 13254 of January 29, 2002 ("Establishing the USA Freedom Corps"), is amended by striking "Director of the Federal Emergency Management Agency;" in section 3(b)(viii) and inserting "Secretary of Homeland Security;" in lieu thereof.

Sec. 7. Executive Order 13231 of October 16, 2001 ("Critical Infrastructure Protection in the Information Age"), as amended, is further amended to read in its entirety as follows:

"Critical Infrastructure Protection in the Information Age

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure protection of information systems for critical infrastructure, including emergency preparedness communications and the physical assets that support such systems, in the information age, it is hereby ordered as follows:

Section 1. Policy. The information technology revolution has changed the way business is transacted, government operates, and national defense is conducted. Those three functions now depend on an interdependent network of critical information infrastructures. It is the policy of the United States to protect against disruption of the operation of information systems for critical infrastructure and thereby help to protect the people, economy, essential human and government services, and national security of the United States, and to ensure that any disruptions that occur are infrequent, of minimal duration, and manageable, and cause the least damage possible. The implementation of this policy shall include a voluntary public-private partnership, involving corporate and nongovernmental organizations.

Sec. 2. Continuing Authorities. This order does not alter the existing authorities or roles of United States Government departments and agencies. Authorities set forth in 44 U.S.C. chapter 35, and other applicable law, provide senior officials with responsibility for the security of Federal Government information systems.

(a) Executive Branch Information Systems Security. The Director of the Office of Management and Budget (OMB) has the responsibility to develop and oversee the implementation of government-wide policies,



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principles, standards, and guidelines for the security of information systems that support the executive branch departments and agencies, except those noted in section 2(b) of this order. The Director of OMB shall advise the President and the appropriate department or agency head when there is a critical deficiency in the security practices within the purview of this section in an executive branch department or agency.

(b) National Security Information Systems. The Secretary of Defense and the Director of Central Intelligence (DCI) shall have responsibility to oversee, develop, and ensure implementation of policies, principles, standards, and guidelines for the security of information systems that support the operations under their respective control. In consultation with the Assistant to the President for National Security Affairs and the affected departments and agencies, the Secretary of Defense and the DCI shall develop policies, principles, standards, and guidelines for the security of national security information systems that support the operations of other executive branch departments and agencies with national security information.

(i) Policies, principles, standards, and guidelines developed under this subsection may require more stringent protection than those developed in accordance with section 2(a) of this order.

(ii) The Assistant to the President for National Security Affairs shall advise the President and the appropriate department or agency when there is a critical deficiency in the security practices of a department or agency within the purview of this section.

(iii) National Security Systems. The National Security Telecommunications and Information Systems Security Committee, as established by and consistent with NSD-42 and chaired by the Department of Defense, shall be designated as the "Committee on National Security Systems."

(c) Additional Responsibilities. The heads of executive branch departments and agencies are responsible and accountable for providing and maintaining adequate levels of security for information systems, including emergency preparedness communications systems, for programs under their control. Heads of such departments and agencies shall ensure the development and, within available appropriations, funding of programs that adequately address these mission systems, especially those critical systems that support the national security and other essential government programs. Additionally, security should enable, and not unnecessarily impede, department and agency business operations.

Sec. 3. The National Infrastructure Advisory Council. The National Infrastructure Advisory Council (NIAC), established on October 16, 2001, shall provide the President through the Secretary of Homeland Security with advice on the security of information systems for critical infrastructure supporting other sectors of the economy: banking and finance, transportation, energy, manufacturing, and emergency government services.

(a) Membership. The NIAC shall be composed of not more than 30 members appointed by the President. The members of the NIAC shall be selected from the private sector, academia, and State and local government. Members of the NIAC shall have expertise relevant to the functions of the NIAC and generally shall be selected from industry Chief Executive Officers (and equivalently ranked leaders of other organizations) with responsibilities for security of information infrastructure supporting the critical sectors of the economy, including banking and finance, transportation, energy, communications, and emergency government services. Members shall not be full-time officials or employees of the executive branch of the Federal Government. The President shall designate a Chair and Vice Chair from among the members of the NIAC.

(b) Functions of the NIAC. The NIAC will meet periodically to:

(i) enhance the partnership of the public and private sectors in protecting information systems for critical infrastructures and provide reports on this issue to the Secretary of Homeland Security, as appropriate;

(ii) propose and develop ways to encourage private industry to perform periodic risk assessments of critical information and telecommunications systems;

(iii) monitor the development of private sector Information Sharing and Analysis Centers (ISACs) and provide recommendations to the President through the Secretary of Homeland Security on how these organizations can best foster improved cooperation among the ISACs, the Department of Homeland Security, and other Federal Government entities;

(iv) report to the President through the Secretary of Homeland Security, who shall ensure appropriate coordination with the Assistant to the President for Homeland Security, the Assistant to the President for Economic Policy, and the Assistant to the President for National Security Affairs under the terms of this order; and

(v) advise lead agencies with critical infrastructure responsibilities, sector coordinators, the Department of Homeland Security, and the ISACs.

(c) Administration of the NIAC.

(i) The NIAC may hold hearings, conduct inquiries, and establish subcommittees, as appropriate.

(ii) Upon request of the Chair, and to the extent permitted by law, the heads of the executive departments and agencies shall provide the NIAC with information and advice relating to its functions.

(iii) Senior Federal Government officials may participate in the meetings of the NIAC, as appropriate.

(iv) Members shall serve without compensation for their work on the NIAC. However, members may be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Federal Government service (5 U.S.C. 5701-5707).

(v) To the extent permitted by law and subject to the availability of appropriations, the Department of Homeland Security shall provide the NIAC with administrative services, staff, and other support services, and such funds as may be necessary for the performance of the NIAC's functions.

(d) General Provisions.

(i) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the NIAC, the functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Department of Homeland Security in accordance with the guidelines and procedures established by the Administrator of General Services.

(ii) The NIAC shall terminate on October 15, 2003, unless extended by the President.

(iii) Executive Order 13130 of July 14, 1999, was revoked on October 16, 2001.

(iv) Nothing in this order shall supersede any requirement made by or under law.

Sec. 4. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person."

Sec. 8. Executive Order 13228 of October 8, 2001 ("Establishing the Office of Homeland Security and the Homeland Security Council"), as amended, is further amended by:

(a) amending section 3(g) to read "(g) Incident Management. Consistent with applicable law, including the statutory functions of the Secretary of Homeland Security, the Assistant to the President for Homeland Security shall be the official primarily responsible for advising and assisting the President in the coordination of domestic incident management activities of all departments and agencies in the event of a terrorist threat, and during and in the aftermath of terrorist attacks, major disasters, or other emergencies, within the United States. Generally, the Assistant to the President for Homeland Security shall serve as the principal point of contact for and to the President with respect to the coordination of such activities. The Assistant to the President for Homeland Security shall coordinate with the Assistant to the President for National Security Affairs, as appropriate."; and

(b) inserting ", including the Department of Homeland Security" after "Government departments and agencies" in section 7.

Sec. 9. Executive Order 13223 of September 14, 2001 ("Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation"), as amended, is further amended by:

(a) striking "the Secretary of Transportation" in the title and wherever it appears in sections 1, 5, 6, and 7, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Department of Transportation" in section 7 and inserting "the Department of Homeland Security" in lieu thereof.

Sec. 10. Executive Order 13212 of May 18, 2001 ("Actions to Expedite Energy-Related Projects"), is amended by inserting "Homeland Security," after "Veterans Affairs," in section 3.

Sec. 11. Executive Order 13165 of August 9, 2000 ("Creation of the White House Task Force on Drug Use in Sports and Authorization for the Director of the Office of National Drug Control Policy to Serve as the United States Government's Representative on the Board of the World Anti-Doping Agency"), is amended by inserting "the Department of Homeland Security," after "the Department of Transportation," in section 2.

Sec. 12. Executive Order 13154 of May 3, 2000 ("Establishing the Kosovo Campaign Medal"), is amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 13. Executive Order 13133 of August 5, 1999 ("Working Group on Unlawful Conduct on the Internet"), is amended by:

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(a) inserting "(6) The Secretary of Homeland Security." after "(5) The Secretary of Education." in section 3(a); and

(b) renumbering the subsequent subsections in section 3(a) appropriately.

Sec. 14. Executive Order 13120 of April 27, 1999 ("Ordering the Selected Reserve and Certain Individual Ready Reserve Members of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 15. Executive Order 13112 of February 3, 1999 ("Invasive Species"), is amended by inserting "the Secretary of Homeland Security," after "Secretary of Transportation," in section 3(a).

Sec. 16. Executive Order 13100 of August 25, 1998 ("President's Council on Food Safety"), is amended by inserting "and Homeland Security," after "Health and Human Services," in section 1(a).

Sec. 17. Executive Order 13076 of February 24, 1998 ("Ordering the Selected Reserve of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 18. Executive Order 13011 of July 16, 1996 ("Federal Information Technology"), as amended, is further amended by:

(a) striking "17. Federal Emergency Management Agency;" in section 3(b); and

(b) renumbering the subsequent subsections in section 3(b) appropriately.

Sec. 19. Executive Order 12989 of February 13, 1996 ("Economy and Efficiency in Government Procurement through Compliance with Certain Immigration and Naturalization Act Provisions"), is amended by:

(a) striking "Naturalization" in the title and inserting "Nationality" in lieu thereof;

(b) striking ", the Attorney General" in section 3;

(c) inserting "the Secretary of Homeland Security" before "may" in section 3(a);

(d) inserting "the Secretary of Homeland Security" before "shall" in section 3(b);

(e) inserting "the Attorney General" before "shall" in section 3(c);

(f) inserting "Secretary of Homeland Security or the" before "Attorney General" wherever it appears in section 4;

(g) striking "The Attorney General's" in section 4(b) and inserting "Such" in lieu thereof;

(h) striking "the Attorney General" wherever it appears in the first two sentences of section 5(a) and inserting "the Secretary of Homeland Security and Attorney General" in lieu thereof;

(i) striking "the responsibilities of the Attorney General" in section 5(a) and inserting "their respective responsibilities" in lieu thereof;

(j) inserting "Secretary of Homeland Security or the" before "Attorney General" wherever it appears in the third sentence of section 5(a);

(k) inserting "Secretary of Homeland Security and the" before "Attorney General" in section 6;

(l) striking "the Attorney General's" in section 6 and inserting "their respective" in lieu thereof; and

(m) inserting "Secretary of Homeland Security, the" before "Attorney General" in section 7.

Sec. 20. Executive Order 12985 of January 11, 1996 ("Establishing the Armed Forces Service Medal"), is amended by striking "the Secretary of Transportation" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 21. Executive Order 12982 of December 8, 1995 ("Ordering the Selected Reserve of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 22. Executive Order 12978 of October 21, 1995 ("Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers"), is amended by inserting ", the Secretary of Homeland Security," after "the Attorney General" wherever it appears in sections 1 and 4.

Sec. 23. Executive Order 12977 of October 19, 1995 ("Interagency Security Committee"), is amended by:

(a) striking "the Administrator of General Services ("Administrator")" in section 1(a) and inserting "the Secretary of Homeland Security ("Secretary")" in lieu thereof;

(b) striking "and" after "(16) Central Intelligence Agency;" in section 1(b);

(c) inserting "and (18) General Services Administration;" after "(17) Office of Management and Budget;" in section 1(b);

(d) striking section 1(c)(2) and redesignating sections 1(c)(3) and 1(c)(4) as sections 1(c)(2) and 1(c)(3), respectively;

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(e) striking "Administrator" wherever it appears in sections 2, 5(a)(3)(E), 6(a), and 6(c), and inserting "Secretary" in lieu thereof; and

(f) striking ", acting by and through the Assistant Commissioner," in section 6(c).

Sec. 24. Executive Order 12919 of June 3, 1994 ("National Defense Industrial Resources Preparedness"), is amended by:

(a) striking "The Director, Federal Emergency Management Agency ("Director, FEMA")" in section 104(b) and inserting "The Secretary of Homeland Security ("the Secretary")" in lieu thereof;

(b) striking "The Director, FEMA," in sections 201(c) and 601(f) and inserting "The Secretary" in lieu thereof;

(c) striking "the Director, FEMA," wherever it appears in sections 201(e), 202(c), 305, 501, 701(e), and 802(e), and inserting "the Secretary" in lieu thereof; and

(d) inserting "the Department of Homeland Security," after "Attorney General," in section 801.

Sec. 25. Executive Order 12906 of April 11, 1994 ("Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure"), is amended by:

(a) striking "and" in section 7(b)(ii);

(b) striking the period at the end of section 7(b)(iii) and inserting "; and" in lieu thereof; and

(c) inserting a new section 7(b)(iv) to read "(iv) the national security-related activities of the Department of Homeland Security as determined by the Secretary of Homeland Security.".

Sec. 26. Executive Order 12870 of September 30, 1993 ("Trade Promotion Coordinating Committee"), is amended by:

(a) inserting "(j) Department of Homeland Security;" after "(i) Department of the Interior;" in section 1; and

(b) relettering the subsequent subsections in section 1 appropriately.

Sec. 27. Executive Order 12835 of January 25, 1993 ("Establishment of the National Economic Council"), is amended by:

(a) inserting "(k) Secretary of Homeland Security;" after "(j) Secretary of Energy;" in section 2; and

(b) relettering the subsequent subsections in section 2 appropriately.

Sec. 28. Executive Order 12830 of January 9, 1993 ("Establishing the Military Outstanding Volunteer Service Medal"), is amended by striking "the Secretary of Transportation" wherever it appears and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 29. Executive Order 12824 of December 7, 1992 ("Establishing the Transportation Distinguished Service Medal"), is amended by:

(a) striking "Transportation" in the title and inserting "Homeland Security" in lieu thereof; and

(b) striking "Transportation" wherever it appears and inserting "Homeland Security" in lieu thereof.

Sec. 30. Executive Order 12807 of May 24, 1992 ("Interdiction of Illegal Aliens"), is amended by striking "the Attorney General" in section 2(c)(3) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 31. Executive Order 12793 of March 20, 1992 ("Continuing the Presidential Service Certificate and Presidential Service Badge"), is amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 32. Executive Order 12789 of February 10, 1992 ("Delegation of Reporting Functions Under the Immigration Reform and Control Act of 1986"), is amended by striking "The Attorney General" in section 1 and inserting "The Secretary of Homeland Security" in lieu thereof.

Sec. 33. Executive Order 12788 of January 15, 1992 ("Defense Economic Adjustment Program"), is amended by:

(a) inserting "(15) Secretary of Homeland Security;" after "(14) Secretary of Veterans Affairs;" in section 4(a); and

(b) renumbering the subsequent subsections in section 4(a) appropriately.

Sec. 34. Executive Order 12777 of October 18, 1991 ("Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990"), is amended by:

(a) inserting "and the Secretary of the Department in which the Coast Guard is operating" after "the Secretary of Transportation" in sections 2(b)(2) and 2(d)(2);

(b) striking "the Secretary of Transportation" in section 2(e)(2) and wherever it appears in sections 5 and 8 and inserting "the Secretary of the Department in which the Coast Guard is operating" in lieu thereof; and

(c) inserting "the Secretary of the Department in which the Coast Guard is operating," after "Agriculture," in section 10(c).

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

Sec. 35. Executive Order 12743 of January 18, 1991 ("Ordering the Ready Reserve of the Armed Forces to Active Duty"), is amended by:

(a) striking "the Department of Transportation" in section 1 and inserting "the Department of Homeland Security" in lieu thereof; and

(b) striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 36. Executive Order 12742 of January 8, 1991 ("National Security Industrial Responsiveness"), is amended by:

(a) inserting "Homeland Security," after "Transportation," in section 104(a); and

(b) striking "the Director of the Federal Emergency Management Agency" in section 104(d) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 37. Executive Order 12733 of November 13, 1990 ("Authorizing the Extension of the Period of Active Duty of Personnel of the Selected Reserve of the Armed Forces"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 38. Executive Order 12728 of August 22, 1990 ("Delegating the President's Authority to Suspend any Provision of Law Relating to the Promotion, Retirement, or Separation of Members of the Armed Forces"), is amended by striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 39. Executive Order 12727 of August 27, 1990 ("Ordering the Selected Reserve of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 40. Executive Order 12699 ("Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction"), is amended by:

(a) striking "Federal Emergency Management Agency (FEMA)" in section 3(d) and inserting "Department of Homeland Security" in lieu thereof;

(b) striking "The Director of the Federal Emergency Management Agency" in section 4(a) and inserting "The Secretary of Homeland Security" in lieu thereof; and

(c) striking "The Federal Emergency Management Agency" and "The FEMA" in section 5 and inserting "The Department of Homeland Security" in lieu thereof (in both places).

Sec. 41. Executive Order 12657 of November 18, 1988 ("Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants"), is amended by:

(a) striking "Federal Emergency Management Agency" in the title and inserting "Department of Homeland Security" in lieu thereof;

(b) striking "Federal Emergency Management Agency ("FEMA")" in section 1(b) and inserting "Department of Homeland Security ("DHS")" in lieu thereof;

(c) striking "FEMA" wherever it appears in sections 1(b), 2(b), 2(c), 3, 4, 5, and 6, and inserting "DHS" in lieu thereof; and

(d) striking "the Director of FEMA" in section 2(a) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 42. Executive Order 12656 of November 18, 1988 ("Assignment of Emergency Preparedness Responsibilities"), as amended, is further amended by:

(a) striking "The Director of the Federal Emergency Management Agency" wherever it appears in sections 104(c) and 1702 and inserting "The Secretary of Homeland Security" in lieu thereof;

(b) striking "the Director of the Federal Emergency Management Agency" wherever it appears in sections 104(c), 201(15), 301(9), 401(10), 501(4), 501(7), 502(7), 601(3), 701(5), 801(9), 1302(4), 1401(4), 1701, and 1801(b), and inserting "the Secretary of Homeland Security" in lieu thereof;

(c) striking "consistent with current National Security Council guidelines and policies" in section 201(15) and inserting "consistent with current Presidential guidelines and policies" in lieu thereof;

(d) striking "Secretary" in section 501(9) and inserting "Secretaries" in lieu thereof;

(e) inserting "and Homeland Security" after "Labor" in section 501(9);

(f) striking "and" after "State" in section 701(6) and inserting a comma in lieu thereof;

(g) inserting ", and Homeland Security" after "Defense" in section 701(6);

(h) striking "the Director of the Federal Emergency Management Agency," in section 701(6); and

(i) striking "Federal Emergency Management Agency" in the title of Part 17 and inserting "Department of Homeland Security" in lieu thereof.

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Without prejudice to subsections (a) through (i) of this section, all responsibilities assigned to specific Federal officials pursuant to Executive Order 12656 that are substantially the same as any responsibility assigned to, or function transferred to, the Secretary of Homeland Security pursuant to the Homeland Security Act of 2002 (regardless of whether such responsibility or function is expressly required to be carried out through another official of the Department of Homeland Security or not pursuant to such Act), or intended or required to be carried out by an agency or an agency component transferred to the Department of Homeland Security pursuant to such Act, are hereby reassigned to the Secretary of Homeland Security.

Sec. 43. Executive Order 12580 of January 23, 1987 ("Superfund Implementation"), as amended, is further amended by:

- (a) inserting "Department of Homeland Security," after "Department of Energy," in section 1(a)(2); and
- (b) striking "Federal Emergency Management Agency" in section 1(a)(2).

Sec. 44. Executive Order 12555 of November 15, 1985 ("Protection of Cultural Property"), as amended, is further amended by:

- (a) striking "the Secretary of the Treasury" in sections 1, 2, and 3, and inserting "the Secretary of Homeland Security" in lieu thereof; and
- (b) striking "The Department of the Treasury" in the heading of section 3 and inserting "The Department of Homeland Security" in lieu thereof.

Sec. 45. Executive Order 12501 of January 28, 1985 ("Arctic Research"), is amended by:

- (a) inserting "(i) Department of Homeland Security;" after "(h) Department of Health and Human Services;" in section 8; and
- (b) relettering the subsequent subsections in section 8 appropriately.

Sec. 46. Executive Order 12472 of April 3, 1984 ("Assignment of National Security and Emergency Preparedness Telecommunications Functions"), is amended by:

- (a) inserting "the Homeland Security Council," after "National Security Council," in sections 1(b), 1(e)(4), 1(f)(3), and 2(c)(4);
- (b) striking "The Secretary of Defense" in section 1(e) and inserting "The Secretary of Homeland Security" in lieu thereof;
- (c) striking "Federal Emergency Management Agency" in sections 1(e)(3) and 3(j) and inserting "Department of Homeland Security" in lieu thereof;
- (d) inserting ", in consultation with the Homeland Security Council," after "National Security Council" in section 2(b)(1);
- (e) inserting ", the Homeland Security Council," after "National Security Council" in sections 2(d) and 2(e);
- (f) striking "the Director of the Federal Emergency Management Agency" in section 2(d)(1) and inserting "the Secretary of Homeland Security" in lieu thereof;
- (g) striking "Federal Emergency Management Agency. The Director of the Federal Emergency Management Agency shall:" in section 3(b) and inserting "Department of Homeland Security. The Secretary of Homeland Security shall:" in lieu thereof; and
- (h) adding at the end of section 3(d) the following new paragraph: "(3) Nothing in this order shall be construed to impair or otherwise affect the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces of the United States under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title."

Sec. 47. Executive Order 12382 of September 13, 1982 ("President's National Security Telecommunications Advisory Committee"), as amended, is further amended by:

- (a) inserting "through the Secretary of Homeland Security," after "the President," in sections 2(a) and 2(b);
- (b) striking "and to the Secretary of Defense" in section 2(e) and inserting ", through the Secretary of Homeland Security," in lieu thereof; and
- (c) striking "the Secretary of Defense" in sections 3(c) and 4(a) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 48. Executive Order 12341 of January 21, 1982 ("Cuban and Haitian Entrants"), is amended by:

- (a) striking "The Attorney General" in section 2 and inserting "The Secretary of Homeland Security" in lieu thereof; and
- (b) striking "the Attorney General" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

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Sec. 49. Executive Order 12208 of April 15, 1980 ("Consultations on the Admission of Refugees"), as amended, is further amended by:

- (a) striking "the following functions: (a) To" in section 1 101 and inserting "to" in lieu thereof;
- (b) striking "the Attorney General" in section 1-101(a) and inserting "the Secretary of Homeland Security" in lieu thereof;
- (c) striking sections 1-101(b) and 1-102; and
- (d) redesignating sections 1-103 and 1-104 as sections 1-102 and 1-103, respectively.

Sec. 50. Executive Order 12188 of January 2, 1980 ("International Trade Functions"), as amended, is further amended by:

- (a) inserting "(12) The Secretary of Homeland Security" after "(11) The Secretary of Energy" in section 1-102(b); and
- (b) renumbering the subsequent subsections in section 1 102(b) appropriately.

Sec. 51. Executive Order 12160 of September 26, 1979 ("Providing for Enhancement and Coordination of Federal Consumer Programs"), as amended, is further amended by:

- (a) inserting "(m) Department of Homeland Security." after "(l) Department of the Treasury." in section 1-102;
- (b) striking "(s) Federal Emergency Management Agency." in section 1-102; and
- (c) relettering the subsequent subsections in section 1-102 appropriately.

Sec. 52. Executive Order 12148 of July 20, 1979 ("Federal Emergency Management"), as amended, is further amended by:

- (a) striking "the Federal Emergency Management Agency" whenever it appears and inserting "the Department of Homeland Security" in lieu thereof; and
- (b) striking "the Director of the Federal Emergency Management Agency" wherever it appears and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 53. Executive Order 12146 of July 18, 1979 ("Management of Federal Legal Resources"), as amended, is further amended by:

- (a) striking "15" in section 1-101 and inserting "16" in lieu thereof;
- (b) inserting "(n) The Department of Homeland Security." after "(m) The Department of the Treasury." in section 1-102; and
- (c) relettering the subsequent subsections in section 1-102 appropriately.

Sec. 54. Executive Order 12002 of July 7, 1977 ("Administration of Export Controls"), as amended, is further amended by inserting ", the Secretary of Homeland Security," after "The Secretary of Energy" in section 3.

Sec. 55. Executive Order 11965 of January 19, 1977 ("Establishing the Humanitarian Service Medal"), is amended by striking "the Secretary of Transportation" wherever it appears in sections 1, 2, and 4, and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 56. Executive Order 11926 of July 19, 1976 ("The Vice Presidential Service Badge"), is amended by striking "the Secretary of Transportation" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 57. Executive Order 11858 of May 7, 1975 ("Foreign Investment in the United States"), as amended, is further amended by:

- (a) inserting "(8) The Secretary of Homeland Security." after "(7) The Attorney General." in section 1(a); and
- (b) redesignating subsection (8) as subsection (9) in section 1(a).

Sec. 58. Executive Order 11800 of August 17, 1974 ("Delegating Certain Authority Vested in the President by the Aviation Career Incentive Act of 1974"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 59. Executive Order 11645 of February 8, 1972 ("Authority of the Secretary of Transportation to Prescribe Certain Regulations Relating to Coast Guard Housing"), is amended by striking "the Secretary of Transportation" in the title and in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 60. Executive Order 11623 of October 12, 1971 ("Delegating to the Director of Selective Service Authority to Issue Rules and Regulations under the Military Selective Service Act"), as amended, is further amended by:

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(a) striking "the Secretary of Transportation" in section 2(a) and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Department of Transportation" in section 2(a) and inserting "the Department of Homeland Security" in lieu thereof.

Sec. 61. Executive Order 11448 of January 16, 1969 ("Establishing the Meritorious Service Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 62. Executive Order 11446 of January 16, 1969 ("Authorizing the Acceptance of Service Medals and Ribbons from Multilateral Organizations Other Than the United Nations"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 63. Executive Order 11438 of December 3, 1968 ("Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces"), as amended, is further amended by:

(a) striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Department of Transportation" wherever it appears in sections 2 and 4 and inserting "the Department of Homeland Security" in lieu thereof.

Sec. 64. Executive Order 11366 of August 4, 1967 ("Assigning Authority to Order Certain Persons in the Ready Reserve to Active Duty"), is amended by striking "The Secretary of Transportation" in sections 2 and 3(b) and inserting "The Secretary of Homeland Security" in lieu thereof.

Sec. 65. Executive Order 11239 of July 31, 1965 ("Enforcement of the Convention for Safety of Life at Sea, 1960"), as amended, is further amended, without prejudice to section 1-106 of Executive Order 12234 of September 3, 1980 ("Enforcement of the Convention for the Safety of Life at Sea"), by:

(a) striking "the Secretary of Transportation" in sections 1, 3, and 4, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "The Secretary of Transportation" in sections 2 and 3 and inserting "The Secretary of Homeland Security" in lieu thereof.

Sec. 66. Executive Order 11231 of July 8, 1965 ("Establishing the Vietnam Service Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 67. Executive Order 11190 of December 29, 1964 ("Providing for the Screening of the Ready Reserve of the Armed Forces"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 68. Executive Order 11139 of January 7, 1964 ("Authorizing Acceptance of the United Nations Medal and Service Ribbon"), is amended by striking "the Secretary of the Treasury" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 69. Executive Order 11079 of January 25, 1963 ("Providing for the Prescribing of Regulations under which Members of the Armed Forces and Others May Accept Fellowships, Scholarships or Grants"), as amended, is further amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 70. Executive Order 11046 of August 24, 1962 ("Authorizing Award of the Bronze Star Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 71. Executive Order 11016 of April 25, 1962 ("Authorizing Award of the Purple Heart"), as amended, is further amended by striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 72. Executive Order 10977 of December 4, 1961 ("Establishing the Armed Forces Expeditionary Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 73. Executive Order 10789 of November 14, 1958 ("Authorizing Agencies of the Government To Exercise Certain Contracting Authority in Connection With National-Defense Functions and Prescribing Regulations Governing the Exercise of Such Authority"), as amended, is further amended by:

(a) striking "The Federal Emergency Management Agency" in paragraph 21 and inserting "Department of Homeland Security" in lieu thereof; and

(b) inserting at the end thereof the following new Part:

"Part III -- Coordination with Other Authorities



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

25. After March 1, 2003, no executive department or agency shall exercise authority granted under paragraph 1A of this order with respect to any matter that has been, or could be, designated by the Secretary of Homeland Security as a qualified anti-terrorism technology as defined in section 865 of the Homeland Security Act of 2002, unless--

(a) in the case of the Department of Defense, the Secretary of Defense has, after consideration of the authority provided under subtitle G of title VIII of the Homeland Security Act of 2002, determined that the exercise of authority under this order is necessary for the timely and effective conduct of United States military or intelligence activities; and

(b) in the case of any other executive department or agency that has authority under this order, (i) the Secretary of Homeland Security has advised whether the use of the authority provided under subtitle G of title VIII of the Homeland Security Act of 2002 would be appropriate, and (ii) the Director of the Office of Management and Budget has approved the exercise of authority under this order."

Sec. 74. Executive Order 10694 of January 10, 1957 ("Authorizing the Secretaries of the Army, Navy, and Air Force to Issue Citations in the Name of the President of the United States to Military and Naval Units for Outstanding Performance in Action"), is amended by adding at the end thereof the following new section: "5. The Secretary of the Department in which the Coast Guard is operating may exercise the same authority with respect to the Coast Guard under this order as the Secretary of the Navy may exercise with respect to the Navy and the Marine Corps under this order."

Sec. 75. Executive Order 10637 of September 16, 1955 ("Delegating to the Secretary of the Treasury Certain Functions of the President Relating to the United States Coast Guard"), is amended by:

(a) striking "The Secretary of the Treasury" in sections 1 and 2 and inserting "The Secretary of Homeland Security" in lieu thereof;

(b) striking "the Secretary of the Treasury" in the title and in subsections 1(j), 1(k), and 5, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(c) striking subsection 1(r) and redesignating subsection 1(s) as subsection 1(r).

Sec. 76. Executive Order 10631 of August 17, 1955 ("Code of Conduct for Members of the Armed Forces of the United States"), as amended, is further amended by: striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 77. Executive Order 10554 of August 18, 1954 ("Delegating the Authority of the President to Prescribe Regulations Authorizing Occasions Upon Which the Uniform May Be Worn by Persons Who Have Served Honorably in the Armed Forces in Time of War"), is amended by striking "the Secretary of the Treasury" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 78. Executive Order 10499 of November 4, 1953 ("Delegating Functions Conferred Upon the President by Section 8 of the Uniformed Services Contingency Option Act of 1953"), as amended, is further amended by striking "the Treasury" in sections 1 and 2 and inserting "Homeland Security" in lieu thereof.

Sec. 79. Executive Order 10448 of April 22, 1953 ("Authorizing the National Defense Medal"), as amended, is further amended by striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 80. Executive Order 10271 of July 7, 1951 ("Delegating the Authority of the President to Order Members and Units of Reserve Components of the Armed Forces into Active Federal service"), is amended by striking "the Secretary of the Treasury" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 81. Executive Order 10179 of November 8, 1950 ("Establishing the Korean Service Medal"), as amended, is further amended by striking "the Secretary of the Treasury" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 82. Executive Order 10163 of September 25, 1950 ("The Armed Forces Reserve Medal"), as amended, is further amended by striking "the Secretary of the Treasury" in sections 2 and 7 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 83. Executive Order 10113 of February 24, 1950 ("Delegating the Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in lieu thereof, for Enlisted Men in the Armed Forces"), as amended, is further amended by striking "the Secretary of the Treasury" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 84. Executive Order 4601 of March 1, 1927 ("Distinguished Flying Cross"), as amended, is further amended by:

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(a) striking "The Secretary of War, the Secretary of the Navy," in sections 2 and 12 and inserting "The Secretary of Defense" in lieu thereof; and

(b) striking "the Secretary of the Treasury" in sections 2 and 12 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 85. Designation as a Defense Agency of the United States.

I hereby designate the Department of Homeland Security as a defense agency of the United States for the purposes of chapter 17 of title 35 of the United States Code.

Sec. 86. Exception from the Provisions of the Government Employees Training Act.

Those elements of the Department of Homeland Security that are supervised by the Under Secretary of Homeland Security for

Information Analysis and Infrastructure Protection through the Department's Assistant Secretary for Information Analysis are, pursuant to section 4102(b)(1) of title 5, United States Code, and in the public interest, excepted from the following provisions of the Government Employees Training Act as codified in title 5: sections 4103(a)(1), 4108, 4115, 4117, and 4118, and that part of 4109(a) that provides "under the regulations prescribed under section 4118(a)(8) of this title and".

Sec. 87. Functions of Certain Officials in the Coast Guard.

The Commandant and the Assistant Commandant for Intelligence of the Coast Guard each shall be considered a "Senior Official of the Intelligence Community" for purposes of Executive Order 12333 of December 4, 1981, and all other relevant authorities.

Sec. 88. Order of Succession.

Subject to the provisions of subsection (b) of this section, the officers named in subsection (a) of this section, in the order listed, shall act as, and perform the functions and duties of, the office of Secretary of Homeland Security ("Secretary") during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

(a) Order of Succession.

(i) Deputy Secretary of Homeland Security;

(ii) Under Secretary for Border and Transportation Security;

(iii) Under Secretary for Emergency Preparedness and Response;

(iv) Under Secretary for Information Analysis and Infrastructure Protection;

(v) Under Secretary for Management;

(vi) Under Secretary for Science and Technology;

(vii) General Counsel; and

(viii) Assistant Secretaries in the Department in the order of their date of appointment as such.

(b) Exceptions.

(i) No individual who is serving in an office listed in subsection (a) in an acting capacity shall act as Secretary pursuant to this section.

(ii) Notwithstanding the provisions of this section, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 et seq., to depart from this order in designating an acting Secretary.

Sec. 89. Savings Provision.

Except as otherwise specifically provided above or in Executive Order 13284 of January 23, 2003 ("Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security"), references in any prior Executive Order relating to an agency or an agency component that is transferred to the Department of Homeland Security ("the Department"), or relating to a function that is transferred to the Secretary of Homeland Security, shall be deemed to refer, as appropriate, to the Department or its officers, employees, agents, organizational units, or functions.

Sec. 90. Nothing in this order shall be construed to impair or otherwise affect the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces of the United States under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title.

Sec. 91. Nothing in this order shall be construed to limit or restrict the authorities of the Central Intelligence Agency and the Director of Central Intelligence pursuant to the National Security Act of 1947 and the CIA Act of 1949.

Sec. 92. This order shall become effective on March 1, 2003.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

Sec. 93. This order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH  
THE WHITE HOUSE,  
February 28, 2003.

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AMENDMENT(S) : None

### APPENDIX 5-6: EXECUTIVE ORDER 12777

#### **Executive Order 12777, October 18, 1991, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990**

By authority vested in me as President by the Constitution and the laws of the United States of America, including Section 311 of the Federal Water Pollution Control Act, ("FWPCA") (33 U.S.C. 1321), as amended by the Oil Pollution Act of 1990 (Public Law 101 - 380) ("OPA"), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Sec. 1. National Contingency Plan, Area Committees, and Area Contingency Plans. (a) Section 1 of Executive Order No. 12580 of January 23, 1987, is amended to read as follows:

"Section 1. National Contingency Plan. (a)(1) The National Contingency Plan ("the NCP"), shall provide for a National Response Team ("the NRT") composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and Regional Response Teams as the regional counterparts to the NRT for planning and coordination of regional preparedness and response actions.

"(2) The following agencies (in addition to other appropriate agencies) shall provide representatives to the National and Regional Response Teams to carry out their responsibilities under the NCP: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, United States Coast Guard, and the Nuclear Regulatory Commission.

"(3) Except for periods of activation because of response action, the representative of the Environmental Protection Agency ("EPA") shall be the chairman, and the representative of the United States Coast Guard shall be the vice chairman, of the NRT and these agencies' representatives shall be co-chairs of the Regional Response Teams ("the RRTs"). When the NRT or an RRT is activated for a response action, the EPA representative shall be the chairman when the release or threatened release or discharge or threatened discharge occurs in the inland zone, and the United States Coast Guard representative shall be the chairman when the release or threatened release or discharge or threatened discharge occurs in the coastal zone, unless otherwise agreed upon by the EPA and the United States Coast Guard representatives (inland and coastal zones are defined in the NCP).

"(4) The RRTs may include representatives from State governments, local governments (as agreed upon by the States), and Indian tribal governments. Subject to the functions and authorities delegated to Executive departments and agencies in other sections of this order, the NRT shall provide policy and program direction to the RRTs.

"(b) (1) The responsibility for the revision of the NCP and all the other functions vested in the President by Sections 105 (a), (b), (c), and (g), 125, and 301(f) of the Act, by Section 311(d)(1) of the Federal Water Pollution Control Act, and by Section 4201(c) of the Oil Pollution Act of 1990 is delegated to the Administrator of the Environmental Protection Agency ("the Administrator").

"(2) The function vested in the President by Section 118(p) of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99 - 499) ("SARA") is delegated to the Administrator.

((c) In accord with Section 107(f)(2)(A) of the Act, Section 311(f)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(f)(5)), and Section 1006(b) (1) and (2) of the Oil Pollution Act of 1990, the following shall be among those designated in the NCP as Federal trustees for natural resources:

- (1) Secretary of Defense;
- (2) Secretary of the Interior;
- (3) Secretary of Agriculture;
- (4) Secretary of Commerce;
- (5) Secretary of Energy.

In the event of a spill, the above named Federal trustees for natural resources shall designate one trustee to act as Lead Administrative Trustee, the duties of which shall be defined in the regulations promulgated pursuant to Section 1006(e)(1) of OPA. If there are natural resource trustees other than those designated above which are acting in the event of a spill, those other trustees may join with the Federal trustees to name a Lead Administrative Trustee which shall exercise the duties defined in the regulations promulgated pursuant to Section 1006(e)(1) of OPA.

((d) Revisions to the NCP shall be made in consultation with members of the NRT prior to publication for notice and comment.

((e) All revisions to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director of the Office of Management and Budget ("OMB")."

((b) The functions vested in the President by Section 311(j)(4) of FWPCA, and Section 4202(b)(1) of OPA, respecting the designation of Areas, the appointment of Area Committee members, the requiring of information to be included in Area Contingency Plans, and the review and approval of Area Contingency Plans are delegated to the Administrator of the Environmental Protection Agency ("Administrator") for the inland zone and the Secretary of the Department in which the Coast Guard is operating for the coastal zone (inland and coastal zones are defined in the NCP).

Sec. 2. National Response System. (a) The functions vested in the President by Section 311(j)(1)(A) of FWPCA, respecting the establishment of methods and procedures for the removal of discharged oil and hazardous substances, and by Section 311(j)(1)(B) of FWPCA respecting the establishment of criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, are delegated to the Administrator for the inland zone and the Secretary of the Department in which the Coast Guard is operating for the coastal zone.

(b)(1) The functions vested in the President by Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from non-transportation-related onshore facilities, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from vessels and transportation-related onshore facilities and deepwater ports subject to the Deepwater Ports Act of 1974 ("DPA"), are delegated to the Secretary of Transportation.

(3) The functions vested in the President by Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, are delegated to the Secretary of the Interior.

(c) The functions vested in the President by Section 311(j)(1)(D) of FWPCA, respecting the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(d)(1) The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of non-transportation-related onshore facilities to prepare and submit response plans, the approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of non-transportation-related onshore facilities to operate without approved response plans, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of tank vessels, transportation-related onshore facilities and deepwater ports subject to the DPA, to prepare and submit response plans, the

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approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of tank vessels, transportation-related onshore facilities and deepwater ports subject to the DPA to operate without approved response plans, are delegated to the Secretary of Transportation.

(3) The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, to prepare and submit response plans, the approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, to operate without approved response plans, are delegated to the Secretary of the Interior.

(e)(1) The functions vested in the President by Section 311(j)(6)(B) of FWPCA, respecting the requirements for periodic inspections of containment booms and equipment used to remove discharges at non-transportation-related onshore facilities, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(6)(A) of FWPCA, respecting the requirements for periodic inspections of containment booms and equipment used to remove discharges on vessels, and at transportation-related onshore facilities and deepwater ports subject to the DPA, are delegated to the Secretary of Transportation.

(3) The functions vested in the President by Section 311(j)(6)(A) of FWPCA, respecting the requirements for periodic inspections of containment booms and equipment used to remove discharges at offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, are delegated to the Secretary of the Interior.

(f) The functions vested in the President by Section 311(j)(6)(A) of FWPCA, respecting requirements for vessels to carry appropriate removal equipment, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(g)(1) The functions vested in the President by Section 311(j)(7) of FWPCA, respecting periodic drills of removal capability under relevant response plans for onshore and offshore facilities located in the inland zone, and the publishing of annual reports on those drills, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(7) of FWPCA, respecting periodic drills of removal capability under relevant response plans for tank vessels, and for onshore and offshore facilities located in the coastal zone, and the publishing of annual reports on those drills, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(h) No provision of Section 2 of this order, including, but not limited to, any delegation or assignment of any function hereunder, shall in any way affect, or be construed or interpreted to affect the authority of any Department or agency, or the head of any Department or agency under any provision of law other than Section 311(j) of FWPCA or Section 4202(b)(4) of OPA.

(i) The functions vested in the President by Section 311(j) of FWPCA or Section 4202(b)(4) of OPA which have been delegated or assigned by Section 2 of this order may be redelegated to the head of any Executive department or agency with his or her consent.

Sec. 3. Removal. The functions vested in the President by Section 311(c) of FWPCA and Section 1011 of OPA, respecting an effective and immediate removal or arrangement for removal of a discharge and mitigation or prevention of a substantial threat of a discharge of oil or a hazardous substance, the direction and monitoring of all Federal, State and private actions, the removal and destruction of a vessel, the issuance of directions, consulting with affected trustees, and removal completion determinations, are delegated to the Administrator for the inland zone and to the Secretary of the Department in which the Coast Guard is operating for the coastal zone.

Sec. 4. Liability Limit Adjustment. (a) The functions vested in the President by Section 1004(d) of OPA, respecting the establishment of limits of liability, with respect to classes or categories of non-transportation-related onshore facilities, the reporting to Congress on the desirability of adjusting limits of liability with respect to non-transportation-related onshore facilities, and the adjustment of limits of liability to reflect significant increases in the Consumer Price Index with respect to non-transportation-related onshore facilities, are delegated to the Administrator, acting in consultation with the Secretary of Transportation, the Secretary of Energy, and the Attorney General.

(b) The functions vested in the President by Section 1004(d) of OPA, respecting the establishment of limits of liability, with respect to classes or categories of transportation-related onshore facilities, the reporting to Congress on the desirability of adjusting limits of liability, with respect to vessels or transportation-related onshore facilities and deepwater ports subject to the DPA, and the adjustment of limits of liability to reflect significant increases in the Consumer Price Index with respect to vessels or transportation-related onshore facilities and deepwater ports subject to the DPA, are delegated to the Secretary of Transportation.

(c) The functions vested in the President by Section 1004(d) of OPA, respecting the reporting to Congress on the desirability of adjusting limits of liability with respect to offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, and the adjustment of limits of liability to reflect significant increases in the Consumer Price Index with respect to offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, are delegated to the Secretary of the Interior.

Sec. 5. Financial Responsibility. (a)(1) The functions vested in the President by Section 1016(e) of OPA, respecting (in the case of offshore facilities other than deepwater ports) the issuance of regulations concerning financial responsibility, the determination of acceptable methods of financial responsibility, and the specification of necessary or unacceptable terms, conditions, or defenses, are delegated to the Secretary of the Interior.

(2) The functions vested in the President by Section 1016(e) of OPA, respecting (in the case of deepwater ports) the issuance of regulations concerning financial responsibility, the determination of acceptable methods of financial responsibility, and the specification of necessary or unacceptable terms, conditions, or defenses, are delegated to the Secretary of Transportation.

(b)(1) The functions vested in the President by Section 4303 of OPA, respecting (in cases involving vessels) the assessment of civil penalties, the compromising, modification or remission, with or without condition, and the referral for collection of such imposed penalties, and requests to the Attorney General to secure necessary judicial relief, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(2) The functions vested in the President by Section 4303 of OPA, respecting (in cases involving offshore facilities other than deepwater ports) the assessment of civil penalties, the compromising, modification or remission, with or without condition, and the referral for collection of such imposed penalties, and requests to the Attorney General to secure necessary judicial relief, are delegated to the Secretary of the Interior.

(3) The functions vested in the President by Section 4303 of OPA, respecting (in cases involving deepwater ports) the assessment of civil penalties, the compromising, modification or remission, with or without condition, and the referral for collection of such imposed penalties, and requests to the Attorney General to secure necessary judicial relief, are delegated to the Secretary of Transportation.

Sec. 6. Enforcement. (a) The functions vested in the President by Section 311(m)(1) of FWPCA, respecting the enforcement of Section 311 with respect to vessels, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(b) The functions vested in the President by Section 311(e) of FWPCA, respecting determinations of imminent and substantial threat, requesting the Attorney General to secure judicial relief, and other action including issuing administrative orders, are delegated to the Administrator for the inland zone and to the Secretary of the Department in which the Coast Guard is operating for the coastal zone.

Sec. 7. Management of the Oil Spill Liability Trust Fund and Claims. (a)(1)(A) The functions vested in the President by Section 1012(a)(1), (3), and (4) of OPA respecting payment of removal costs and claims and determining consistency with the National Contingency Plan (NCP) are delegated to the Secretary of the Department in which the Coast Guard is operating.

(B) The functions vested in the President by Section 6002(b) of the OPA respecting making amounts, not to exceed \$50,000,000 and subject to normal budget controls, in any fiscal year, available from the Fund (i) to carry out Section 311(c) of FWPCA, and (ii) to initiate the assessment of natural resources damages required under Section 1006 of OPA are delegated to the Secretary of the Department in which the Coast Guard is operating. Such Secretary shall make amounts available from the Fund to initiate the assessment of natural resources damages exclusively to the Federal trustees designated in the NCP. Such Federal trustees shall allocate such amounts among all trustees required to assess natural resources damages under Section 1006 of OPA.

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(2) The functions vested in the President by Section 1012(a)(2) of OPA, respecting the payment of costs and determining consistency with the NCP, are delegated to the Federal trustees designated in the NCP.

(3) The functions vested in the President by Section 1012(a)(5) of OPA, respecting the payment of costs and expenses of departments and agencies having responsibility for the implementation, administration, and enforcement of the Oil Pollution Act of 1990 and subsections (b), (c), (d), (j) and (l) of Section 311 of FWPCA, are delegated to each head of such department and agency.

(b) The functions vested in the President by Section 1012(c) of OPA, respecting designation of Federal officials who may obligate money, are delegated to each head of the departments and agencies to whom functions have been delegated under section 7(a) of this order for the purpose of carrying out such functions.

(c)(1) The functions vested in the President by Section 1012 (d) and (e) of OPA, respecting the obligation of the Trust Fund on the request of a Governor or pursuant to an agreement with a State, entrance into agreements with States, agreement upon terms and conditions, and the promulgation of regulations concerning such obligation and entrance into such agreement, are delegated to the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator.

(2) The functions vested in the President by Section 1013(e) of OPA, respecting the promulgation and amendment of regulations for the presentation, filing, processing, settlement, and adjudication of claims under OPA against the Trust Fund, are delegated to the Secretary of the Department in which the Coast Guard is operating, in consultation with the Attorney General.

(3) The functions vested in the President by Section 1012(a) of OPA, respecting the payment of costs, damages, and claims, delegated herein to the Secretary of the Department in which the Coast Guard is operating, include, inter alia, the authority to process, settle, and administratively adjudicate such costs, damages, and claims, regardless of amount.

(d)(1) The Coast Guard is designated the "appropriate agency" for the purpose of receiving the notice of discharge of oil or hazardous substances required by Section 311(b)(5) of FWPCA, and the Secretary of the Department in which the Coast Guard is operating is authorized to issue regulations implementing this designation.

(2) The functions vested in the President by Section 1014 of OPA, respecting designation of sources of discharges or threats, notification to responsible parties, promulgation of regulations respecting advertisements, the advertisement of designation, and notification of claims procedures, are delegated to the Secretary of the Department in which the Coast Guard is operating.

Sec. 8. Miscellaneous. (a) The functions vested in the President by Section 311(b) (3) and (4) of FWPCA, as amended by the Oil Pollution Act of 1990, respecting the determination of quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare or the environment and the determinations of quantities, time, locations, circumstances, or conditions, which are not harmful, are delegated to the Administrator.

(b) The functions vested in the President by Section 311(d)(2)(G) of FWPCA, respecting schedules of dispersant, chemical, and other spill mitigating devices or substances, are delegated to the Administrator.

(c) The functions vested in the President by Section 1006(b) (3) and (4) of OPA respecting the receipt of designations of State and Indian tribe trustees for natural resources are delegated to the Administrator.

(d) The function vested in the President by Section 3004 of OPA, with respect to encouraging the development of an international inventory of equipment and personnel, is delegated to the Secretary of the Department in which the Coast Guard is operating, in consultation with the Secretary of State.

(e) The functions vested in the President by Section 4113 of OPA, respecting a study on the use of liners or other secondary means of containment for onshore facilities, and the implementation of the recommendations of the study, are delegated to the Administrator.

(f) The function vested in the President by Section 5002(c)(2)(D) of OPA, respecting the designating of an employee of the Federal Government who shall represent the Federal Government on the Oil Terminal Facilities and Oil Tanker Operations Associations, is delegated to the Secretary of Transportation.

(g) The functions vested in the President by Section 5002(o) of OPA, respecting the annual certification of alternative voluntary advisory groups, are delegated to the Secretary of Transportation.

(h) The function vested in the President by Section 7001(a)(3) of OPA, respecting the appointment of Federal agencies to membership on the Interagency Coordinating Committee on Oil Pollution Research, is delegated to the Secretary of Transportation.

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(i) Executive Order No. 11735 of August 3, 1973, Executive Order No. 12123 of February 26, 1979, Executive Order No. 12418 of May 5, 1983 and the memorandum of August 24, 1990, delegating certain authorities of the President under the Oil Pollution Act of 1990 are revoked.

Sec. 9. Consultation. Authorities and functions delegated or assigned by this order shall be exercised subject to consultation with the Secretaries of departments and the heads of agencies with statutory responsibilities which may be significantly affected, including, but not limited to, the Department of Justice.

Sec. 10. Litigation. (a) Notwithstanding any other provision of this order, any representation pursuant to or under this order in any judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Oil Pollution Act of 1990 shall be the responsibility of the Attorney General.

(b) Notwithstanding any other provision of this order, the authority under the Oil Pollution Act of 1990 to require the Attorney General to commence litigation is retained by the President.

(c) Notwithstanding any other provision of this order, the Secretaries of the Departments of Transportation, Commerce, Interior, Agriculture, and/or the Administrator of the Environmental Protection Agency may request that the Attorney General commence litigation under the Oil Pollution Act of 1990.

(d) The Attorney General, in his discretion, is authorized to require that, with respect to a particular oil spill, an agency refrain from taking administrative enforcement action without first consulting with the Attorney General.

George Bush  
THE WHITE HOUSE  
October 18, 1991.

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**AMENDMENT(S): None**

## **APPENDIX 5-7: PDD 39**

### **Presidential Decision Directive 39, June 21, 1995, United States Policy on Counterterrorism**

**Purpose.** To provide an unclassified synopsis of the U.S. national policy on terrorism as laid out in Presidential Decision Directive-39 (PDD-39).

**Background.** On June 21, 1995, the President signed PDD-39, U.S. Policy on Counterterrorism. This classified document laid out the national policy and assigned specific missions to designated Federal Departments and agencies. This unclassified synopsis is provided to enable Federal, State, and local emergency response and Consequence Management personnel without appropriate security clearances to have a basic understanding of the provisions of PDD-39.

PDD-39 validates and reaffirms existing Federal Lead Agency responsibilities for counterterrorism, which are assigned to the Department of Justice (DOJ), as delegated to the Federal Bureau of Investigation (FBI), for threats or acts of terrorism within the United States. The FBI as the lead for Crisis Management will involve only those Federal agencies required and designated in classified documents. The Directive further states that the Federal Emergency Management Agency (FEMA), with the support of all agencies in the Federal Response Plan (FRP), will support the FBI in Washington, DC, and on scene until the Attorney General transfers Lead Agency to FEMA. FEMA retains responsibility for Consequence Management throughout the Federal response.

**Definitions.** Crisis Management includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. The laws of the United States assign primary authority to the Federal Government to prevent and respond to acts of terrorism; State and local governments provide assistance as required. Crisis management is predominantly a law enforcement response.



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Consequence Management includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. The laws of the United States assign primary authority to the States to respond to the consequences of terrorism; the Federal Government provides assistance as required.

### U.S. Policy on Counterterrorism

*General.* Terrorism is both a threat to our national security as well as a criminal act. The Administration has stated that it is the policy of the United States to use all appropriate means to deter, defeat, and respond to all terrorist attacks on our territory and resources, both with people and facilities, wherever they occur. In support of these efforts, the United States will:

- Employ efforts to deter, preempt, apprehend, and prosecute terrorists.
- Work closely with other governments to carry out counterterrorism policy and combat terrorist threats against them.
- Identify sponsors of terrorists, isolate them, and ensure they pay for their actions.
- Make no concessions to terrorists.
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*Measures to Combat Terrorism.* To ensure that the United States is prepared to combat terrorism in all of its forms, a number of measures have been directed. These include reducing vulnerabilities to terrorism, deterring and responding to terrorist attacks, and having capabilities to prevent and manage the consequences of terrorist use of nuclear, biological, or chemical (NBC) weapons, including those of mass destruction.

a. *Reduce Vulnerabilities.* In order to reduce vulnerabilities to terrorism, both at home and abroad, all departmental/agency heads have been directed to ensure that their personnel and facilities are fully protected against terrorism. Specific efforts that will be conducted to ensure our security against terrorist attacks include the following:

- Review the vulnerability of government facilities and critical national infrastructure.
- Expand the program of counterterrorism.
- Reduce vulnerabilities affecting civilian personnel/facilities abroad and military personnel/facilities.
- Exclude/deport persons who pose a terrorist threat.
- Prevent unlawful traffic in firearms and explosives and protect the President and other officials against terrorist attack.
- Reduce U.S. vulnerabilities to international terrorism through intelligence collection/ analysis, counterintelligence, and covert action.

b. *Deter.* To deter terrorism, it is necessary to provide a clear public position that our policies will not be affected by terrorist acts and we will vigorously deal with terrorists/sponsors to reduce terrorist capabilities and support. In this regard, we must make it clear that we will not allow terrorism to succeed and that the pursuit, arrest, and prosecution of terrorists are of the highest priority. Our goals include the disruption of terrorist sponsored activity, including termination of financial support, arrest and punishment of terrorists as criminals, application of U.S. laws and new legislation to prevent terrorist groups from operating in the United States, and application of extraterritorial statutes to counter acts of terrorism and apprehend terrorists outside of the United States. The return of terrorists overseas who are wanted for violation of U.S. law is of the highest priority and a central issue in bilateral relations with any state that harbors or assists them.

c. *Respond.* To respond to terrorism, we must have a rapid and decisive capability to protect Americans, defeat or arrest terrorists, respond against terrorist sponsors, and provide relief to the victims of terrorists. The goal during the immediate response phase of an incident is to terminate terrorist attacks, so the terrorists do not accomplish their objectives or maintain their freedom, while seeking to minimize damage and loss of life and provide emergency assistance. After an incident has occurred, a rapidly deployable interagency Emergency Support Team (EST) will provide required capabilities on scene: a Foreign

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Emergency Support Team (FEST) for foreign incidents, and a Domestic Emergency Support Team (DEST) for domestic incidents. DEST membership will be limited to those agencies required to respond to the specific incident. Both teams will include elements for specific types of incidents such as nuclear, chemical, and biological threats.

The Director, FEMA will ensure that the FRP is adequate for Consequence Management activities in response to terrorist attacks against large U.S. populations, including those where weapons of mass destruction (WMD) are involved. FEMA will also ensure that State response plans and capabilities are adequate and tested. FEMA, supported by all FRP signatories, will assume the Lead Agency role for consequence management in Washington, DC, and on scene. If large-scale casualties and infrastructure damage occur, the President may appoint a Personal Representative for Consequence Management as the on-scene Federal authority during recovery. A roster of senior and former government officials willing to perform these functions will be created, and the rostered individuals will be provided training and information necessary to allow themselves to be called on short notice.

Agencies will bear the cost of their participation in terrorist incidents and counter-terrorist operations, unless otherwise directed.

d. *NBC Consequence Management.* The development of effective capabilities for preventing and managing the consequence of terrorist use of NBC materials or weapons is of the highest priority. Terrorist acquisition of WMD is not acceptable, and there is no higher priority than preventing the acquisition of such materials/weapons or removing the capability from terrorist groups.

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**AMENDMENT(S): None**

## APPENDIX 5-8: PDD 62

### **Presidential Decision Directive 62, May 22, 1988, Combating Terrorism**

Since he took office, President Clinton has made the fight against terrorism a top national security objective. The President has worked to deepen our cooperation with our friends and allies abroad, strengthen law enforcement's counterterrorism tools and improve security on airplanes and at airports. These efforts have paid off as major terrorist attacks have been foiled and more terrorists have been apprehended, tried and given severe prison terms.

Yet America's unrivaled military superiority means that potential enemies -- whether nations or terrorist groups -- that choose to attack us will be more likely to resort to terror instead of conventional military assault. Moreover, easier access to sophisticated technology means that the destructive power available to terrorists is greater than ever. Adversaries may thus be tempted to use unconventional tools, such as weapons of mass destruction, to target our cities and disrupt the operations of our government. They may try to attack our economy and critical infrastructure using advanced computer technology.

President Clinton is determined that in the coming century, we will be capable of deterring and preventing such terrorist attacks. The President is convinced that we must also have the ability to limit the damage and manage the consequences should such an attack occur.

To meet these challenges, President Clinton signed Presidential Decision Directive 62. This Directive creates a new and more systematic approach to fighting the terrorist threat of the next century. It reinforces the mission of the many U.S. agencies charged with roles in defeating terrorism; it also codifies and clarifies their activities in the wide range of U.S. counter-terrorism programs, from apprehension and prosecution of terrorists to increasing transportation security, enhancing response capabilities and protecting the computer-based systems that lie at the heart of America's economy. The Directive will help

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achieve the President's goal of ensuring that we meet the threat of terrorism in the 21st century with the same rigor that we have met military threats in this century.

### The National Coordinator

To achieve this new level of integration in the fight against terror, PDD-62 establishes the office of the National Coordinator for Security, Infrastructure Protection and Counter-Terrorism. The National Coordinator will oversee the broad variety of relevant polices and programs including such areas as counter-terrorism, protection of critical infrastructure, preparedness and consequence management for weapons of mass destruction. The National Coordinator will work within the National Security Council, report to the President through the Assistant to the President for National Security Affairs and produce for him an annual Security Preparedness Report. The National Coordinator will also provide advice regarding budgets for counter-terror programs and coordinate the development of guidelines that might be needed for crisis management.

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AMENDMENT(S): None

## APPENDIX 5-9: PDD 63

### Presidential Decision Directive 63, May 22 1998, Protecting America's Critical Infrastructures

This Presidential Directive builds on the recommendations of the President's Commission on Critical Infrastructure Protection. In October 1997 the Commission issued its report, calling for a national effort to assure the security of the United States' increasingly vulnerable and interconnected infrastructures, such as telecommunications, banking and finance, energy, transportation, and essential government services. Presidential Decision Directive 63 is the culmination of an intense, interagency effort to evaluate those recommendations and produce a workable and innovative framework for critical infrastructure protection.

The President's policy:

- Sets a goal of a reliable, interconnected, and secure information system infrastructure by the year 2003, and significantly increased security for government systems by the year 2000, by:
  - Immediately establishing a national center to warn of and respond to attacks.
  - Building the capability to protect critical infrastructures from intentional acts by 2003.
- Addresses the cyber and physical infrastructure vulnerabilities of the Federal government by requiring each department and agency to work to reduce its exposure to new threats;
- Requires the Federal government to serve as a model to the rest of the country for how infrastructure protection is to be attained;
- Seeks the voluntary participation of private industry to meet common goals for protecting our critical systems through public-private partnerships;
- Protects privacy rights and seeks to utilize market forces. It is meant to strengthen and protect the nation's economic power, not to stifle it.
- Seeks full participation and input from the Congress.

PDD-63 sets up a new structure to deal with this important challenge:

- a *National Coordinator* whose scope will include not only critical infrastructure but also foreign terrorism and threats of domestic mass destruction (including biological weapons) because attacks on the US may not come labeled in neat jurisdictional boxes;
- The *National Infrastructure Protection Center* (NIPC) at the FBI which will fuse representatives from FBI, DOD, USSS, Energy, Transportation, the Intelligence Community, and the private sector in an unprecedented attempt at information sharing among agencies in collaboration with the private sector. The NIPC will also provide the principal means of facilitating and coordinating

the Federal Government's response to an incident, mitigating attacks, investigating threats and monitoring reconstitution efforts;

- An *Information Sharing and Analysis Center* (ISAC) is encouraged to be set up by the private sector, in cooperation with the federal government;
  - A *National Infrastructure Assurance Council* drawn from private sector leaders and state/local officials to provide guidance to the policy formulation of a National plan
  - The *Critical Infrastructure Assurance Office* will provide support to the National Coordinator's work with government agencies and the private sector in developing a national plan. The office will also help coordinate a national education and awareness program, and legislative and public affairs.
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**AMENDMENT(S):** None

### APPENDIX 5-10: HSPD-5

#### **Homeland Security Presidential Directive (HSPD) 5, February 28, 2003, Management of Domestic Incidents**

##### **Purpose**

(1) To enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system.

##### **Definitions**

(2) In this directive:

(a) the term "Secretary" means the Secretary of Homeland Security.

(b) the term "Federal departments and agencies" means those executive departments enumerated in 5 U.S.C. 101, together with the Department of Homeland Security; independent establishments as defined by 5 U.S.C. 104(1); government corporations as defined by 5 U.S.C. 103(1); and the United States Postal Service.

(c) the terms "State," "local," and the "United States" when it is used in a geographical sense, have the same meanings as used in the Homeland Security Act of 2002, Public Law 107-296.

##### **Policy**

(3) To prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies, the United States Government shall establish a single, comprehensive approach to domestic incident management. The objective of the United States Government is to ensure that all levels of government across the Nation have the capability to work efficiently and effectively together, using a national approach to domestic incident management. In these efforts, with regard to domestic incidents, the United States Government treats crisis management and consequence management as a single, integrated function, rather than as two separate functions.

(4) The Secretary of Homeland Security is the principal Federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the Secretary is responsible for coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. The Secretary shall coordinate the Federal Government's resources utilized in response to or recovery from terrorist attacks, major disasters, or other emergencies if and when any one of the following four conditions applies: (1) a Federal department or agency acting under its own authority has requested the assistance of the Secretary; (2) the resources of State and local authorities are overwhelmed and Federal assistance has been requested by the appropriate State and local authorities; (3) more than one Federal department or agency has become substantially involved in responding to the incident; or (4) the Secretary has been directed to assume responsibility for managing the domestic incident by the President.

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(5) Nothing in this directive alters, or impedes the ability to carry out, the authorities of Federal departments and agencies to perform their responsibilities under law. All Federal departments and agencies shall cooperate with the Secretary in the Secretary's domestic incident management role.

(6) The Federal Government recognizes the roles and responsibilities of State and local authorities in domestic incident management. Initial responsibility for managing domestic incidents generally falls on State and local authorities. The Federal Government will assist State and local authorities when their resources are overwhelmed, or when Federal interests are involved. The Secretary will coordinate with State and local governments to ensure adequate planning, equipment, training, and exercise activities. The Secretary will also provide assistance to State and local governments to develop all-hazards plans and capabilities, including those of greatest importance to the security of the United States, and will ensure that State, local, and Federal plans are compatible.

(7) The Federal Government recognizes the role that the private and nongovernmental sectors play in preventing, preparing for, responding to, and recovering from terrorist attacks, major disasters, and other emergencies. The Secretary will coordinate with the private and nongovernmental sectors to ensure adequate planning, equipment, training, and exercise activities and to promote partnerships to address incident management capabilities.

(8) The Attorney General has lead responsibility for criminal investigations of terrorist acts or terrorist threats by individuals or groups inside the United States, or directed at United States citizens or institutions abroad, where such acts are within the Federal criminal jurisdiction of the United States, as well as for related intelligence collection activities within the United States, subject to the National Security Act of 1947 and other applicable law, Executive Order 12333, and Attorney General-approved procedures pursuant to that Executive Order. Generally acting through the Federal Bureau of Investigation, the Attorney General, in cooperation with other Federal departments and agencies engaged in activities to protect our national security, shall also coordinate the activities of the other members of the law enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States. Following a terrorist threat or an actual incident that falls within the criminal jurisdiction of the United States, the full capabilities of the United States shall be dedicated, consistent with United States law and with activities of other Federal departments and agencies to protect our national security, to assisting the Attorney General to identify the perpetrators and bring them to justice. The Attorney General and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

(9) Nothing in this directive impairs or otherwise affects the authority of the Secretary of Defense over the Department of Defense, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures. The Secretary of Defense shall provide military support to civil authorities for domestic incidents as directed by the President or when consistent with military readiness and appropriate under the circumstances and the law. The Secretary of Defense shall retain command of military forces providing civil support. The Secretary of Defense and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

(10) The Secretary of State has the responsibility, consistent with other United States Government activities to protect our national security, to coordinate international activities related to the prevention, preparation, response, and recovery from a domestic incident, and for the protection of United States citizens and United States interests overseas. The Secretary of State and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

(11) The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall be responsible for interagency policy coordination on domestic and international incident management, respectively, as directed by the President. The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall work together to ensure that the United States domestic and international incident management efforts are seamlessly united.

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(12) The Secretary shall ensure that, as appropriate, information related to domestic incidents is gathered and provided to the public, the private sector, State and local authorities, Federal departments and agencies, and, generally through the Assistant to the President for Homeland Security, to the President. The Secretary shall provide standardized, quantitative reports to the Assistant to the President for Homeland Security on the readiness and preparedness of the Nation -- at all levels of government -- to prevent, prepare for, respond to, and recover from domestic incidents.

(13) Nothing in this directive shall be construed to grant to any Assistant to the President any authority to issue orders to Federal departments and agencies, their officers, or their employees.

### Tasking

(14) The heads of all Federal departments and agencies are directed to provide their full and prompt cooperation, resources, and support, as appropriate and consistent with their own responsibilities for protecting our national security, to the Secretary, the Attorney General, the Secretary of Defense, and the Secretary of State in the exercise of the individual leadership responsibilities and missions assigned in paragraphs (4), (8), (9), and (10), respectively, above.

(15) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Incident Management System (NIMS). This system will provide a consistent nationwide approach for Federal, State, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among Federal, State, and local capabilities, the NIMS will include a core set of concepts, principles, terminology, and technologies covering the incident command system; multi-agency coordination systems; unified command; training; identification and management of resources (including systems for classifying types of resources); qualifications and certification; and the collection, tracking, and reporting of incident information and incident resources.

(16) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Response Plan (NRP). The Secretary shall consult with appropriate Assistants to the President (including the Assistant to the President for Economic Policy) and the Director of the Office of Science and Technology Policy, and other such Federal officials as may be appropriate, in developing and implementing the NRP. This plan shall integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan. The NRP shall be unclassified. If certain operational aspects require classification, they shall be included in classified annexes to the NRP.

(a) The NRP, using the NIMS, shall, with regard to response to domestic incidents, provide the structure and mechanisms for national level policy and operational direction for Federal support to State and local incident managers and for exercising direct Federal authorities and responsibilities, as appropriate.

(b) The NRP will include protocols for operating under different threats or threat levels; incorporation of existing Federal emergency and incident management plans (with appropriate modifications and revisions) as either integrated components of the NRP or as supporting operational plans; and additional operational plans or annexes, as appropriate, including public affairs and intergovernmental communications.

(c) The NRP will include a consistent approach to reporting incidents, providing assessments, and making recommendations to the President, the Secretary, and the Homeland Security Council.

(d) The NRP will include rigorous requirements for continuous improvements from testing, exercising, experience with incidents, and new information and technologies.

(17) The Secretary shall:

(a) By April 1, 2003, (1) develop and publish an initial version of the NRP, in consultation with other Federal departments and agencies; and (2) provide the Assistant to the President for Homeland Security with a plan for full development and implementation of the NRP.

(b) By June 1, 2003, (1) in consultation with Federal departments and agencies and with State and local governments, develop a national system of standards, guidelines, and protocols to implement the NIMS; and (2) establish a mechanism for ensuring ongoing management and maintenance of the NIMS, including regular consultation with other Federal departments and agencies and with State and local governments.

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(c) By September 1, 2003, in consultation with Federal departments and agencies and the Assistant to the President for Homeland Security, review existing authorities and regulations and prepare recommendations for the President on revisions necessary to implement fully the NRP.

(18) The heads of Federal departments and agencies shall adopt the NIMS within their departments and agencies and shall provide support and assistance to the Secretary in the development and maintenance of the NIMS. All Federal departments and agencies will use the NIMS in their domestic incident management and emergency prevention, preparedness, response, recovery, and mitigation activities, as well as those actions taken in support of State or local entities. The heads of Federal departments and agencies shall participate in the NRP, shall assist and support the Secretary in the development and maintenance of the NRP, and shall participate in and use domestic incident reporting systems and protocols established by the Secretary.

(19) The head of each Federal department and agency shall:

(a) By June 1, 2003, make initial revisions to existing plans in accordance with the initial version of the NRP.

(b) By August 1, 2003, submit a plan to adopt and implement the NIMS to the Secretary and the Assistant to the President for Homeland Security. The Assistant to the President for Homeland Security shall advise the President on whether such plans effectively implement the NIMS.

(20) Beginning in Fiscal Year 2005, Federal departments and agencies shall make adoption of the NIMS a requirement, to the extent permitted by law, for providing Federal preparedness assistance through grants, contracts, or other activities. The Secretary shall develop standards and guidelines for determining whether a State or local entity has adopted the NIMS.

Technical and Conforming Amendments to National Security Presidential Directive-1 (NSPD-1)

(21) NSPD-1 ("Organization of the National Security Council System") is amended by replacing the fifth sentence of the third paragraph on the first page with the following: "The Attorney General, the Secretary of Homeland Security, and the Director of the Office of Management and Budget shall be invited to attend meetings pertaining to their responsibilities."

Technical and Conforming Amendments to National Security Presidential Directive-8 (NSPD-8)

(22) NSPD-8 ("National Director and Deputy National Security Advisor for Combating Terrorism") is amended by striking "and the Office of Homeland Security," on page 4, and inserting "the Department of Homeland Security, and the Homeland Security Council" in lieu thereof.

Technical and Conforming Amendments to Homeland Security Presidential Directive-2 (HSPD-2)

(23) HSPD-2 ("Combating Terrorism Through Immigration Policies") is amended as follows:

(a) striking "the Commissioner of the Immigration and Naturalization Service (INS)" in the second sentence of the second paragraph in section 1, and inserting "the Secretary of Homeland Security" in lieu thereof ;

(b) striking "the INS," in the third paragraph in section 1, and inserting "the Department of Homeland Security" in lieu thereof;

(c) inserting ", the Secretary of Homeland Security," after "The Attorney General" in the fourth paragraph in section 1;

(d) inserting ", the Secretary of Homeland Security," after "the Attorney General" in the fifth paragraph in section 1;

(e) striking "the INS and the Customs Service" in the first sentence of the first paragraph of section 2, and inserting "the Department of Homeland Security" in lieu thereof;

(f) striking "Customs and INS" in the first sentence of the second paragraph of section 2, and inserting "the Department of Homeland Security" in lieu thereof;

(g) striking "the two agencies" in the second sentence of the second paragraph of section 2, and inserting "the Department of Homeland Security" in lieu thereof;

(h) striking "the Secretary of the Treasury" wherever it appears in section 2, and inserting "the Secretary of Homeland Security" in lieu thereof;

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- (i) inserting ", the Secretary of Homeland Security," after "The Secretary of State" wherever the latter appears in section 3;
- (j) inserting ", the Department of Homeland Security," after "the Department of State," in the second sentence in the third paragraph in section 3;
- (k) inserting "the Secretary of Homeland Security," after "the Secretary of State," in the first sentence of the fifth paragraph of section 3;
- (l) striking "INS" in the first sentence of the sixth paragraph of section 3, and inserting "Department of Homeland Security" in lieu thereof;
- (m) striking "the Treasury" wherever it appears in section 4 and inserting "Homeland Security" in lieu thereof;
- (n) inserting ", the Secretary of Homeland Security," after "the Attorney General" in the first sentence in section 5; and
- (o) inserting ", Homeland Security" after "State" in the first sentence of section 6.

Technical and Conforming Amendments to Homeland Security Presidential Directive-3 (HSPD-3)

(24) The Homeland Security Act of 2002 assigned the responsibility for administering the Homeland Security Advisory System to the Secretary of Homeland Security. Accordingly, HSPD-3 of March 11, 2002 ("Homeland Security Advisory System") is amended as follows:

- (a) replacing the third sentence of the second paragraph entitled "Homeland Security Advisory System" with "Except in exigent circumstances, the Secretary of Homeland Security shall seek the views of the Attorney General, and any other federal agency heads the Secretary deems appropriate, including other members of the Homeland Security Council, on the Threat Condition to be assigned."
- (b) inserting "At the request of the Secretary of Homeland Security, the Department of Justice shall permit and facilitate the use of delivery systems administered or managed by the Department of Justice for the purposes of delivering threat information pursuant to the Homeland Security Advisory System." as a new paragraph after the fifth paragraph of the section entitled "Homeland Security Advisory System."
- (c) inserting ", the Secretary of Homeland Security" after "The Director of Central Intelligence" in the first sentence of the seventh paragraph of the section entitled "Homeland Security Advisory System".
- (d) striking "Attorney General" wherever it appears (except in the sentences referred to in subsections (a) and (c) above), and inserting "the Secretary of Homeland Security" in lieu thereof; and
- (e) striking the section entitled "Comment and Review Periods."

GEORGE W. BUSH

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AMENDMENT(S): None

### APPENDIX 5-11: 42 U.S.C. §5121, *ET SEQ.*, (THE STAFFORD ACT )

*See* Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended by Public Law 106-390, October 30, 2000 located at <http://www.fema.gov/library/stafact.shtm>



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### APPENDIX 5-12: 42 U.S.C. §9605 (NATIONAL CONTINGENCY PLAN)

#### § 9605. National contingency plan

*Release date: 2003-07-24*

##### **(a) Revision and republication**

Within one hundred and eighty days after December 11, 1980, the President shall, after notice and opportunity for public comments, revise and republish the national contingency plan for the removal of oil and hazardous substances, originally prepared and published pursuant to section 1321 of title 33, to reflect and effectuate the responsibilities and powers created by this chapter, in addition to those matters specified in section 1321 (c)(2) <sup>[1]</sup> of title 33. Such revision shall include a section of the plan to be known as the national hazardous substance response plan which shall establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants, which shall include at a minimum:

- (1)** methods for discovering and investigating facilities at which hazardous substances have been disposed of or otherwise come to be located;
- (2)** methods for evaluating, including analyses of relative cost, and remedying any releases or threats of releases from facilities which pose substantial danger to the public health or the environment;
- (3)** methods and criteria for determining the appropriate extent of removal, remedy, and other measures authorized by this chapter;
- (4)** appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effectuating the plan;
- (5)** provision for identification, procurement, maintenance, and storage of response equipment and supplies;
- (6)** a method for and assignment of responsibility for reporting the existence of such facilities which may be located on federally owned or controlled properties and any releases of hazardous substances from such facilities;
- (7)** means of assuring that remedial action measures are cost-effective over the period of potential exposure to the hazardous substances or contaminated materials;
- (8)**
- (A)** criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Criteria and priorities under this paragraph shall be based upon relative risk or danger to public health or welfare or the environment, in the judgment of the President, taking into account to the extent possible the population at risk, the hazard potential of the hazardous substances at such facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, the damage to natural resources which may affect the human food chain and which is associated with any release or threatened release, the contamination or potential contamination of the ambient air which is associated with the release or threatened release, State preparedness to assume State costs and responsibilities, and other appropriate factors;

**(B)** based upon the criteria set forth in subparagraph (A) of this paragraph, the President shall list as part of the plan national priorities among the known releases or

threatened releases throughout the United States and shall revise the list no less often than annually. Within one year after December 11, 1980, and annually thereafter, each State shall establish and submit for consideration by the President priorities for remedial action among known releases and potential releases in that State based upon the criteria set forth in subparagraph (A) of this paragraph. In assembling or revising the national list, the President shall consider any priorities established by the States. To the extent practicable, the highest priority facilities shall be designated individually and shall be referred to as the "top priority among known response targets", and, to the extent practicable, shall include among the one hundred highest priority facilities one such facility from each State which shall be the facility designated by the State as presenting the greatest danger to public health or welfare or the environment among the known facilities in such State. A State shall be allowed to designate its highest priority facility only once. Other priority facilities or incidents may be listed singly or grouped for response priority purposes;

**(9)** specified roles for private organizations and entities in preparation for response and in responding to releases of hazardous substances, including identification of appropriate qualifications and capacity therefor and including consideration of minority firms in accordance with subsection (f) of this section; and

**(10)** standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this chapter.

The plan shall specify procedures, techniques, materials, equipment, and methods to be employed in identifying, removing, or remedying releases of hazardous substances comparable to those required under section 1321 (c)(2)(F) and (G) and (j)(1) of title 33. Following publication of the revised national contingency plan, the response to and actions to minimize damage from hazardous substances releases shall, to the greatest extent possible, be in accordance with the provisions of the plan. The President may, from time to time, revise and republish the national contingency plan.

### **(b) Revision of plan**

Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986 [October 17, 1986], the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as "the National Hazardous Substance Response Plan" shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this chapter which are consistent with amendments made by the Superfund Amendments and Reauthorization Act of 1986 relating to the selection of remedial action.

### **(c) Hazard ranking system**

#### **(1) Revision**

Not later than 18 months after October 17, 1986, and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than 24 months after October 17, 1986. Such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priorities List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in

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effect on September 1, 1984, shall continue in full force and effect.

### **(2) Health assessment of water contamination risks**

In carrying out this subsection, the President shall ensure that the human health risks associated with the contamination or potential contamination (either directly or as a result of the runoff of any hazardous substance or pollutant or contaminant from sites or facilities) of surface water are appropriately assessed where such surface water is, or can be, used for recreation or potable water consumption. In making the assessment required pursuant to the preceding sentence, the President shall take into account the potential migration of any hazardous substance or pollutant or contaminant through such surface water to downstream sources of drinking water.

### **(3) Reevaluation not required**

The President shall not be required to reevaluate, after October 17, 1986, the hazard ranking of any facility which was evaluated in accordance with the criteria under this section before the effective date of the amendments to the hazard ranking system under this subsection and which was assigned a national priority under the National Contingency Plan.

### **(4) New information**

Nothing in paragraph (3) shall preclude the President from taking new information into account in undertaking response actions under this chapter.

### **(d) Petition for assessment of release**

Any person who is, or may be, affected by a release or threatened release of a hazardous substance or pollutant or contaminant, may petition the President to conduct a preliminary assessment of the hazards to public health and the environment which are associated with such release or threatened release. If the President has not previously conducted a preliminary assessment of such release, the President shall, within 12 months after the receipt of any such petition, complete such assessment or provide an explanation of why the assessment is not appropriate. If the preliminary assessment indicates that the release or threatened release concerned may pose a threat to human health or the environment, the President shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in paragraph (8)(A) of subsection (a) of this section to determine the national priority of such release or threatened release.

### **(e) Releases from earlier sites**

Whenever there has been, after January 1, 1985, a significant release of hazardous substances or pollutants or contaminants from a site which is listed by the President as a "Site Cleaned Up To Date" on the National Priorities List (revised edition, December 1984) the site shall be restored to the National Priorities List, without application of the hazard ranking system.

### **(f) Minority contractors**

In awarding contracts under this chapter, the President shall consider the availability of qualified minority firms. The President shall describe, as part of any annual report submitted to the Congress under this chapter, the participation of minority firms in contracts carried out under this chapter. Such report shall contain a brief description of the contracts which have been awarded to minority firms under this chapter and of the efforts made by the President to encourage the participation of such firms in programs carried out under this chapter.

### **(g) Special study wastes**

#### **(1) Application**

This subsection applies to facilities—

**(A)** which as of October 17, 1986, were not included on, or proposed for inclusion

on, the National Priorities List; and

**(B)** at which special study wastes described in paragraph (2), (3)(A)(ii) or (3)(A)(iii) of section 6921 (b) of this title are present in significant quantities, including any such facility from which there has been a release of a special study waste.

**(2) Considerations in adding facilities to NPL**

Pending revision of the hazard ranking system under subsection (c) of this section, the President shall consider each of the following factors in adding facilities covered by this section to the National Priorities List:

**(A)** The extent to which hazard ranking system score for the facility is affected by the presence of any special study waste at, or any release from, such facility.

**(B)** Available information as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or released from such facility, the extent of or potential for release of such hazardous constituents, the exposure or potential exposure to human population and the environment, and the degree of hazard to human health or the environment posed by the release of such hazardous constituents at such facility. This subparagraph refers only to available information on actual concentrations of hazardous substances and not on the total quantity of special study waste at such facility.

**(3) Savings provisions**

Nothing in this subsection shall be construed to limit the authority of the President to remove any facility which as of October 17, 1986, is included on the National Priorities List from such List, or not to list any facility which as of such date is proposed for inclusion on such list.

**(4) Information gathering and analysis**

Nothing in this chapter shall be construed to preclude the expenditure of monies from the Fund for gathering and analysis of information which will enable the President to consider the specific factors required by paragraph (2).

**(h) NPL deferral**

**(1) Deferral to State voluntary cleanups**

At the request of a State and subject to paragraphs (2) and (3), the President generally shall defer final listing of an eligible response site on the National Priorities List if the President determines that—

**(A)** the State, or another party under an agreement with or order from the State, is conducting a response action at the eligible response site—

**(i)** in compliance with a State program that specifically governs response actions for the protection of public health and the environment; and

**(ii)** that will provide long-term protection of human health and the environment; or

**(B)** the State is actively pursuing an agreement to perform a response action described in subparagraph (A) at the site with a person that the State has reason to believe is capable of conducting a response action that meets the requirements of subparagraph (A).

**(2) Progress toward cleanup**

If, after the last day of the 1-year period beginning on the date on which the President proposes to list an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

**(3) Cleanup agreements**

With respect to an eligible response site under paragraph (1)(B), if, after the last day of the 1-year period beginning on the date on which the President proposes to list the eligible response site on the National Priorities List, an agreement described in

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paragraph (1)(B) has not been reached, the President may defer the listing of the eligible response site on the National Priorities List for an additional period of not to exceed 180 days if the President determines deferring the listing would be appropriate based on—

- (A) the complexity of the site;
- (B) substantial progress made in negotiations; and
- (C) other appropriate factors, as determined by the President.

### **(4) Exceptions**

The President may decline to defer, or elect to discontinue a deferral of, a listing of an eligible response site on the National Priorities List if the President determines that—

- (A) deferral would not be appropriate because the State, as an owner or operator or a significant contributor of hazardous substances to the facility, is a potentially responsible party;
  - (B) the criteria under the National Contingency Plan for issuance of a health advisory have been met; or
  - (C) the conditions in paragraphs (1) through (3), as applicable, are no longer being met.
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[1] See References in Text note below.

Source: <http://www4.law.cornell.edu/uscode/42/9605.html>

**APPENDIX 5-13:** 50 U.S.C. §2061, *ET SEQ* (THE DEFENSE PRODUCTION ACT OF 1950)

See: [http://www.access.gpo.gov/uscode/title50a/50a\\_75\\_.html](http://www.access.gpo.gov/uscode/title50a/50a_75_.html)

**APPENDIX 5-14:** PUB. L. 107-296 (ESTABLISH THE DEPARTMENT OF HOMELAND SECURITY)

See: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_cong\\_public\\_laws&docid=f:publ296.107](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ296.107)

**APPENDIX 5-15: 3025.1, MILITARY SUPPORT TO CIVIL AUTHORITIES**

**Department of Defense  
DIRECTIVE**

NUMBER 3025.1  
January 15, 1993

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USD(P)

SUBJECT: Military Support to Civil Authorities (MSCA)

References:

- (a) DoD Directive 3025.1, "Use of Military Resources During Peacetime Civil Emergencies within the United States, its Territories, and Possessions," May 23, 1980 (hereby canceled)
- (b) DoD Directive 3025.10, "Military Support of Civil Defense," July 22, 1981 (hereby canceled)
- (c) DoD Directive 5030.45, "DoD Representation on Federal Emergency Management Agency (FEMA) Regional Preparedness Committees and Regional Field Boards," November 29, 1983 (hereby canceled)
- (d) Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," November 18, 1988
- (e) through (u), see enclosure 1

**1. REISSUANCE AND PURPOSE**

This Directive reissues reference (a) and replaces references (b) and (c) to:

1.1. Consolidate all policy and responsibilities previously known as "Military Assistance to Civil Authorities (MACA)," applicable to disaster-related civil emergencies within the United States, its territories, and possessions under reference

(a), with those related to attacks on the United States, which previously were known as "Military Support to Civil Defense (MSCD)" under reference (b).

1.2. Provide for continuation of the DoD Regional Military Emergency Coordinator (RMEC) teams, previously developed under reference (c), to facilitate peacetime planning for MSCA and to provide trained teams of DoD liaison personnel to represent essential DoD Components, as appropriate, for response to any national security emergency.

1.3. Constitute a single system for MSCA, by which DoD Components (as defined in subsection 2.1., below) shall plan for, and respond to, requests from civil government agencies for military support in dealing with the actual or anticipated consequences of civil emergencies requiring Federal response, or attacks, including national security emergencies as defined in reference (d).

1.4. State the policy and responsibilities by which the Department of Defense responds to major disasters or emergencies in accordance with the Stafford Act, as amended (reference (e)), and supports the national civil defense policy and Federal or State civil defense programs, in cooperation with the Federal Emergency Management Agency (FEMA), under the authority of The Federal Civil Defense Act of 1950 (reference (f)).

1.5. Designate the Secretary of the Army as the DoD Executive Agent for MSCA.

1.6. Authorize the publication of DoD 3025.1-M, "DoD Manual for Civil Emergencies," consistent with DoD 5025.1-M, reference (g).

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### 2. APPLICABILITY AND SCOPE

This Directive:

2.1. Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating, or planning for operations, as a Service in the Navy).

2.2. Shall govern MSCA activities of all DoD Components in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions.

2.3. Does not apply to foreign disasters covered by DoD Directive 5100.46 (reference (h)).

2.4. Focuses on the assignment and allocation of DoD resources to support civilian authorities during civil emergencies arising during peace, war, or transition to war.

2.5. Does not integrate contingency war planning as a subelement of MSCA, and does not relieve the Chairman of the Joint Chiefs of Staff of his authority to supervise contingency planning.

2.6. Does not include military support to civil law enforcement. (See paragraph 4.2., below.)

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

#### 4.1. National Policy

4.1.1. Planning and preparedness by the Federal Government for civil emergencies and attacks are important due to the severity of the consequences of emergencies for the Nation and the population, and to the sophistication of means of attack on the United States and its territories.

4.1.2. Under the Stafford Act, as amended (reference (e)), it is the policy of the Federal Government to provide an orderly and continuing means of supplemental assistance to State and local governments in their responsibilities to alleviate the suffering and damage that result from major disasters or emergencies. Upon declaring a major disaster or emergency under reference (e), the President may direct any Agency of the Federal Government to undertake missions and tasks (on either a reimbursable or non-reimbursable basis) to provide assistance to State and local agencies. The President appoints a Federal Coordinating Officer (FCO) to operate in the affected area, and delegates authority to the FCO. The President has delegated to the Director of FEMA the authority to appoint FCOs; and FEMA officials frequently serve as FCOs.

4.1.3. In accordance with the Federal Civil Defense Act of 1950, as amended (reference (f)), the national civil defense policy is to have a civil defense program to develop capabilities common to all catastrophic emergencies and those unique to attack emergencies, which will support all hazard emergency management at State and local levels, in order to protect the population and vital infrastructure. Under the national civil defense policy, the Department of Defense will support civil authorities in civil defense, to include facilitating the use of the National Guard in each State for response in both peacetime disasters and national security emergencies.

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4.1.4. Under E.O. 12656 (reference (d)), it is the policy of the Federal Government to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency.

4.2. Scope. This Directive governs all planning and response by DoD Components for civil defense or other assistance to civil authorities, with the exception of military support to law enforcement operations under DoD Directive 3025.12 (reference (i)) and contingency war plans.

4.3. Delegations of Authority. The Secretary of Defense shall be assisted in executing his responsibility for MSCA by the following:

4.3.1. The Secretary of the Army shall be the DoD Executive Agent and shall act for the Secretary of Defense in accordance with this Directive and any supplemental direction or guidance received from the Secretary of Defense. In that capacity, the DoD Executive Agent will develop planning guidance, plans, and procedures for MSCA in accordance with this Directive. The DoD Executive Agent has the authority of the Secretary of Defense to task the DoD Components to plan for and to commit DoD resources, in response to requests from civil authorities under MSCA. The Secretary of the Army shall coordinate with the Chairman of the Joint Chiefs of Staff any commitment of military forces assigned to the Unified and Specified Commands.

4.3.2. The Chairman of the Joint Chiefs of Staff shall communicate to the Commanders of the Unified and Specified Commands appropriate guidance issued by the Secretary of the Army for their compliance with this Directive, and also shall assist the DoD Executive Agent in developing MSCA planning guidance for all conditions of war or attacks on the United States or its territories.

4.3.3. The Commander in Chief, Forces Command (CINCFOR); the Commander in Chief, U.S. Atlantic Command (USCINCLANT); and the Commander in Chief, U.S. Pacific Command (USCINCPAC), shall serve as "DoD Planning Agents" for MSCA. Pursuant to guidance issued by the DoD Executive Agent, after coordination with the Chairman of the Joint Chiefs of Staff, the DoD Planning Agents shall conduct MSCA planning, and shall lead MSCA planning activities of all DoD Components within the following geographic areas:

4.3.3.1. CINCFOR (48 contiguous States and the District of Columbia).

4.3.3.2. USCINCLANT (Puerto Rico and the U.S. Virgin Islands).

4.3.3.3. USCINCPAC (Alaska, Hawaii, and U.S. possessions and territories in the Pacific area).

4.3.4. The Commanders of the Unified and Specified Commands shall provide MSCA response, as directed by the DoD Executive Agent.

4.3.5. The Secretary of Defense reserves the authority to modify or terminate the executive agency established by this Directive if operational needs so require in a particular situation.

## 4.4. MSCA Policy

4.4.1. MSCA shall include (but not be limited to) support similar to that described for Immediate Response (subsection 5.4., below), in either civil emergencies or attacks, during any period of peace, war, or transition to war. It shall include response to civil defense agencies, but shall not include military assistance for civil law enforcement operations.

4.4.1.1. DoD Directive 3025.12 (reference (i)) governs use of military resources in the event of civil disturbances, which may include providing physical security for DoD Key Assets, as defined in DoD Directive 5160.54 (reference (j)).



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4.4.1.2. Materiel, logistic, communications, and other assistance to law enforcement (especially drug enforcement operations) is provided under DoD Directive 5525.5 (reference (k)).

4.4.2. The DoD Components shall respond to requirements of the DoD Executive Agent and DoD Planning Agents for MSCA, as authorized by this Directive.

4.4.3. To ensure sound management of DoD resources, MSCA planning will stress centralized direction of peacetime planning with civil authorities, with decentralized planning by DoD Components with civil agencies, where appropriate, and decentralized execution of approved plans in time of emergency.

4.4.4. Subject to priorities established by the President or the Secretary of Defense, all DoD resources are potentially available for MSCA. MSCA planning and execution will encourage and adhere to the following premises:

4.4.4.1. That civil resources are applied first in meeting requirements of civil authorities.

4.4.4.2. That DoD resources are provided only when response or recovery requirements are beyond the capabilities of civil authorities (as determined by FEMA or another lead Federal Agency for emergency response).

4.4.4.3. That specialized DoD capabilities requested for MSCA (e.g., airlift and airborne reconnaissance) are used efficiently.

4.4.4.4. Generally, military operations other than MSCA will have priority over MSCA, unless otherwise directed by the Secretary of Defense.

4.4.5. MSCA shall provide a mechanism to facilitate continuous and cooperative civil and military planning and preparedness to mobilize all appropriate resources and capabilities of the civil sector and the Department of Defense, whenever required for any form of national security emergency.

4.4.6. DoD planning shall recognize that:

4.4.6.1. Army and Air National Guard forces, acting under State orders (i.e., not in Federal service), have primary responsibility for providing military assistance to State and local government agencies in civil emergencies.

4.4.6.2. The Army National Guard State Area Command (STARC), when ordered to Federal Active Duty, will be the DoD focal point for delivery of MSCA at State and local levels in time of war.

4.4.6.3. Plans and preparedness measures for MSCA must foster close and continuous coordination for efficient employment of DoD resources of the National Guard (whether employed under State or Federal authority), as well as resources of the DoD Components, in time of peace, war, or transition to war.

4.4.6.4. In the event of an attack on the United States, its territories, or possessions, the scope of MSCA in each geographical area will depend upon the commitment of military resources to military operations, the extent of damage sustained by the civilian communities, and the status of Active and Reserve Component forces.

4.4.7. DoD Components shall augment staffs responsible for MSCA, as appropriate, with personnel from Reserve components of all Military Services who are specifically trained for civil-military

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planning and emergency liaison duties. (See enclosure 3 in DoD Directive 1215.6 (reference (l))). The Military Services also shall ensure that all Active or Reserve component military personnel assigned or attached to FEMA are appropriately trained and employed to enhance DoD capabilities for MSCA in time of war or attack on the United States or its territories.

4.4.8. The DoD Components ordinarily shall provide DoD resources in response to civil emergencies on a cost reimbursable basis. However, see paragraph 4.5.2., below, for circumstances in which an inability or unwillingness of a requester to commit to reimbursement will not preclude action by DoD Components.

4.4.8.1. The DoD Components shall comply with legal and accounting requirements for the loan, grant, or consumption of DoD resources for MSCA, as necessary, to ensure reimbursement of costs to the DoD Components under the Stafford Act, as amended (reference (e)); the Defense Emergency Response Fund established by Pub. L. No. 101-165 (1989) (reference (m)); or other applicable authority.

4.4.8.2. The DoD Components shall not procure or maintain any supplies, materiel, or equipment exclusively for providing MSCA in civil emergencies, unless otherwise directed by the Secretary of Defense.

4.4.8.3. Planning for MSCA during any time of attack on the United States shall assume that financial requirements will be met through appropriate legal processes.

4.4.9. Military forces employed in MSCA activities shall remain under military command and control under the authority of the DoD Executive Agent at all times.

4.4.10. The DoD Components shall not perform any function of civil government unless absolutely necessary on a temporary basis under conditions of Immediate Response. Any commander who is directed, or undertakes, to perform such functions shall facilitate the reestablishment of civil responsibility at the earliest time possible.

## 4.5. Immediate Response

4.5.1. Imminently serious conditions resulting from any civil emergency or attack may require immediate action by military commanders, or by responsible officials of other DoD Agencies, to save lives, prevent human suffering, or mitigate great property damage. When such conditions exist and time does not permit prior approval from higher headquarters, local military commanders and responsible officials of other DoD Components are authorized by this Directive, subject to any supplemental direction that may be provided by their DoD Component, to take necessary action to respond to requests of civil authorities. All such necessary action is referred to in this Directive as "Immediate Response."

4.5.2. While Immediate Response should be provided to civil agencies on a cost-reimbursable basis if possible, it should not be delayed or denied because of the inability or unwillingness of the requester to make a commitment to reimburse the Department of Defense.

4.5.3. Any commander or official acting under the Immediate Response authority of this Directive shall advise the DoD Executive Agent through command channels, by the most expeditious means available, and shall seek approval or additional authorizations as needed.

4.5.4. Immediate Response may include DoD assistance to civil agencies in meeting the following types of need:

4.5.4.1. Rescue, evacuation, and emergency medical treatment of casualties, maintenance or restoration of emergency medical capabilities, and safeguarding the public health.

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4.5.4.2. Emergency restoration of essential public services (including fire-fighting, water, communications, transportation, power, and fuel).

4.5.4.3. Emergency clearance of debris, rubble, and explosive ordnance from public facilities and other areas to permit rescue or movement of people and restoration of essential services.

4.5.4.4. Recovery, identification, registration, and disposal of the dead.

4.5.4.5. Monitoring and decontaminating radiological, chemical, and biological effects; controlling contaminated areas; and reporting through national warning and hazard control systems.

4.5.4.6. Roadway movement control and planning.

4.5.4.7. Safeguarding, collecting, and distributing food, essential supplies, and materiel on the basis of critical priorities.

4.5.4.8. Damage assessment.

4.5.4.9. Interim emergency communications.

4.5.4.10. Facilitating the reestablishment of civil government functions.

### 4.6. Military Cooperation With Civil Agencies

4.6.1. Under E.O. 12148 (reference (n)) and E.O. 12656 (reference (d)), FEMA is responsible for coordinating Federal plans and programs for response to civil emergencies at the national and regional levels, and for Federal assistance to the States in civil emergencies. Other Federal Departments and Agencies have specific responsibilities for emergency planning and response under reference (d), and under statutory authorities not listed in this Directive. The DoD Executive Agent shall ensure:

4.6.1.1. Coordination of MSCA plans and procedures with FEMA, and with other civil agencies as appropriate, at the national and Federal Region level.

4.6.1.2. Facilitation of direct planning for MSCA by DoD facilities and installations with their local communities, and with their respective STARCs, as appropriate.

4.6.2. The DoD Executive Agent also shall provide appropriate guidance to facilitate MSCA planning and response with the American Red Cross and other civilian disaster and emergency assistance organizations where authorized by law.

4.7. Response Under Other Authorities. DoD response to emergencies under authorities not cited in this Directive also may be directed, coordinated, or supplemented by the DoD Executive Agent, as circumstances require. For example:

4.7.1. The U.S. Coast Guard (USCG) or the U.S. Environmental Protection Agency (EPA) will coordinate Federal response to oil or hazardous material spills, other than those occurring within DoD jurisdictions. The DoD Executive Agent will provide MSCA to the USCG or the EPA; but responsibilities of DoD Components in areas under DoD jurisdiction are covered by DoD Directive 5030.41 (reference (o)).

4.7.2. Emergencies or other incidents involving radiological materials shall be handled in accordance with DoD Directive 5100.52 (reference (p)).

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4.7.3. The Secretary of the Army shall ensure the implementation of DoD responsibilities for emergency water requirements, as specified in E.O. 12656 (reference (d)), and response to flooding, as provided in Pub. L. No. 84-99 (1941), as amended (reference (q)).

4.7.4. Forest fire emergencies are responsibilities of the U.S. Department of Agriculture or Interior. The Boise Interagency Fire Center (BIFC) may request DoD assistance; and specific details regarding DoD support are covered by agreements between the Department of Defense and the BIFC that are administered by the DoD Executive Agent.

4.7.5. The DoD Executive Agent is delegated the authority to direct DoD Components in planning for and responding to any civil emergency that may arise out of any mass immigration by aliens into the land territory of the United States, its territories, or possessions, consistent with applicable law and this Directive. The DoD Executive Agent should ensure appropriate coordination with Federal law enforcement authorities in exercising this authority.

4.7.6. Use of DoD transportation resources in response to a non-declared civil emergency shall be directed by the DoD Executive Agent under this Directive. (See also DoD Directive 4500.9 (reference (r)).)

4.8. Non-Declared Emergencies. The DoD Executive Agent may direct DoD Components to respond to any emergency, based on authority that is provided by this Directive or obtained from the Secretary or Deputy Secretary of Defense. If an emergency of any kind or size requires a response on behalf of the Department of Defense, where there has not been any declaration of major disaster or emergency by the President, or if reimbursement of funds to the Department of Defense is otherwise not certain, the DoD Executive Agent shall ascertain the authority necessary to commit DoD resources for response to requests from civil authorities.

4.8.1. Authorizations by the DoD Executive Agent under this subsection (4.7.) shall include (but not be limited to) commitment of funds from the Defense Emergency Response Fund (reference (m)) in anticipation of reimbursements to that fund.

4.8.2. The DoD Executive Agent shall obtain authorization from the Secretary of Defense or Deputy Secretary of Defense to provide support in those cases in which DoD response is not clearly required by Federal law or by DoD plans approved by the DoD Executive Agent.

4.9. Emergency Priorities. When guidance cannot be obtained from higher headquarters on a timely basis, due to attack on the United States or other emergency circumstances, the DoD Components should apply DoD resources to MSCA in the following order of priority:

4.9.1. To save human life and mitigate human suffering, and to protect essential U.S. Government capabilities, including:

4.9.1.1. Continuity of the U.S. Government.

4.9.1.2. Protection of U.S. Government officials.

4.9.1.3. Prevention of loss or destruction to Federal property.

4.9.1.4. Restoration of essential Federal functions.

4.9.2. To preserve or restore services of State and local government.

## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

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5.1.1. Exercise policy oversight of MSCA for the Secretary of Defense, and ensure compatibility of MSCA with National Security Emergency Preparedness, in accordance with DoD Directive 3020.36 (reference (s)) and E.O. 12656 (reference (d)).

5.1.2. Coordinate DoD policy governing plans and operations with FEMA; and assist the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, and others, as appropriate, in their coordination with FEMA.

5.2. The Assistant Secretary of Defense (Health Affairs) shall coordinate policy for emergency medical support to civil authorities in consonance with this Directive, to include participation by the Department of Defense in the National Disaster Medical System (NDMS).

5.3. The Assistant Secretary of Defense (Reserve Affairs) shall advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, the USD(P), and the Secretaries of the Military Departments, as required, on Reserve component matters impacting on MSCA.

5.4. The Comptroller of the Department of Defense shall:

5.4.1. Facilitate accounting procedures that will enable the Department of Defense to respond on a timely basis to all emergency requirements for MSCA; and

5.4.2. In conjunction with the DoD Executive Agent, provide for accounting and other procedures necessary to manage expenditures for MSCA from the Defense Emergency Response Fund (reference (m)).

5.5. The Chairman of the Joint Chiefs of Staff shall:

5.5.1. Advise the Secretary of Defense and the DoD Executive Agent on policies, responsibilities, and programs bearing on MSCA.

5.5.2. In coordination with the DoD Executive Agent, facilitate communications by the DoD Executive Agent with commanders, as appropriate.

5.5.3. Ensure the compatibility of MSCA plans with other military plans.

5.5.4. Facilitate CINCFOR's development of an MSCA database and emergency reporting system, as described in paragraph 5.10.3., below.

5.5.5. Facilitate coordinated evaluation of MSCA plans and capabilities by the Commanders of the Unified and Specified Commands through exercises or other means, as appropriate.

5.6. The Secretaries of the Military Departments shall:

5.6.1. Provide for participation by the Military Services in MSCA planning, in accordance with this Directive and with guidance of the DoD Executive Agent; and ensure readiness of Active and Reserve components to execute plans for MSCA.

5.6.2. Ensure the designation of a principal planning agent and regional planning agents for MSCA for each Military Service, and advise the DoD Executive Agent and the Chairman of the Joint Chiefs of Staff of such agents.

5.6.3. Ensure effective and efficient coordination of MSCA planning by Service installations with Federal Regions, STARCs, and State and local civil authorities, through the DoD Planning Agents, as directed by the DoD Executive Agent.

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5.6.4. Furnish available resources for MSCA when directed by the DoD Executive Agent.

5.6.5. Identify to the DoD Executive Agent the resources of their respective Military Services that are potentially available for MSCA within the parameters of the DoD Resources Data Base (DODRDB) for MSCA, which is described in paragraph 5.10.3., below. Facilitate use of that database to support decentralized management of MSCA in time of emergency, as appropriate.

5.6.6. Prepare to support civil requests for damage and residual capability assessment following civil emergencies or attacks, to include providing aerial reconnaissance as appropriate.

5.6.7. Provide Military Department representatives to serve on RMEC teams, as requested by the DoD Executive Agent.

5.6.8. Based on validated military planning and operational requirements, assign individual Reservists from Military Services to FEMA and other appropriate civil government offices and headquarters to provide liaison for planning and emergency operations for MSCA. (See enclosure 3 in DoD Directive 1215.6 (reference (1)).)

5.6.9. Provide available Military Service personnel for MSCA training, including courses conducted by CINCFOR and FEMA.

5.6.10. Provide for application of critical emergency capabilities of the Services (such as disposal of explosive ordnance and nuclear devices) for MSCA, as required.

5.7. In addition to the responsibilities assigned under subsection 5.6., above, the Secretary of the Army, as DoD Executive Agent, shall:

5.7.1. Coordinate with the Chairman of the Joint Chiefs of Staff, in advance, for the employment of forces assigned to the Unified and Specified Commands in MSCA missions.

5.7.2. Establish a single headquarters element (to be denominated the "Directorate of Military Support (DOMS)") under the Secretary of the Army, through which the Secretary of the Army issues orders necessary to perform the duties of the DoD Executive Agent under this Directive. The Secretary of the Army shall ensure that the staff element includes specially qualified and trained officers of all Military Services, including those at senior levels in the element.

5.7.3. Manage expenditures for MSCA from the Defense Emergency Response Fund (reference (m)). (See paragraph 4.4.2., above.)

5.7.4. Direct and coordinate the development of both generic and incident specific plans for MSCA through the DoD Planning Agents designated in paragraph 4.4.3., above, and through the DoD Components, as appropriate.

5.7.5. Establish appropriate guidance, through the National Guard Bureau, for the Adjutants General of the 50 States, District of Columbia, Guam, Puerto Rico, and the Virgin Islands to ensure compliance by the Army National Guard with this Directive. Such guidance shall provide for the following, as appropriate:

5.7.5.1. Resourcing the STARCs for MSCA planning and response tasks.

5.7.5.2. STARC interfaces with commands and installations of all Services, including the DoD Planning Agents, and with State civil agencies.

5.7.5.3. STARC acceptance, support, and utilization of liaison and augmentation from all Military Services, as appropriate.

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5.7.6. Provide for the manning and operation of RMEC teams to coordinate the interface between the Defense Components and all Federal regional emergency management structures established by FEMA that may affect MSCA.

5.7.7. Provide for effective utilization in MSCA planning of the U.S. Army Corps of Engineers, the Naval Construction Force, and the U.S. Air Force Civil Engineers, to include all civil works authorities and other unique civil emergency capabilities, as permitted by law.

5.7.8. Delegate as appropriate authority under this Directive to the DoD Planning Agents, to Defense Coordinating Officers (DCOs) appointed for response to civil emergencies under the Stafford Act, as amended (reference (e)), or to other DoD officials to accomplish any requirement for MSCA planning or operations under this Directive.

5.7.9. Provide guidance to CINCFOR for content, dissemination, and use of the DODRDB for MSCA, which is described in paragraph 5.10.3., below; and ensure opportunity for input by the Chairman of the Joint Chiefs of Staff in the continuing development of that database.

5.7.10. Maintain national-level liaison with FEMA for MSCA.

5.7.11. Provide Army Reserve support to FEMA, on a reimbursable basis, for emergency communications, security operations, and associated management support, at the Federal Regions, as determined by agreement between FEMA and the DoD Executive Agent; and ensure the availability of such support during any time of war or national mobilization.

5.7.12. Provide full-time Army personnel, as required, to manage the Military Support Liaison Office established by agreement between the Secretary of Defense and the Director of FEMA. Utilize that office to facilitate requirements and communications of the DoD Executive Agent under this Directive.

5.7.13. Develop training courses for MSCA, including specialized training for Reserve component emergency preparedness liaison officers of all Military Services who will work with civilian communities and agencies as authorized for MSCA missions.

5.7.14. Provide authorizations to DoD Components to perform emergency work under Section 403(c) of the Stafford Act, as amended (reference (e)). That statute provides that, when authorized by the President at the request of a State Governor, under certain conditions, the Department of Defense may perform on public or private lands emergency work that is essential for the preservation of life or property. Emergency work by the Department of Defense under that provision may be carried out only for a period not to exceed 10 days, and is only 75 percent funded by Federal funds.

5.8. In addition to the responsibilities assigned under subsection 5.6., above, the Secretary of the Navy shall:

5.8.1. Maintain liaison and coordinate planning with the Department of Transportation for participation by USCG forces in MSCA.

5.8.2. Furnish technical advice and support for MSCA planning and implementation in areas that are uniquely within the competence of the Navy, Marine Corps, or USCG (e.g., nuclear material disposal for coastal and maritime areas, and emergency protection or restoration of seaport capabilities).

5.9. In addition to the responsibilities assigned under subsection 5.6., above, the Secretary of the Air Force shall:

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5.9.1. Establish appropriate guidance, through the National Guard Bureau, for the Adjutants General of the 50 States, District of Columbia, Guam, Puerto Rico, and the Virgin Islands to ensure compliance by the Air National Guard with this Directive.

5.9.2. Facilitate planning by the Civil Air Patrol for participation in MSCA.

5.9.3. Furnish technical advice and support for MSCA planning and implementation in areas that are uniquely within the competence of the Air Force and its wartime augmentation elements (e.g., coordination with the Federal Aviation Administration, the National Aeronautics and Space Administration, and the National Oceanic and Atmospheric Administration).

5.9.4. Facilitate the conduct and coordination of aerial reconnaissance missions to perform damage assessment in support of MSCA.

5.10. In addition to serving as a DoD Planning Agent under subsection 5.11., below, the Commander in Chief Forces Command CINCFOR, subject to the direction of the DoD Executive Agent, shall:

5.10.1. Maintain liaison with FEMA to facilitate cooperative civil and military planning and training for MSCA.

5.10.2. Lead DoD liaison with FEMA and other Federal Agencies at the Federal Regions, including utilization of the RMEC Teams.

5.10.3. Continue to develop, maintain, and disseminate the DODRDB.

5.10.3.1. The DODRDB shall support MSCA planning for civil emergencies or attacks, as well as post-disaster and post-attack damage and residual capability assessment by field elements of the DoD Components. It shall include essential information on resources routinely held by the DoD Components and directly applicable to lifesaving, survival, and immediate recovery aspects of MSCA.

5.10.3.2. Forces to be included in the DODRDB are those that are based in the United States and its territories and most capable of supporting civil emergency functions. Those forces include (but are not limited to) construction, airlift, medical, signal, transportation, and military police elements, and training base forces of all Services. The DODRDB will not include strategic forces or any other forces identified for exclusion by the Chairman of the Joint Chiefs of Staff, unless otherwise directed by the Secretary of Defense.

5.10.3.3. The DODRDB shall serve as the basis for emergency reports under continuity of operations, damage assessment, and residual capabilities, and shall include (but not be limited to) reports through the STARCs required by subsection 6.2. of DoD Directive 3020.26 (reference (t)).

5.10.4. Plan and conduct civil-military training courses and exercises in conjunction with FEMA.

5.11. The Commander in Chief, Forces Command; the Commander in Chief, U.S. Atlantic Command; and the Commander in Chief, U.S. Pacific Command, shall:

5.11.1. In accordance with guidance from the DoD Executive Agent communicated through the Chairman of the Joint Chiefs of Staff:

5.11.1.1. Serve as DoD Planning Agents for MSCA for the areas specified in paragraph 4.3.3., above; and develop MSCA plans and preparedness measures for their MSCA areas of responsibility.



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5.11.1.2. Ensure cooperative planning for MSCA operations between DoD Components, FEMA, and other Federal or State civil agencies, as required.

5.11.1.3. Utilize RMEC teams to assist in plan development.

5.11.1.4. Coordinate with the STARCs through channels established by the Secretary of the Army; and utilize liaison officers provided for in DoD Directive 1215.6 (reference (1)) and others, as appropriate, to facilitate coordination of emergency planning.

5.11.1.5. Plan to perform any designated function of the DoD Executive Agent under this Directive, if ordered by the Secretary of Defense in time of war or attack on the United States.

5.11.1.6. Evaluate MSCA plans, preparedness measures, and training in joint civil military exercises.

5.11.2. Furnish MSCA as directed by the DoD Executive Agent. Employ RMEC Teams and liaison officers, as appropriate, to coordinate emergency response operations with civil agencies, the National Guard, the Military Departments and the CINCs.

5.11.3. Furnish assistance to civil authorities in non-declared emergency situations when directed by the DoD Executive Agent.

5.12. The Directors of the Defense Agencies shall:

5.12.1. Designate a principal planning agent and regional planning agents for MSCA, and advise the DoD Executive Agent of such designated agents.

5.12.2. Ensure effective and efficient coordination of planning by subordinate elements with Federal Regions, STARCs, and State and local civil authorities, through the DoD Planning Agents, as directed by the DoD Executive Agent.

5.12.3. Furnish resources for MSCA when directed by the DoD Executive Agent.

5.12.4. Make DoD resources available for technical support to the other DoD Components for MSCA, when required.

5.12.5. Respond to requests by the DoD Executive Agent to identify resources for the DODRDB.

5.12.6. Provide representatives to serve on RMEC teams, as requested by the DoD Executive Agent.

### 6. INFORMATION REQUIREMENTS

The reporting requirements in section 5., above, are exempt from licensing in accordance with paragraph 5.4.2. of DoD 7750.5-M (reference (u)).

### 7. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. The DoD Executive Agent shall publish DoD 3025.1-M, "DoD Manual for Civil Emergencies," in accordance with this Directive within 120 days; and DoD Components shall revise existing documents or develop implementing documents as necessary to comply with this Directive or supplement that Manual. Forward one copy of implementing documents to the DoD Executive Agent within 120 days of receipt of that Manual.

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/S/  
Donald J. Atwood  
Deputy Secretary of Defense

Enclosures - 2

E1. References, continued

E2. Definitions

## E1. ENCLOSURE 1 REFERENCES, continued

- (e) Sections 5121, et seq., of title 42, United States Code App., "The Robert T. Stafford Disaster Relief and Emergency Assistance Act," as amended (referred to as "the Stafford Act")
- (f) Sections 2251, et seq., of title 50, United States Code App., "The Federal Civil Defense Act of 1950," as amended
- (g) [DoD 5025.1-M](#), "DoD Directives System Procedures," December 1990, authorized by [DoD Directive 5025.1](#), December 23, 1988
- (h) [DoD Directive 5100.46](#), "Foreign Disaster Relief," December 4, 1975
- (i) [DoD Directive 3025.12](#), "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (j) [DoD Directive 5160.54](#), "DoD Key Assets Protection Program (KAPP)," June 26, 1989
- (k) [DoD Directive 5525.5](#), "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (l) [DoD Directive 1215.6](#), "Uniform Reserve, Training and Retirement Categories," December 18, 1990
- (m) Title V of Public Law No. 101-165, "Emergency Response Fund," November 21, 1989
- (n) Executive Order 12148, "Federal Emergency Management," July 20, 1979, as amended
- (o) [DoD Directive 5030.41](#), "Oil and Hazardous Substances Pollution Prevention and Contingency Program," June 1, 1977
- (p) DoD Directive 5100.52, "DoD Response to an Accident or Significant Incident Involving Radioactive Materials," December 21, 1989
- (q) Public Law No. 84-99, "The Flood Control Act of 1941," August 18, 1941, as amended (33 U.S.C. 701n et seq.)
- (r) [DoD Directive 4500.9](#), "Transportation and Traffic Management," January 26, 1989
- (s) [DoD Directive 3020.36](#), "Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components," November 2, 1988
- (t) [DoD Directive 3020.26](#), "Continuity of Operations Policies and Planning," October 24, 1985
- (u) DoD 7750.5-M, "DoD Procedures for Management of Information Requirements," November 1986, authorized by DoD Directive 7750.5, August 7, 1986
- (v) Memorandum, Deputy Secretary of Defense, "DoD Executive Agent for Support to Federal Agencies in Immigration Emergencies," August 20, 1991 (hereby superseded)

## E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Attack. Any attack or series of attacks by an enemy of the United States causing, or that may cause, substantial damage or injury to civilian property or persons in the United States (or its territories) in any manner, by sabotage or by the use of bombs, shellfire, or nuclear, radiological chemical, bacteriological, or biological means, or other weapons or processes (Federal Civil Defense Act of 1950 (reference (f))).

E2.1.2. Civil Defense. All those activities and measures designed or undertaken to:

E2.1.2.1. Minimize the effects upon the civilian population caused, or that would be caused, by an attack upon the United States or by a natural or technological disaster;

E2.1.2.2. Deal with the immediate emergency conditions that would be created by any such attack or natural or technological disaster; and

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E2.1.2.3. Effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack or natural or technological disaster (reference (f)).

E2.1.3. Civil Disturbances. Group acts of violence and disorders prejudicial to public law and order within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof. The term "civil disturbance" includes all domestic conditions requiring the use of Federal Armed Forces, as more specifically defined in DoD Directive 3025.12 (reference (i)).

E2.1.4. Civil Emergency. Any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure. This term can include a "major disaster" or "emergency," as those terms are defined in the Stafford Act, as amended (reference (e)), as well as consequences of an attack or a national security emergency. Under reference (e), the terms "major disaster" and "emergency" are defined substantially by action of the President in declaring that extant circumstances and risks justify his implementation of the legal powers provided by those statutes.

E2.1.5. Civil Emergency Preparedness. The non-military actions taken by Federal Agencies, the private sector, and individual citizens to meet essential human needs, to support the military effort, to ensure continuity of Federal authority at national and regional levels, and to ensure survival as a free and independent nation under all emergency conditions, including a national emergency caused by threatened or actual attack on the United States.

E2.1.6. Civil Government Resources. Civil resources owned by, controlled by, or under the jurisdiction of civilian agencies of the U.S. Government, or of State and local government agencies.

E2.1.7. Civil Resources. Resources that normally are not controlled by the Government, including work force, food and water, health resources, industrial production, housing and construction, telecommunications, energy, transportation, minerals, materials, supplies, and other essential resources and services. Such resources cannot be ordered to support needs of the public except by competent civil government authority.

E2.1.8. Continental United States Airborne Reconnaissance for Damage Assessment (CARDA). A system of aerial reconnaissance of the Continental United States for determining the effects of a nuclear attack. CARDA integrates the combined resources of all Government Agencies and Military Services for the National Command Authority.

E2.1.9. Defense Coordinating Officer (DCO). A military or civilian official of any DoD Component, who has been designated by the DoD Executive Agent to exercise some delegated authority of the DoD Executive Agent to coordinate MSCA activities under this Directive. The authority of each DCO will be defined in documentation issued or authorized by the DoD Executive Agent, and will be limited either to the requirements of a specified interagency planning process or to a specified geographic area or emergency. (The DoD Executive Agent also may delegate authority to designate DCOs to any DoD Planning Agent specified in this Directive.)

E2.1.10. Defense Emergency Response Fund. Established by Pub. L. No. 101-165 (1989) (reference (m)). That law provides that, "The Fund shall be available for providing reimbursement to currently applicable appropriations of the Department of Defense for supplies and services provided in anticipation of requests from other Federal Departments and Agencies and from State and local governments for assistance on a reimbursable basis to respond to natural or manmade disasters. The Fund may be used upon a determination by the Secretary of Defense that immediate action is necessary before a formal request for assistance on a reimbursable basis is received." The Fund is applicable to Foreign Disaster Assistance under DoD Directive 5100.46 (reference (h)), and to MSCA under the authority of this Directive.

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E2.1.11. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in this Directive.

E2.1.12. DoD Planning Agent. An individual designated by position to facilitate and coordinate MSCA contingency planning (and MSCA operations when ordered) by all DoD Components within an assigned geographic area in accordance with the requirements of this Directive.

E2.1.13. DoD Resources. Military and civilian personnel, including Selected and Ready Reservists of the Military Services, and facilities, equipment, supplies, and services owned by, controlled by, or under the jurisdiction of a DoD Component.

E2.1.14. Federal Function. Any function, operation, or action carried out under the laws of the United States by any Department, Agency, or instrumentality of the United States, or by an officer or employee thereof.

E2.1.15. Federal Property. Property that is owned, leased, possessed, or occupied by the Federal Government.

E2.1.16. Federal Region. A grouping of States and territories of the United States, by which FEMA coordinates responsibilities of the State governments with those of Federal Departments and Agencies, for disaster relief, civil defense, and planning for both civil and national security emergencies. These regions are sometimes referred to as "FEMA Regions" to distinguish them from any one of the various regional alignments of other Federal Departments and Agencies, all of which are circumscribed by FEMA's coordination authority. Today, there are ten Federal Regions, but the term is used generally to facilitate MSCA regardless of the number of Federal Regions at any time.

E2.1.17. Federal Response Plan. The inter-departmental planning mechanism, developed under FEMA leadership, by which the Federal Government prepares for and responds to the consequences of catastrophic disasters. Federal planning and response are coordinated on a functional group basis, with designated lead and support agencies for each identified functional area.

E2.1.18. Immediate Response. Any form of immediate action taken by a DoD Component or military commander, under the authority of this Directive and any supplemental guidance prescribed by the Head of a DoD Component, to assist civil authorities or the public to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions occurring where there has not been any declaration of major disaster or emergency by the President or attack.

E2.1.19. Imminently Serious Conditions. Emergency conditions in which, in the judgment of the military commander or responsible DoD official, immediate and possibly serious danger threatens the public and prompt action is needed to save lives, prevent human suffering, or mitigate great property damage. Under these conditions, timely prior approval from higher headquarters may not be possible before action is necessary for effective response.

E2.1.20. Military Resources. Military and civilian personnel, facilities, equipment, and supplies under the control of a DoD Component.

E2.1.21. Military Support to Civil Authorities (MSCA). Those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

E2.1.22. National Disaster Medical System (NDMS). An inter-departmental national mutual aid system developed by Federal Departments and Agencies to provide for the medical needs of victims of major disasters, and to provide backup support for medical systems of the Departments of Defense and Veterans Affairs in caring for casualties from military conflicts. The Department of Health and Human Services serves as the lead Federal Agency for administering NDMS, and would coordinate NDMS

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

operations in response to civil emergencies. The Department of Defense could activate and coordinate NDMS operations in support of military contingencies.

E2.1.23. National Security Emergency. Any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States (E.O. 12656 (reference (d))).

E2.1.24. Planning Agent. A military or civilian official of any DoD Component, who has been designated by the Head of that Component to exercise delegated authority for MSCA planning for the entire Component (i.e., "principal planning agent") or for certain subordinate elements or a specified geographic area (e.g., "regional planning agents"). Authority and responsibilities of each planning agent will be defined by the Component, and may include MSCA response as well as planning at the election of any Component. The actual authority of planning agents will be communicated to others, as determined by the DoD Component, or when requested by the DoD Executive Agent.

E2.1.25. Regional Military Emergency Coordinator (RMEC). An individual, designated on behalf of the Secretary of Defense and the DoD Executive Agent, to perform coordination, information exchange, and liaison functions on behalf of the Department of Defense with any Federal emergency management structure established at the Region level. Alternate RMECs are designated by other DoD Components, as required, in accordance with this Directive; and the RMECs and alternates collectively are referred to as "RMEC Teams."

E2.1.26. Residual Capability Assessment (RECA). An assessment of the effects of a nuclear or conventional attack on U.S. resources, or of a major peacetime disaster that results in the declaration of a national security emergency. Such an assessment is made (through all appropriate means) to determine the remaining capabilities of the United States with emphasis on military preparedness.

E2.1.27. Resource Claimancy. The procedure, employed during any period of attack or national security emergency, whereby authorized Federal Agencies determine definitive requirements and justify the allocation of civil government and civil resources needed to support programs under their cognizance. It does not imply procurement activity, nor does it involve the Government as an intermediary in the normal mechanisms of trade other than in expediting essential activities and ensuring equitable distribution of civil resources. Resource claimancy occurs at both the national and regional levels.

E2.1.28. State Area Commands (STARCs). Specific headquarters units of the Army National Guard for each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

**APPENDIX 5-16:** 3025.1-M, MANUAL FOR CIVIL EMERGENCIES

Source: <http://www.dtic.mil/whs/directives/corres/html/30251m.htm>

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### **APPENDIX 5-17: FEDERAL RESPONSE PLAN**

*This plan has been replaced by the National Response Plan located at Appendix 5-24 below.*

### **APPENDIX 5-18: NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN**

*For the complete text of 40 CFR 300, see:*

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=8f2a607e9d482ff9f41b1f7baf4aeb28&rgn=div5&view=text&node=40:26.0.1.1.1&idno=40>

*The following article summarizes National Oil and Hazardous Substances Pollution Plan:*

*Source:* [http://homer.ornl.gov/oepa/guidance/cwa/ncp\\_rev.pdf](http://homer.ornl.gov/oepa/guidance/cwa/ncp_rev.pdf)



## Environmental Guidance Regulatory Bulletin

Office of Environmental Policy and Assistance · RCRA/CERCLA Division (EH-413)

July 31, 1995

### National Oil and Hazardous Substances Pollution Contingency Plan

# Revised Rule Issued

**Effective Date: October 17, 1994**

#### Introduction

On September 15, 1994, at 59 FR 47384-47495, the Environmental Protection Agency promulgated a Final Rule revising 40 CFR Part 300\*; the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). One of the primary purposes of the revised NCP is to provide for efficient, coordinated, and effective action to minimize adverse impact from oil discharges and hazardous substance releases. The NCP is required by Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act and Section 311 (c) (2) of the Clean Water Act. The NCP establishes an organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants under these two Acts. The Oil Pollution Act of 1990 (OPA) amends the existing provisions of the Clean Water Act (CWA) and creates major new authorities addressing oil, and to a lesser extent, hazardous substance spill response. These amendments to the CWA, in turn, require revision of the NCP. The OPA specifies a number of revisions to the NCP that enhance and expand upon the current framework, standards, and procedures for response. A Notice of Proposed Rulemaking on changes to the NCP was issued on October 22, 1993 (58 FR 54702). DOE solicited comments on the proposed rule from DOE program and field offices, and submitted those comments to EPA on December 20, 1993.

Specific aspects of the revisions to the NCP that affect DOE programs and facilities include:

- ☐ Role of on-scene coordinators and remedial project managers
- ☐ Response operations

- ☐ Federal agency participation
- ☐ Natural resource trustee responsibilities

The NCP and Executive Order 12580 (issued January 23, 1987) are the basis for DOE's implementation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) at DOE facilities. The Executive Order delegates response authority to DOE from the President, while the NCP establishes EPA's procedures for implementing the CERCLA program and for responding to oil and hazardous substance discharges. DOE is required to carry out a number of key functions, including providing representatives to the National Response Team (NRT), the interagency organization responsible for planning for and responding to CERCLA releases and CWA discharges (see Definitions Table); acting as a natural resource trustee for land that DOE manages; performing natural resource damage assessments (NRDA); and assuming authority for certain response actions.

The NCP applies to:

1) discharges of oil into or on the navigable waters of the United States, the adjoining shorelines, the waters of the contiguous zone, the exclusive economic zone; or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

2) releases into the environment of hazardous substances and pollutants or contaminants which may present an imminent and present danger to public health and welfare.

For a discussion of the provisions of Executive Order 12580 signed on January 23, 1987, please refer to the "Executive Order 12580: Superfund Implementation" Information Brief (EH-231-015/0593, May 1993).

The major revisions to the NCP reflect OPA revisions to CWA section 311. These changes increase Presidential authority to direct cleanup of oil spills and hazardous substance releases and augment preparedness and planning activities on the part of the federal government, as well as vessel and facility owners and operators. The OPA was enacted to strengthen the national response system and provide for better coordination of spill contingency planning among federal, state, and local authorities. Because Presidential authority for response to CERCLA oil and hazardous substance releases was delegated to DOE and other specified federal agencies under E.O. 12580, the revisions to the NCP do not substantially alter current DOE responsibilities in this area. The majority of changes to the NCP, resulting from the OPA, address responses to discharges, or threatened

\*Also 40 CFR Part 9: "OMB Approvals Under the Paperwork Reduction Act," 1994, p. 183.



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

discharges, of oil under CWA section 311. The language of the Final Rule uses the term “discharge,” as defined by section 311(a)(2) of the CWA to refer to oil, and “releases,” as defined under CERCLA, to refer to hazardous substance spills or releases.

### Organization for Response

The NCP establishes a national response system for responding to discharges of oil and releases of hazardous substances. Figure 1a and 1b of the Final Rule illustrate the roles of the national response system. DOE’s request that EPA differentiate between responses to discharges of oil under the CWA and releases of hazardous substances under CERCLA was not incorporated in the revised rule. EPA believes these figures accurately reflect all categories of response without requiring additional explanation. DOE provides representation to the NRT, which is responsible for national response and preparedness activities, coordinating regional planning, and for providing policy guidance and support to the Regional Response Teams (RRTs). Under 40 CFR 300.120, federal agencies should also provide representation to the RRTs for the regions in which they have facilities. The regions, for the purposes of establishing RRT authority, correspond to existing EPA regions and U.S. Coast Guard (USCG) districts. Regions are further divided into areas which are managed by Area Committees.

#### *On-Scene Coordinators (OSC) and Remedial Project Managers (RPM)*

The OSC or RPM directs response efforts and coordinates all other efforts at the scene of the discharge of oil or release of hazardous substances. Revised 40 CFR 300.120 provides that the EPA or the USCG will predesignate OSCs for all areas in each region.

- ☐ The USCG shall provide OSCs for all oil discharges, including discharges from facilities or vessels under the jurisdiction of another federal agency, within or threatening the coastal zone. The USCG will also provide OSCs for removal of releases of hazardous substances except:
  - where the release of hazardous substances, pollutants or contaminants is on, or the sole source of the release is from, any facility or vessel, under the jurisdiction, custody, or control of DOE, DOD, or any other federal agency.
- ☐ The EPA shall provide OSCs for discharges or releases into or threatening the inland zone except:
  - where the release of hazardous substances, pollutants or contaminants is on, or the sole source of the release is from, any facility or vessel, under the jurisdiction, custody, or control of DOE, DOD, or any other federal agency.

- ☐ DOE shall provide RPMs who are responsible for taking all response actions where the sole source of the release is from any facility or vessel under the jurisdiction, custody, or control of DOE.

In its comments on the proposed rule, DOE requested clarification in the final rule on EPA’s responsibility to provide OSCs for oil discharges into or threatening the inland zone even where those discharges are from facilities or vessels under the jurisdiction of another federal agency. EPA declined to address this comment in the final rule. However, following an informal request for clarification, an Environmental Protection Specialist of the Emergency Response Division stated that EPA will provide OSCs for all oil discharges in the inland zone.

In addition to providing OSCs or RPMs for hazardous substance releases from its facilities, DOE also provides advice and assistance to other OSCs or RPMs for emergency actions essential for the control of immediate radiological hazards.

Under revised 40 CFR 300.170, federal agencies are responsible for reporting to the National Response Center releases of hazardous substances from facilities or vessels under their jurisdiction or control in accordance with section 103 of CERCLA. In addition, all federal agencies are now required to report discharges of oil that are in violation of section 311(b)(3) of the CWA from facilities or vessels under their jurisdiction or control to the National Response Center (NRC). Discharges of oil that meet the requirements of section 311(b) of the CWA are those that:

- ☐ violate applicable water quality standards, or
- ☐ cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

#### *Definitions*

The final rule amended the CWA definition of oil to reflect the OPA. In addition to the CWA definition of oil, the revised definition at 40 CFR 300.5 also states:

- ☐ Oil, as defined by section 1001 of OPA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil, but does not include crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of CERCLA and which is subject to provisions of that act.

In response to the public comments on the proposed changes to the NCP, EPA received a request to address both 1) the appropriate response and funding for spills of statutorily defined “oil” which may exhibit, if tested, characteristics of a CERCLA “hazardous substance” in either its initial or

weathered state; and 2) response funding where both “oil” and CERCLA “hazardous substances” may be involved in a discharge. The commenter had previously experienced difficulty where the USCG defined the discharge as CERCLA hazardous substance, while the EPA defined it as an oil. EPA declined to clarify the definition stating that the commenter’s concerns “touch on interagency policy issues that will be decided on a case-by-case basis between EPA and the USCG” (59 FR 47386). This definitional issue may become important to DOE because DOE will provide OSCs for releases of CERCLA hazardous substances that do not meet the definition of “oil” as defined at 40 CFR 300.5. Either the USCG or EPA, as appropriate, will provide OSCs for discharges of oil.

The revised NCP provides additional response actions and planning requirements for “worst case” discharges. DOE requested clarification of the term “worst case” discharge as it is used in the revised NCP. For example, section 311(a)(24) of the CWA does not specify whether “worst case” discharge applies only to oil or also to hazardous substances. EPA commented that, for the purposes of *responding* to a “worst case” discharge, the term applies only to discharges of oil. However, for *planning* purposes, CWA section 311(j)(5) requires tank vessel and facility response plans to address worst case discharges of oil or hazardous substances.

#### *Response operations*

Under revised 40 CFR 300.135, the OSC is required to coordinate all response activities with the affected natural resource trustees, and for discharges of oil, shall consult with the affected trustees on the appropriate removal action to be taken. EPA has indicated that it does not interpret “consultation with” the affected trustees as a requirement for obtaining concurrence of the trustees “although such concurrence is highly desirable” (59 FR 47390).

Under 40 CFR 300.600(b)(3), DOE is designated a federal natural resource trustee for resources on, over, or under land it administers. Other federal agencies may also serve as natural resource trustees for resources found on DOE facilities. The lead federal administrative trustee for a response is designated on an incident-by-incident basis by the other trustees whose natural resources are affected by the incident. The lead federal administrative trustee facilitates communication between the OSC and other federal trustees during response operations and is responsible for applying to the OSC for non-monetary (personnel and equipment) federal response resources on behalf of all trustees.

Revised 40 CFR 300.305(e) states that the OSC and the trustees shall coordinate assessments, evaluations, investigations, and planning with respect to removal actions. The trustees are required to provide “timely” advice concerning recommended removal actions with regard to trustee resources that may potentially be affected. The trustees are also required to inform the OSC of activities related to natural resource damage assessment (NRDA) that may affect response. The trustees, through the lead federal trustee, will ensure that all data from NRDA activities that may support more effective operational decisions are provided to the OSC

in a timely manner. Where circumstances permit, the OSC shall provide the trustees with non-monetary response resources (personnel and equipment) for conducting damage assessments. In the response to comments on the proposed rule, EPA states that activities of the trustees and the OSC should be coordinated to prevent duplication of effort and promote effective use of resources.

#### **Planning and Preparedness**

CWA section 311(j), as revised by the OPA, requires the development of Area Committees (ACs) composed of representatives from federal, state and local agencies. The ACs are responsible for developing an Area Contingency Plan (ACP) which, when implemented, is adequate to remove a worst case discharge of oil under section 300.324 and to mitigate or prevent a substantial threat of such discharge from a vessel, offshore facility, or onshore facility operating in or near the area. An April 24, 1992 Federal Register notice (57 FR 15198) designates the initial areas. However, EPA has indicated that both area boundaries and ACPs are expected to change as the national response system evolves. Changes to area boundaries will be published in the Federal Register.

Each ACP shall include a detailed annex containing a Fish and Wildlife Sensitive Environmental Plan (FWSEP) which shall address fish and wildlife resources and their habitat and shall include other areas considered sensitive environments. The FWSEP annex shall:

- ☐ identify and establish priorities for fish and wildlife resources and their habitats and other important sensitive areas requiring protection from discharges;
- ☐ provide a mechanism for timely identification of protection priorities;
- ☐ identify potential environmental effects on fish and wildlife, their habitat, and other sensitive environments resulting from removal actions or countermeasures;
- ☐ provide for pre-approval of application of specific countermeasures or removal actions which will minimize adverse impacts;
- ☐ provide monitoring plans to evaluate the effectiveness of different countermeasures or removal actions;
- ☐ identify and plan for the acquisition and utilization of necessary response capabilities for protection, rescue, and rehabilitation of fish and wildlife resources and habitat; and
- ☐ identify appropriate federal and state agency contacts and alternatives responsible for coordination of fish and wildlife rescue and rehabilitation and protection of sensitive environments.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

Because of the requirement to pre-approve removal actions or countermeasures, DOE requested clarification of the application of the FWSEP annex; specifically requesting that the annex apply only to discharges of oil and not releases of hazardous substances under CERCLA. In its response, EPA stated that ACPs are currently required to only address discharges of oil; however, “planning for hazardous substance response is already being addressed in the area contingency planning process because individual Area Committees will consider planning for such releases, as appropriate”(59 FR 47397). Both Local Emergency Planning Committees (LEPCs) and State Emergency Response Committees (SERCs) may provide input to ACPs. The participation by these committees allows the ACPs to “effectively address hazardous substance planning issues, as necessary.” The implication of this response appears to be that the extent to which ACPs address hazardous substances will be on a case-by-case basis and will be left to the Area Committee.

DOE also commented on the burden placed on federal agencies with control over extensive land and resources in the collection of fish and wildlife and sensitive environment information by the proposed rule. In the Final Rule, EPA clarified that although ACs, not facility owners, are responsible for identifying fish and wildlife resources and sensitive environments for inclusion in the ACP, “the facility owners and operators remain responsible for ensuring protection of sensitive environments in their proximity for inclusion in facility response plans” (59 FR 47397) until the geographic-specific annexes of the ACPs have been completed. The guidance for planning for these responsibilities on an interim basis is provided in a Federal Register notice published March 29, 1994 (59 FR 14713). However, EPA has reaffirmed the major role of the AC and has stated: “Ultimately, the Area Committee deliberations and their ACPs will specify information on fish, wildlife, and sensitive environments with

which the facility plans must be consistent” (59 FR 47397).

The FWSEP annex is required to be prepared in consultation with NOAA, the U.S. Fish and Wildlife Service, and other interested natural resource management agencies. Trustee concurrence on the pre-approval of countermeasures and response actions is required.

DOE facilities have several roles in the development of ACPs. Federal agency participation is required on the Area Committees which develop the ACPs and the FWSEPs. DOE must also cooperate with the AC to ensure that the Department adequately protects fish and wildlife and sensitive environments on, or in proximity to, its facilities. Once fish, wildlife and sensitive environments have been identified, DOE remains responsible for ensuring that those resources on, or in proximity to, its facilities are protected. Finally, as a natural resource trustee for resources on, in, or under land which it owns or manages, DOE concurrence on the pre-approval of countermeasures and response actions is required.

### Designation of Federal Trustees

As established by the NCP, natural resource trustees have the responsibility for protection of resources, assessment of damage, and restoration, rehabilitation, replacement, or acquisition of resources equivalent to those impacted by a CERCLA hazardous substance release or a discharge of oil. Preplanning and coordination for damage assessment activities are strongly encouraged at the regional and area levels, both during the area and regional planning and preparation, and during specific incidents where coordination with the OSC is required. In the Final Rule, EPA has revised 40 CFR 300.600 to clarify that trusteeship extends to the ecosystems supporting specific natural resources, and that habitat is included as part of the ecosystem.

## Definitions

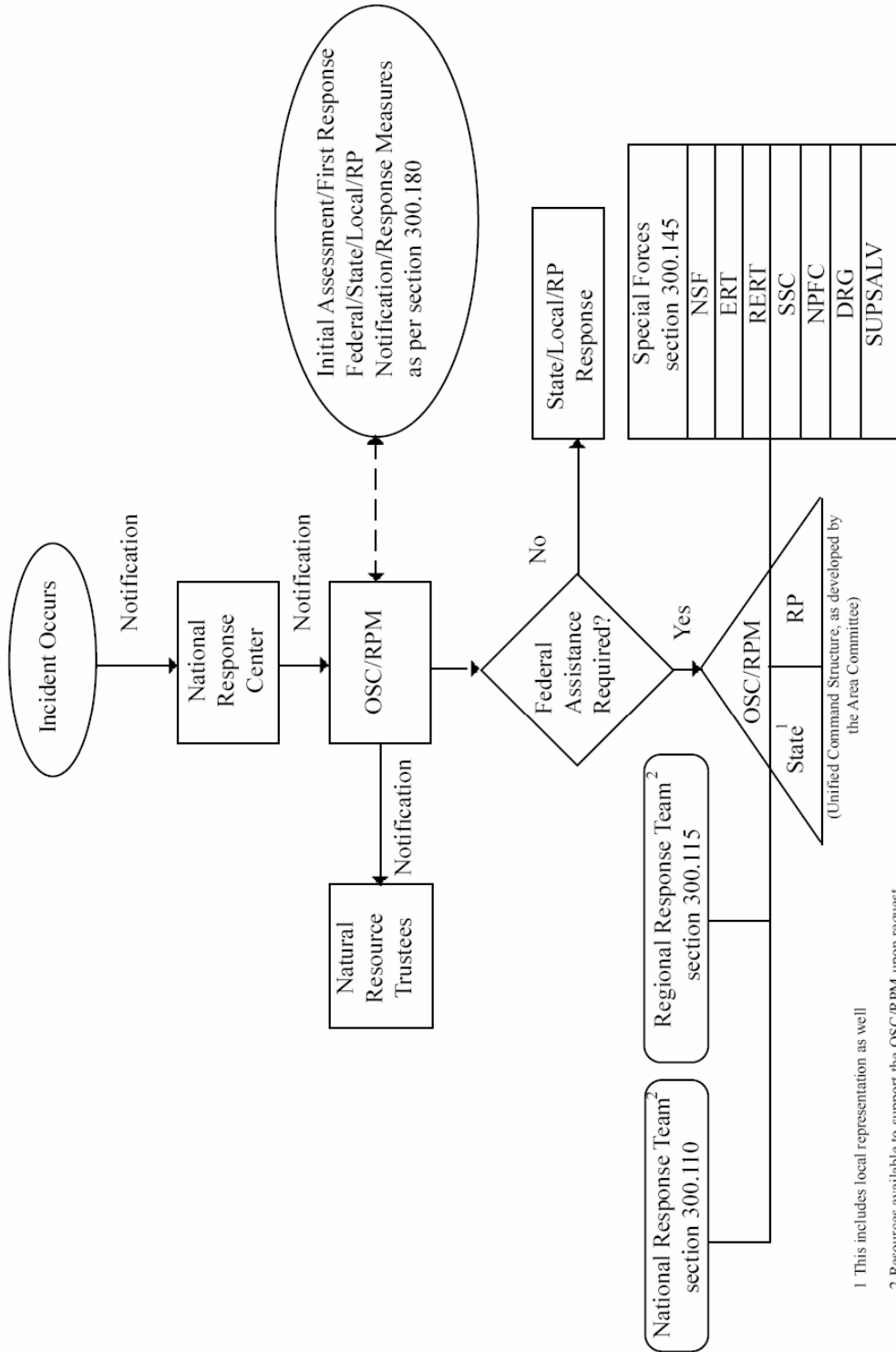
<b>Coastal Zone</b>	means all United States waters subject to the tide, United States waters of Great Lakes, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters. The term delineates an area of federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in federal regional contingency plans.
<b>Discharge</b>	as defined by section 311(a)(2) of the CWA includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil, but excludes discharges in compliance with a permit under section 402 of the CWA. For the purposes of the NCP, discharge also means the substantial threat of discharge.
<b>Inland Waters</b>	for the purposes of classifying the size of discharges, means those waters of the United States in the inland zone, waters of the Great lakes, and specified ports and harbors on inland rivers.
<b>Inland Zone</b>	means of the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors on inland rivers. The term delineates an area

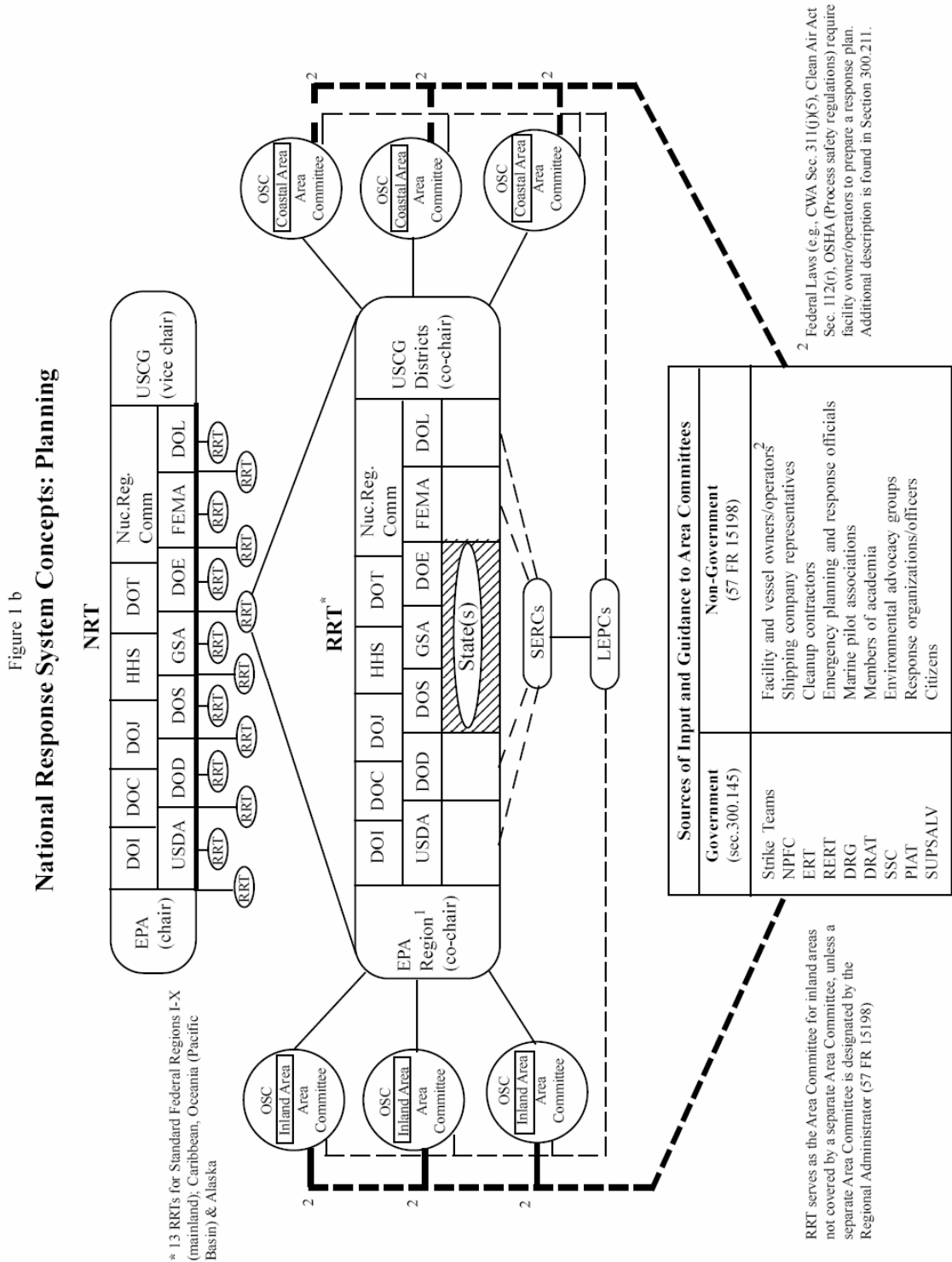
	of federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in federal regional contingency plans.
<b>Release</b>	as defined by section 101(22) of CERCLA means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (see section 101(22) of CERCLA for exclusions). For the purposes of the NCP, it also means the threat of a release.
<b>Worst Case Discharge</b>	as defined by section 311(a)(24) of the CWA means, in the case of a vessel, a discharge in adverse weather conditions of its entire cargo, and, in the case of an offshore facility, the largest foreseeable discharge in adverse weather conditions.

Please direct questions about the NCP Final Rule to:  
Katherine Nakata  
DOE Office of Environmental Policy and Assistance  
RCRA/CERCLA Division  
EH-413  
1000 Independence Ave, SW  
Washington, DC 20585  
(202) 586-0801



Figure 1a  
National Response System Concepts: Response

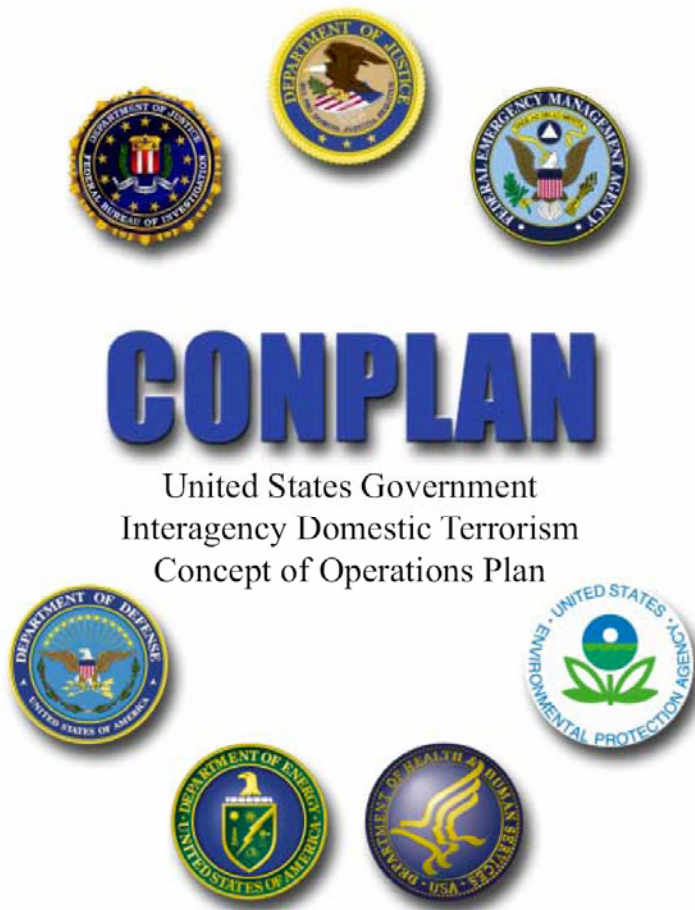




**APPENDIX 5-19: FEDERAL RADIOLOGICAL EMERGENCY RESPONSE PLAN**

*This plan has been replaced by the National Response Plan located at Appendix 5-24 below.*

**APPENDIX 5-20: UNITED STATES GOVERNMENT INTERAGENCY DOMESTIC TERRORISM CONCEPT OF OPERATIONS PLAN**



**UNITED STATES GOVERNMENT**

**INTERAGENCY DOMESTIC TERRORISM**

**CONCEPT OF OPERATIONS PLAN**

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## **FOREWORD**

Publication of the United States Government Interagency Domestic Terrorism Concept of Operations Plan (CONPLAN) represents a concerted effort by a number of Federal departments and agencies to work together to achieve a common goal. The CONPLAN was developed through the efforts of six primary departments and agencies with responsibilities as identified in Presidential Decision Directive/NSC-39 (PDD-39). This plan has been developed consistent with relevant PDDs, Federal law, the Attorney General's Critical Incident Response Plan, the PDD-39 Domestic Guidelines, and the Federal Response Plan and its Terrorism Incident Annex. The FBI has worked with these departments and agencies to provide a forum to participate in planning and exercise activities in order to develop, maintain, and enhance the Federal response capability.

To ensure the policy in PDD-39 and PDD-62 is implemented in a coordinated manner, the CONPLAN is designed to provide overall guidance to Federal, State and local agencies concerning how the Federal government would respond to a potential or actual terrorist threat or incident that occurs in the United States, particularly one involving Weapons of Mass Destruction (WMD). The CONPLAN outlines an organized and unified capability for a timely, coordinated response by Federal agencies to a terrorist threat or act. It establishes conceptual guidance for assessing and monitoring a developing threat, notifying appropriate Federal, State, and local agencies of the nature of the threat, and deploying the requisite advisory and technical resources to assist the Lead Federal Agency (LFA) in facilitating interdepartmental coordination of crisis and consequence management activities.

Actions will continue to refine and identify the mission, capabilities, and resources of other supporting departments and agencies; and the actions each agency or department must perform during each phase of the response, to include crisis management and consequence management actions that are necessary for chemical, biological, nuclear/radiological, and conventional materials or devices.

Inquiries concerning this CONPLAN should be addressed to the appropriate Lead Agency under this plan:

- Federal Bureau of Investigation, Counterterrorism Division, Domestic Terrorism/Counterterrorism Planning Section, for Crisis Management, or
- Federal Emergency Management Agency, Response and Recovery Directorate, Operations and Planning Division, for Consequence Management.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### **LETTER OF AGREEMENT**

The United States Government Interagency Domestic Terrorism Concept of Operations Plan, hereafter referred to as the CONPLAN, is designed to provide overall guidance to Federal, State and local agencies concerning how the Federal government would respond to a potential or actual terrorist threat or incident that occurs in the United States, particularly one involving WMD.

The following departments and agencies agree to support the overall concept of operations of the CONPLAN in order to carry out their assigned responsibilities under PDD-39 and PDD-62. The departments and agencies also agree to implement national and regional planning efforts and exercise activities in order to maintain the overall Federal response capability. Specifically:

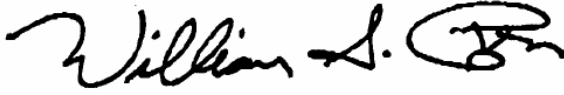
- The Attorney General is responsible for ensuring the development and implementation of policies directed at preventing terrorist attacks domestically, and will undertake the criminal prosecution of these acts of terrorism that violate U.S. law. The Department of Justice has charged the Federal Bureau of Investigation with execution of its LFA responsibilities for the management of a Federal response to terrorist incidents. As the lead agency for crisis management, the FBI will implement a Federal crisis management response. As LFA, the FBI will designate a Federal on-scene commander (OSC) to ensure appropriate coordination of the overall United States Government response with Federal, State and local authorities until such time as the Attorney General transfers the LFA role to the Federal Emergency Management Agency (FEMA).
- As the lead agency for consequence management, FEMA will implement the Federal Response Plan (FRP) to manage and coordinate the Federal consequence management response in support of State and local authorities.
- The Department of Defense will provide military assistance to the LFA and/or the CONPLAN primary agencies during all aspects of a terrorist incident upon request by the appropriate authority and approval by the Secretary of Defense.
- The Department of Energy will provide scientific-technical personnel and equipment in support of the LFA during all aspects of a nuclear/radiological WMD terrorist incident.
- The Environmental Protection Agency will provide technical personnel and supporting equipment to the LFA during all aspects of a WMD terrorist incident.

## DOPLAW HANDBOOK

- The Department of Health and Human Services is the primary agency to plan and to prepare for a national response to medical emergencies arising from the terrorist use of WMD. HHS provides technical personnel and supporting equipment to the LFA during all aspects of a terrorist incident.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

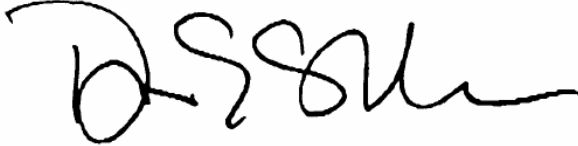
### SIGNATORIES TO THE UNITED STATES GOVERNMENT INTERAGENCY DOMESTIC TERRORISM CONCEPT OF OPERATIONS PLAN



Secretary  
Department of Defense



Secretary  
Department of Energy



Secretary  
Department of Health and Human Services



Administrator  
Environmental Protection Agency



Director  
Federal Emergency Management Agency



Director  
Federal Bureau of Investigation



Attorney General  
Department of Justice

## I. INTRODUCTION AND BACKGROUND

### A. Introduction

The ability of the United States Government to prevent, deter, defeat and respond decisively to terrorist attacks against our citizens, whether these attacks occur domestically, in international waters or airspace, or on foreign soil, is one of the most challenging priorities facing our nation today. The United States regards all such terrorism as a potential threat to national security, as well as a violent criminal act, and will apply all appropriate means to combat this danger. In doing so, the United States vigorously pursues efforts to deter and preempt these crimes and to apprehend and prosecute directly, or assist other governments in prosecuting, individuals who perpetrate or plan such terrorist attacks.

In 1995, President Clinton signed Presidential Decision Directive 39 (PDD-39), the United States Policy on Counterterrorism. This Presidential Directive built upon previous directives for combating terrorism and further elaborated a strategy and an interagency coordination mechanism and management structure to be undertaken by the Federal government to combat both domestic and international terrorism in all its forms. This authority includes implementing measures to reduce our vulnerabilities, deterring terrorism through a clear public position, responding rapidly and effectively to threats or actual terrorist acts, and giving the highest priority to developing sufficient capabilities to combat and manage the consequences of terrorist incidents involving weapons of mass destruction (WMD).

To ensure this policy is implemented in a coordinated manner, the Concept of Operations Plan, hereafter referred to as the CONPLAN, is designed to provide overall guidance to Federal, State and local agencies concerning how the Federal government would respond to a potential or actual terrorist threat or incident that occurs in the United States, particularly one involving WMD. The CONPLAN outlines an organized and unified capability for a timely, coordinated response by Federal agencies to a terrorist threat or act. It establishes conceptual guidance for assessing and monitoring a developing threat, notifying appropriate Federal, State, and local agencies of the nature of the threat, and deploying the requisite advisory and technical resources to assist the Lead Federal Agency (LFA) in facilitating interagency/interdepartmental coordination of a crisis and consequence management response. Lastly, it defines the relationships between structures under which the Federal government will marshal crisis and consequence management resources to respond to a threatened or actual terrorist incident.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### **B. Purpose**

The purpose of this plan is to facilitate an effective Federal response to all threats or acts of terrorism within the United States that are determined to be of sufficient magnitude to warrant implementation of this plan and the associated policy guidelines established in PDD-39 and PDD-62. To accomplish this, the CONPLAN:

- Establishes a structure for a systematic, coordinated and effective national response to threats or acts of terrorism in the United States;
- Defines procedures for the use of Federal resources to augment and support local and State governments; and
- Encompasses both crisis and consequence management responsibilities, and articulates the coordination relationships between these missions.

### **C. Scope**

The CONPLAN is a strategic document that:

- Applies to all threats or acts of terrorism within the United States;
- Provides planning guidance and outlines operational concepts for the Federal crisis and consequence management response to a threatened or actual terrorist incident within the United States;
- Serves as the foundation for further development of detailed national, regional, State, and local operations plans and procedures;
- Includes guidelines for notification, coordination and leadership of response activities, supporting operations, and coordination of emergency public information across all levels of government;
- Acknowledges the unique nature of each incident, the capabilities of the local jurisdiction, and the activities necessary to prevent or mitigate a specific threat or incident; and
- Illustrates ways in which Federal, State and local agencies can most effectively unify and synchronize their response actions.

## **D. Primary Federal Agencies**

The response to a terrorist threat or incident within the U.S. will entail a highly coordinated, multi-agency local, State, and Federal response. In support of this mission, the following primary Federal agencies will provide the core Federal response:

- Department of Justice (DOJ) / Federal Bureau of Investigation (FBI) \*
- Federal Emergency Management Agency (FEMA) \*\*
- Department of Defense (DOD)
- Department of Energy (DOE)
- Environmental Protection Agency (EPA)
- Department of Health and Human Services (DHHS)

\* Lead Agency for Crisis Management

\*\* Lead Agency for Consequence Management

Although not formally designated under the CONPLAN, other Federal departments and agencies may have authorities, resources, capabilities, or expertise required to support response operations. Agencies may be requested to participate in Federal planning and response operations, and may be asked to designate staff to function as liaison officers and provide other support to the LFA.

## **E. Primary Agency Responsibilities**

### **1. Department of Justice (DOJ)/ Federal Bureau of Investigation (FBI)**

The Attorney General is responsible for ensuring the development and implementation of policies directed at preventing terrorist attacks domestically, and will undertake the criminal prosecution of these acts of terrorism that violate U.S. law. DOJ has charged the FBI with execution of its LFA responsibilities for the management of a Federal response to terrorist threats or incidents that take place within U.S. territory or those occurring in international waters that do not involve the flag vessel of a foreign country. As the lead agency for crisis management, the FBI will implement a Federal crisis management response. As LFA, the FBI will designate a Federal on-scene commander to ensure appropriate coordination of the overall United States Government response with Federal, State and local authorities until such time as the Attorney General transfers the overall LFA role to FEMA. The FBI, with appropriate approval, will form and coordinate the deployment of a Domestic Emergency Support Team (DEST) with other agencies, when appropriate, and seek appropriate Federal support based on the nature of the situation.



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### **2. Federal Emergency Management Agency (FEMA)**

As the lead agency for consequence management, FEMA will manage and coordinate any Federal consequence management response in support of State and local governments in accordance with its statutory authorities. Additionally, FEMA will designate appropriate liaison and advisory personnel for the FBI's Strategic Information and Operations Center (SIOC) and deployment with the DEST, the Joint Operations Center (JOC), and the Joint Information Center (JIC).

### **3. Department of Defense (DOD)**

DOD serves as a support agency to the FBI for crisis management functions, including technical operations, and a support agency to FEMA for consequence management. In accordance with DOD Directives 3025.15 and 2000.12 and the Chairman Joint Chiefs of Staff CONPLAN 0300-97, and upon approval by the Secretary of Defense, DOD will provide assistance to the LFA and/or the CONPLAN primary agencies, as appropriate, during all aspects of a terrorist incident, including both crisis and consequence management. DOD assistance includes threat assessment; DEST participation and transportation; technical advice; operational support; tactical support; support for civil disturbances; custody, transportation and disposal of a WMD device; and other capabilities including mitigation of the consequences of a release.

DOD has many unique capabilities for dealing with a WMD and combating terrorism, such as the US Army Medical Research Institute for Infectious Diseases, Technical Escort Unit, and US Marine Corps Chemical Biological Incident Response Force. These and other DOD assets may be used in responding to a terrorist incident if requested by the LFA and approved by the Secretary of Defense.

### **4. Department of Energy (DOE)**

DOE serves as a support agency to the FBI for technical operations and a support agency to FEMA for consequence management. DOE provides scientific-technical personnel and equipment in support of the LFA during all aspects of a nuclear/radiological WMD terrorist incident. DOE assistance can support both crisis and consequence management activities with capabilities such as threat assessment, DEST deployment, LFA advisory requirements, technical advice, forecasted modeling predictions, and operational support to include direct support of tactical operations. Deployable DOE scientific technical assistance and support includes capabilities such as search operations; access operations; diagnostic and device assessment; radiological assessment and monitoring;

identification of material; development of Federal protective action recommendations; provision of information on the radiological response; render safe operations; hazards assessment; containment, relocation and storage of special nuclear material evidence; post-incident clean-up; and on-site management and radiological assessment to the public, the White House, and members of Congress and foreign governments. All DOE support to a Federal response will be coordinated through a Senior Energy Official.

### **5. Environmental Protection Agency (EPA)**

EPA serves as a support agency to the FBI for technical operations and a support agency to FEMA for consequence management. EPA provides technical personnel and supporting equipment to the LFA during all aspects of a WMD terrorist incident. EPA assistance may include threat assessment, DEST and regional emergency response team deployment, LFA advisory requirements, technical advice and operational support for chemical, biological, and radiological releases. EPA assistance and advice includes threat assessment, consultation, agent identification, hazard detection and reduction, environmental monitoring; sample and forensic evidence collection/analysis; identification of contaminants; feasibility assessment and clean-up; and on-site safety, protection, prevention, decontamination, and restoration activities. EPA and the United States Coast Guard (USCG) share responsibilities for response to oil discharges into navigable waters and releases of hazardous substances, pollutants, and contaminants into the environment under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA provides the predesignated Federal On-Scene Coordinator for inland areas and the USCG for coastal areas to coordinate containment, removal, and disposal efforts and resources during an oil, hazardous substance, or WMD incident.

### **6. Department of Health and Human Services (HHS)**

HHS serves as a support agency to the FBI for technical operations and a support agency to FEMA for consequence management. HHS provides technical personnel and supporting equipment to the LFA during all aspects of a terrorist incident. HHS can also provide regulatory follow-up when an incident involves a product regulated by the Food and Drug Administration. HHS assistance supports threat assessment, DEST deployment, epidemiological investigation, LFA advisory requirements, and technical advice. Technical assistance to the FBI may include identification of agents, sample collection and analysis, on-site safety and protection activities, and medical management planning. Operational support to FEMA may include mass immunization, mass prophylaxis,

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mass fatality management, pharmaceutical support operations (National Pharmaceutical Stockpile), contingency medical records, patient tracking, and patient evacuation and definitive medical care provided through the National Disaster Medical System.

### **II. POLICIES**

#### **A. Authorities**

The following authorities are the basis for the development of the CONPLAN:

- Presidential Decision Directive 39, including the Domestic Guidelines
- Presidential Decision Directive 62
- Robert T. Stafford Disaster Relief and Emergency Assistance Act

#### **B. Other Plans and Directives**

- Federal Response Plan, including the Terrorism Incident Annex
- Federal Radiological Emergency Response Plan
- National Oil and Hazardous Substances Pollution Contingency Plan
- HHS Health and Medical Services Support Plan for the Federal Response to Assets of Chemical/Biological Terrorism
- Chairman of the Joint Chiefs of Staff CONPLAN 0300/0400
- DODD 3025.15 Military Assistance to Civil Authorities
- Other Department of Defense Directives

#### **C. Federal Agency Authorities**

The CONPLAN does not supersede existing plans or authorities that were developed for response to incidents under department and agency statutory authorities. Rather, it is intended to be a coordinating plan between crisis and consequence management to provide an effective Federal response to terrorism. The CONPLAN is a Federal signatory plan among the six principal departments and agencies named in PDD-39. It may be updated and amended, as necessary, by consensus among these agencies.

## **D. Federal Response to a Terrorism Incident**

The Federal response to a terrorist threat or incident provides a tailored, time-phased deployment of specialized Federal assets. The response is executed under two broad responsibilities:

### **1. Crisis Management**

Crisis management is predominantly a law enforcement function and includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. In a terrorist incident, a crisis management response may include traditional law enforcement missions, such as intelligence, surveillance, tactical operations, negotiations, forensics, and investigations, as well as technical support missions, such as agent identification, search, render safe procedures, transfer and disposal, and limited decontamination. In addition to the traditional law enforcement missions, crisis management also includes assurance of public health and safety.

The laws of the United States assign primary authority to the Federal government to prevent and respond to acts of terrorism or potential acts of terrorism. Based on the situation, a Federal crisis management response may be supported by technical operations, and by consequence management activities, which should operate concurrently.

### **2. Consequence Management**

Consequence management is predominantly an emergency management function and includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. In an actual or potential terrorist incident, a consequence management response will be managed by FEMA using structures and resources of the Federal Response Plan (FRP). These efforts will include support missions as described in other Federal operations plans, such as predictive modeling, protective action recommendations, and mass decontamination.

The laws of the United States assign primary authority to the State and local governments to respond to the consequences of terrorism; the Federal government provides assistance, as required.

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### **E. Lead Federal Agency Designation**

As mandated by the authorities referenced above, the operational response to a terrorist threat will employ a coordinated, interagency process organized through a LFA concept. PDD-39 reaffirms and elaborates on the U.S. Government's policy on counterterrorism and expands the roles, responsibilities and management structure for combating terrorism. LFA responsibility is assigned to the Department of Justice, and is delegated to the FBI, for threats or acts of terrorism that take place in the United States or in international waters that do not involve the flag vessel of a foreign country. Within this role, the FBI Federal on-scene commander (OSC) will function as the on-scene manager for the U.S. Government. All Federal agencies and departments, as needed, will support the Federal OSC. Threats or acts of terrorism that take place outside of the United States or its trust territories, or in international waters and involve the flag vessel of a foreign country are outside the scope of the CONPLAN.

In addition, these authorities reaffirm that FEMA is the lead agency for consequence management within U.S. territory. FEMA retains authority and responsibility to act as the lead agency for consequence management throughout the Federal response. FEMA will use the FRP structure to coordinate all Federal assistance to State and local governments for consequence management. To ensure that there is one overall LFA, PDD-39 directs FEMA to support the Department of Justice (as delegated to the FBI) until the Attorney General transfers the LFA role to FEMA. At such time, the responsibility to function as the on-scene manager for the U.S. Government transfers from the FBI Federal OSC to the Federal Coordinating Officer (FCO).

### **F. Requests For Federal Assistance**

Requests for Federal assistance by State and local governments, as well as those from owners and operators of critical infrastructure facilities, are coordinated with the lead agency (crisis or consequence) responsible under U.S. law for that function. In response to a terrorist threat or incident, multiple or competing requests will be managed based on priorities and objectives established by the JOC Command Group.

State and local governments will submit requests for Federal crisis management assistance through the FBI. State and local governments will submit requests for Federal consequence management assistance through standard channels under the Federal Response Plan. FEMA liaisons assigned to the DEST or JOC coordinate requests with the LFA to ensure consequence management plans and actions are consistent with overall priorities. All other requests for consequence management assistance submitted outside normal channels to the DEST or JOC will be forwarded to the Regional Operations Center (ROC) Director or the Federal Coordinating Officer (FCO) for action.

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In addition, these authorities reaffirm that FEMA is the lead agency for consequence management within U.S. territory. FEMA retains authority and responsibility to act as the lead agency for consequence management throughout the Federal response. FEMA will use the FRP structure to coordinate all Federal assistance to State and local governments for consequence management. To ensure that there is one overall LFA, PDD-39 directs FEMA to support the Department of Justice (as delegated to the FBI) until the Attorney General transfers the LFA role to FEMA. At such time, the responsibility to function as the on-scene manager for the U.S. Government transfers from the FBI Federal OSC to the Federal Coordinating Officer (FCO).

### **F. Requests For Federal Assistance**

Requests for Federal assistance by State and local governments, as well as those from owners and operators of critical infrastructure facilities, are coordinated with the lead agency (crisis or consequence) responsible under U.S. law for that function. In response to a terrorist threat or incident, multiple or competing requests will be managed based on priorities and objectives established by the JOC Command Group.

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response to threats or acts of terrorism, particularly if nuclear, radiological, biological, or chemical materials are involved.

2. The CONPLAN is based on the premise that a terrorist incident may occur at any time of day with little or no warning, may involve single or multiple geographic areas, and result in mass casualties.

3. The CONPLAN also assumes an act of terrorism, particularly an act directed against a large population center within the United States involving nuclear, radiological, biological, or chemical materials, will have major consequences that can overwhelm the capabilities of many local and State governments to respond and may seriously challenge existing Federal response capabilities, as well.

4. Federal participating agencies may need to respond on short notice to provide effective and timely assistance to State and local governments.

5. Federal departments and agencies would be expected to provide an initial response when warranted under their own authorities and funding. Decisions to mobilize Federal assets will be coordinated with the FBI and FEMA.

6. In the case of a biological WMD attack, the effect may be temporally and geographically dispersed, with no determined or defined “incident site.” Response operations may be conducted over a multi-jurisdictional, multi-State region.

7. A biological WMD attack employing a contagious agent may require quarantine by State and local health officials to contain the disease outbreak.

8. Local, State, and Federal responders will define working perimeters that overlap. Perimeters may be used by responders to control access to an affected area, to assign operational sectors among responding organizations, and to assess potential effects on the population and the environment. Control of these perimeters and response actions may be managed by different authorities, which will impede the effectiveness of the overall response if adequate coordination is not established.

9. If appropriate personal protective equipment and capabilities are not available and the area is contaminated with WMD materials, it is possible that response actions into a contaminated area may be delayed until the material has dissipated to a level that is safe for emergency response personnel to operate.

## **J. Training and Exercises**

Federal agencies, in conjunction with State and local governments, will periodically exercise their roles and responsibilities designated under the CONPLAN. Federal agencies should coordinate their exercises with the Exercise Subgroup of the Interagency Working Group on Counterterrorism and other response agencies to avoid duplication, and, more importantly, to provide a forum to exercise coordination mechanisms among responding agencies.

Federal agencies will assist State and local governments design and improve their response capabilities to a terrorist threat or incident. Each agency should coordinate its training programs with other response agencies to avoid duplication and to make its training available to other agencies.

## **III. SITUATION**

### **A. Introduction**

The complexity, scope, and potential consequences of a terrorist threat or incident require that there be a rapid and decisive capability to resolve the situation. The resolution to an act of terrorism demands an extraordinary level of coordination of crisis and consequence management functions and technical expertise across all levels of government. No single Federal, State, or local governmental agency has the capability or requisite authority to respond independently and mitigate the consequences of such a threat to national security. The incident may affect a single location or multiple locations, each of which may be a disaster scene, a hazardous scene and/or a crime scene simultaneously.

### **B. Differences Between WMD Incidents and Other Incidents**

As in all incidents, WMD incidents may involve mass casualties and damage to buildings or other types of property. However, there are several factors surrounding WMD incidents that are unlike any other type of incidents that must be taken into consideration when planning a response. First responders' ability to identify aspects of the incident (e.g., signs and symptoms exhibited by victims) and report them accurately will be key to maximizing the use of critical local resources and for triggering a Federal response.

1. The situation may not be recognizable until there are multiple casualties. Most chemical and biological agents are not detectable by methods used for explosives and firearms. Most agents can be carried in containers that look like ordinary items.
2. There may be multiple events (e.g., one event in an attempt to influence another event's outcome).



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3. Responders are placed at a higher risk of becoming casualties. Because agents are not readily identifiable, responders may become contaminated before recognizing the agent involved. First responders may, in addition, be targets for secondary releases or explosions.
4. The location of the incident will be treated as a crime scene. As such, preservation and collection of evidence is critical. Therefore, it is important to ensure that actions on-scene are coordinated between response organizations to minimize any conflicts between law enforcement authorities, who view the incident as a crime scene, and other responders, who view it as a hazardous materials or disaster scene.
5. Contamination of critical facilities and large geographic areas may result. Victims may carry an agent unknowingly to public transportation facilities, businesses, residences, doctors' offices, walk-in medical clinics, or emergency rooms because they don't realize that they are contaminated. First responders may carry the agent to fire or precinct houses, hospitals, or to the locations of subsequent calls.
6. The scope of the incident may expand geometrically and may affect mutual aid jurisdictions. Airborne agents flow with the air current and may disseminate via ventilation systems, carrying the agents far from the initial source.
7. There will be a stronger reaction from the public than with other types of incidents. The thought of exposure to a chemical or biological agent or radiation evokes terror in most people. The fear of the unknown also makes the public's response more severe.
8. Time is working against responding elements. The incident can expand geometrically and very quickly. In addition, the effects of some chemicals and biological agents worsen over time.
9. Support facilities, such as utility stations and 911 centers along with critical infrastructures, are at risk as targets.
10. Specialized State and local response capabilities may be overwhelmed.

### **C. Threat Levels**

The CONPLAN establishes a range of threat levels determined by the FBI that serve to frame the nature and scope of the Federal response. Each threat level provides for an escalating range of actions that will be implemented concurrently for crisis and consequence management. The Federal government will take

specific actions which are synchronized to each threat level, ensuring that all Federal agencies are operating with jointly and consistently executed plans. The Federal government will notify and coordinate with State and local governments, as necessary. The threat levels are described below:

**1. Level #4 - Minimal Threat:**

Received threats do not warrant actions beyond normal liaison notifications or placing assets or resources on a heightened alert (agencies are operating under normal day-to-day conditions).

**2. Level #3 - Potential Threat:**

Intelligence or an articulated threat indicates a potential for a terrorist incident. However, this threat has not yet been assessed as credible.

**3. Level #2 - Credible Threat:**

A threat assessment indicates that the potential threat is credible, and confirms the involvement of WMD in the developing terrorist incident. Intelligence will vary with each threat, and will impact the level of the Federal response. At this threat level, the situation requires the tailoring of response actions to use Federal resources needed to anticipate, prevent, and/or resolve the crisis. The Federal crisis management response will focus on law enforcement actions taken in the interest of public safety and welfare, and is predominantly concerned with preventing and resolving the threat. The Federal consequence management response will focus on contingency planning and pre-positioning of tailored resources, as required. The threat increases in significance when the presence of an explosive device or WMD capable of causing a significant destructive event, prior to actual injury or loss, is confirmed or when intelligence and circumstances indicate a high probability that a device exists. In this case, the threat has developed into a WMD terrorist situation requiring an immediate process to identify, acquire, and plan the use of Federal resources to augment State and local authorities in lessening or averting the potential consequence of a terrorist use or employment of WMD.

**4. Level #1 - WMD Incident:**

A WMD terrorism incident has occurred which requires an immediate process to identify, acquire, and plan the use of Federal resources to augment State and local authorities in response to limited or major consequences of a terrorist use or employment of WMD. This incident has resulted in mass casualties. The Federal response is primarily

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

directed toward public safety and welfare and the preservation of human life.

### **D. Lead Federal Agency Responsibilities**

The LFA, in coordination with the appropriate Federal, State and local agencies, is responsible for formulating the Federal strategy and a coordinated Federal response. To accomplish that goal, the LFA must establish multi-agency coordination structures, as appropriate, at the incident scene, area, and national level. These structures are needed to perform oversight responsibilities in operations involving multiple agencies with direct statutory authority to respond to aspects of a single major incident or multiple incidents. Oversight responsibilities include:

- **Coordination.** Coordinate the determination of operational objectives, strategies, and priorities for the use of critical resources that have been allocated to the situation, and communicate multi-agency decisions back to individual agencies and incidents.
- **Situation Assessment.** Evaluate emerging threats, prioritize incidents, and project future needs.
- **Public Information.** As the spokesperson for the Federal response, the LFA is responsible for coordinating information dissemination to the White House, Congress, and other Federal, State and local government officials. In fulfilling this responsibility, the LFA ensures that the release of public information is coordinated between crisis and consequence management response entities. The Joint Information Center (JIC) is established by the LFA, under the operational control of the LFA's Public Information Officer, as a focal point for the coordination and provision of information to the public and media concerning the Federal response to the emergency. The JIC may be established in the same location as the FBI Joint Operations Center (JOC) or may be located at an on-scene location in coordination with State and local agencies. The following elements should be represented at the JIC: (1) FBI Public Information Officer and staff, (2) FEMA Public Information Officer and staff, (3) other Federal agency Public Information Officers, as needed, and (4) State and local Public Information Officers.

## IV. CONCEPT OF OPERATIONS

### A. Mission

The overall Lead Federal Agency, in conjunction with the lead agencies for crisis and consequence management response, and State and local authorities where appropriate, will notify, activate, deploy and employ Federal resources in response to a threat or act of terrorism. Operations will be conducted in accordance with statutory authorities and applicable plans and procedures, as modified by the policy guidelines established in PDD-39 and PDD-62. The overall LFA will continue operations until the crisis is resolved. Operations under the CONPLAN will then stand down, while operations under other Federal plans may continue to assist State and local governments with recovery.

### B. Command and Control

Command and control of a terrorist threat or incident is a critical function that demands a unified framework for the preparation and execution of plans and orders. Emergency response organizations at all levels of government may manage command and control activities somewhat differently depending on the organization's history, the complexity of the crisis, and their capabilities and resources. Management of Federal, State and local response actions must, therefore, reflect an inherent flexibility in order to effectively address the entire spectrum of capabilities and resources across the United States. The resulting challenge is to integrate the different types of management systems and approaches utilized by all levels of government into a comprehensive and unified response to meet the unique needs and requirements of each incident.

#### 1. Consequence Management

State and local consequence management organizations are generally structured to respond to an incident scene using a modular, functionally-oriented ICS that can be tailored to the kind, size and management needs of the incident. ICS is employed to organize and unify multiple disciplines with multi-jurisdictional responsibilities on-scene under one functional organization. State and local emergency operations plans generally establish direction and control procedures for their agencies' response to disaster situations. The organization's staff is built from a "top-down" approach with responsibility and authority placed initially with an Incident Commander who determines which local resources will be deployed. In many States, State law or local jurisdiction ordinances will identify by organizational position the person(s) that will be responsible for serving as the incident commander. In most cases, the incident commander will come from the State or local organization that has primary responsibility for managing the emergency situation.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

When the magnitude of a crisis exceeds the capabilities and resources of the local incident commander or multiple jurisdictions become involved in order to resolve the crisis situation, the ICS command function can readily evolve into a Unified Command (see Figure 1). Under Unified Command, a multi-agency command post is established incorporating officials from agencies with jurisdictional responsibility at the incident scene. Multiple agency resources and personnel will then be integrated into the ICS as the single overall response management structure at the incident scene.

Multi-agency coordination to provide resources to support on-scene operations in complex or multiple incidents is the responsibility of emergency management. In the emergency management system, requests for resources are filled at the lowest possible level of government. Requests that exceed available capabilities are progressively forwarded until filled, from a local Emergency Operations Center (EOC), to a State EOC, to Federal operations centers at the regional or national level.

State assistance may be provided to local governments in responding to a terrorist threat or recovering from the consequences of a terrorist incident as in any natural or man-made disaster. The governor, by State law, is the chief executive officer of the State or commonwealth and has full authority to discharge the duties of his office and exercise all powers associated with the operational control of the State's emergency services during a declared emergency. State agencies are responsible for ensuring that essential services and resources are available to the local authorities and Incident Commander when requested. When State assistance is provided, the local government retains overall responsibility for command and control of the emergency operations, except in cases where State or Federal statutes transfer authority to a specific State or Federal agency. State and local governments have primary responsibility for consequence management. FEMA, using the FRP, directs and coordinates all Federal response efforts to manage the consequences in domestic incidents, for which the President has declared, or expressed an intent to declare, an emergency.

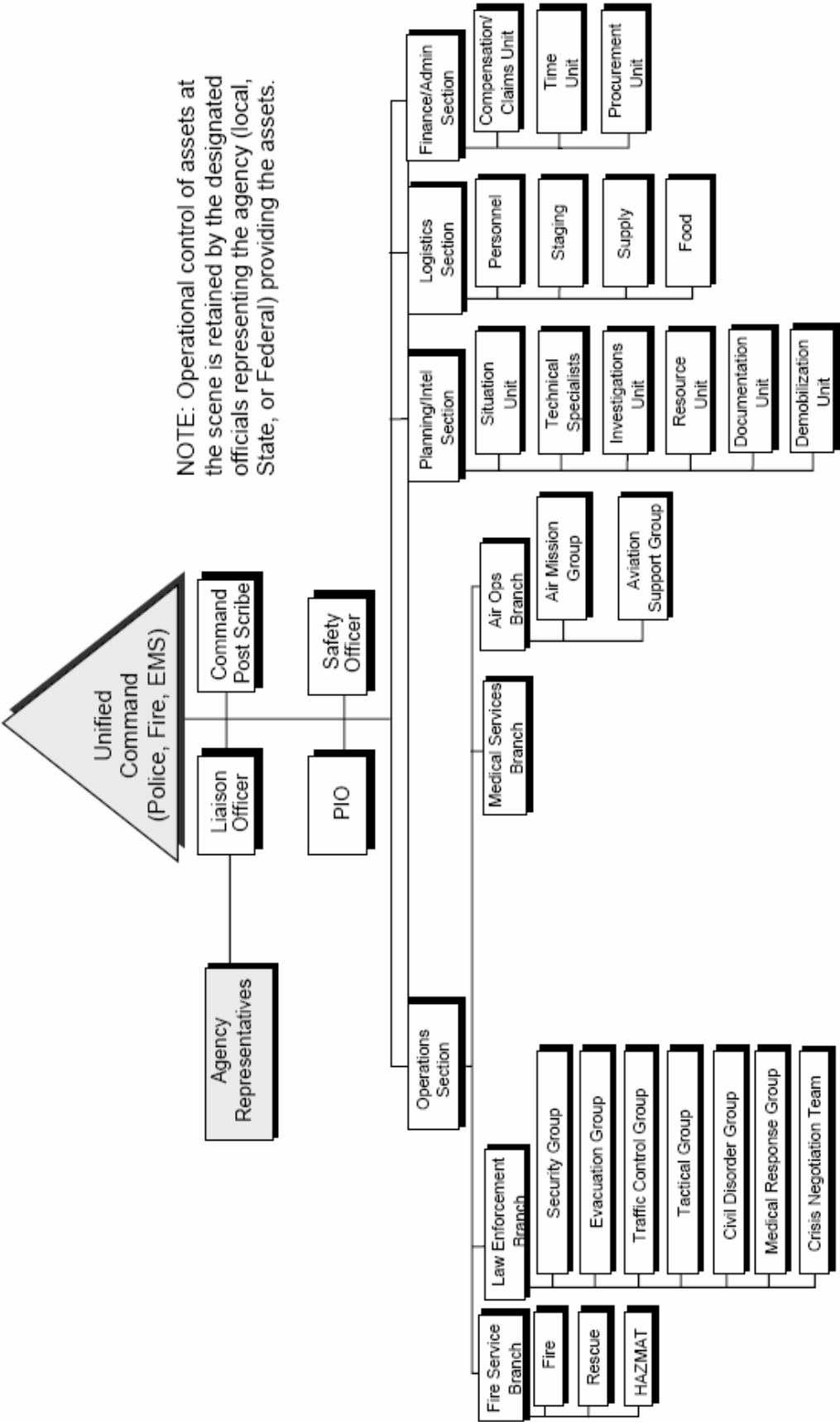


Figure 1 – Incident Command System / Unified Command

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### 2. Crisis Management

As the lead agency for crisis management, the FBI manages a crisis situation from an FBI command post or JOC, bringing the necessary assets to respond and resolve the threat or incident. These activities primarily coordinate the law enforcement actions responding to the cause of the incident with State and local agencies.

During a crisis situation, the FBI Special Agent In Charge (SAC) of the local Field Division will establish a command post to manage the threat based upon a graduated and flexible response. This command post structure generally consists of three functional groups, Command, Operations, and Support, and is designed to accommodate participation of other agencies, as appropriate (see Figure 2). When the threat or incident exceeds the capabilities and resources of the local FBI Field Division, the SAC can request additional resources from the FBI's Critical Incident Response Group, located at Quantico, VA, to augment existing crisis management capabilities. In a terrorist threat or incident that may involve a WMD, the traditional FBI command post is expanded into a JOC incorporating a fourth functional entity, the Consequence Management Group.

Requests for DOD assistance for crisis management during the incident come from the Attorney General to the Secretary of Defense through the DOD Executive Secretary. Once the Secretary has approved the request, the order will be transmitted either directly to the unit involved or through the Chairman of the Joint Chiefs of Staff.

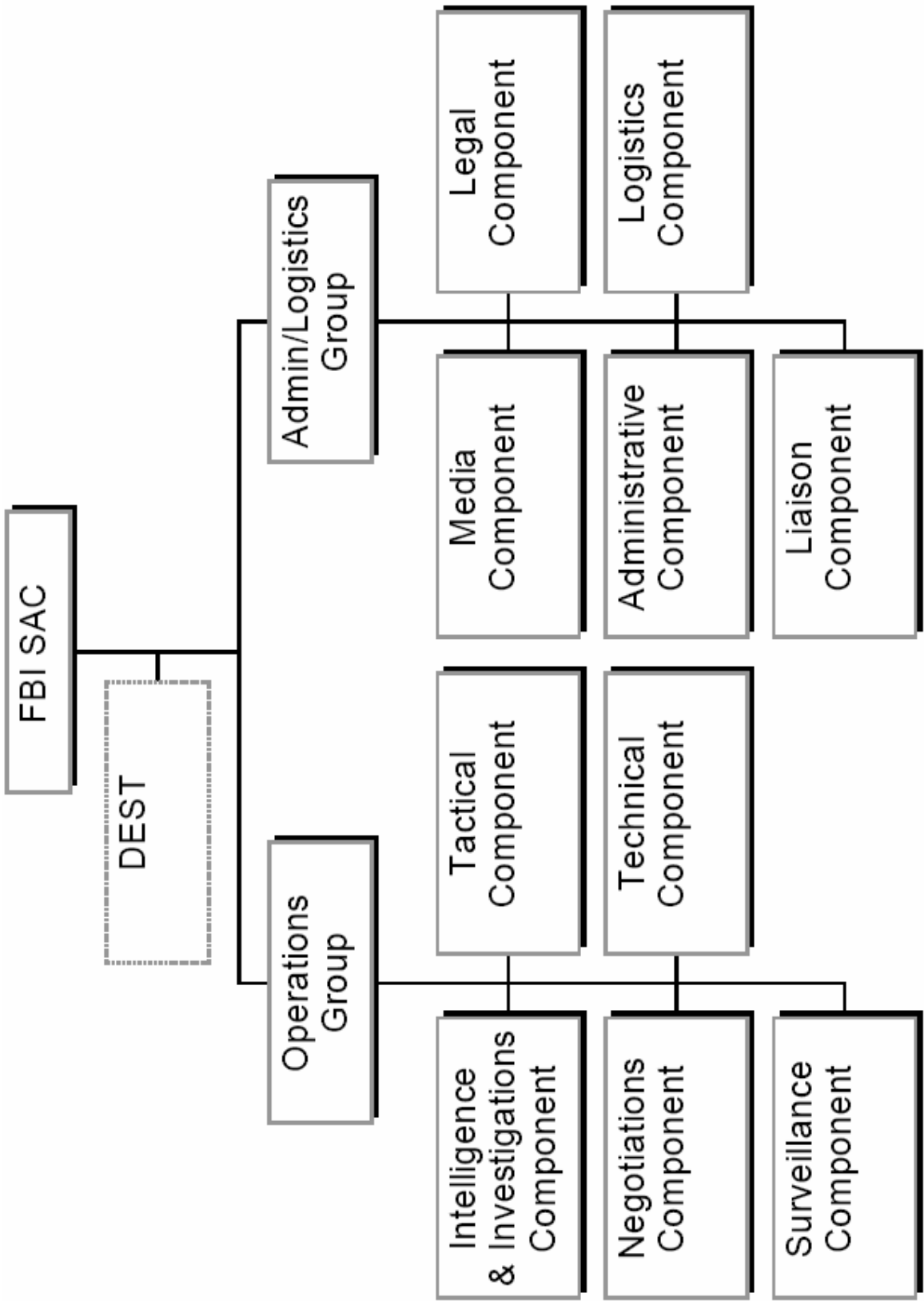


Figure 2 - FBI Command Post



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### C. Unification of Federal, State and Local Response

#### 1. Introduction

Throughout the management of the terrorist incident, crisis and consequence management components will operate concurrently (see Figure 3). The concept of operations for a Federal response to a terrorist threat or incident provides for the designation of an LFA to ensure multi-agency coordination and a tailored, time-phased deployment of specialized Federal assets. It is critical that all participating Federal, State, and local agencies interact in a seamless manner.

#### 2. National Level Coordination

The complexity and potential catastrophic consequences of a terrorist event will require application of a multi-agency coordination system at the Federal agency headquarters level. Many critical on-scene decisions may need to be made in consultation with higher authorities. In addition, the transfer of information between the headquarters and field levels is critical to the successful resolution of the crisis incident.

Upon determination of a credible threat, FBI Headquarters (FBIHQ) will activate its Strategic Information and Operations Center (SIOC) to coordinate and manage the national level support to a terrorism incident. At this level, the SIOC will generally mirror the JOC structure operating in the field. The SIOC is staffed by liaison officers from other Federal agencies that are required to provide direct support to the FBI, in accordance with PDD-39. The SIOC performs the critical functions of coordinating the Federal response and facilitating Federal agency headquarters connectivity. Affected Federal agencies will operate headquarters-level emergency operations centers, as necessary.

Upon notification by the FBI of a credible terrorist threat, FEMA may activate its Catastrophic Disaster Response Group. In addition, FEMA will activate the Regional Operations Center and Emergency Support Team, as required.

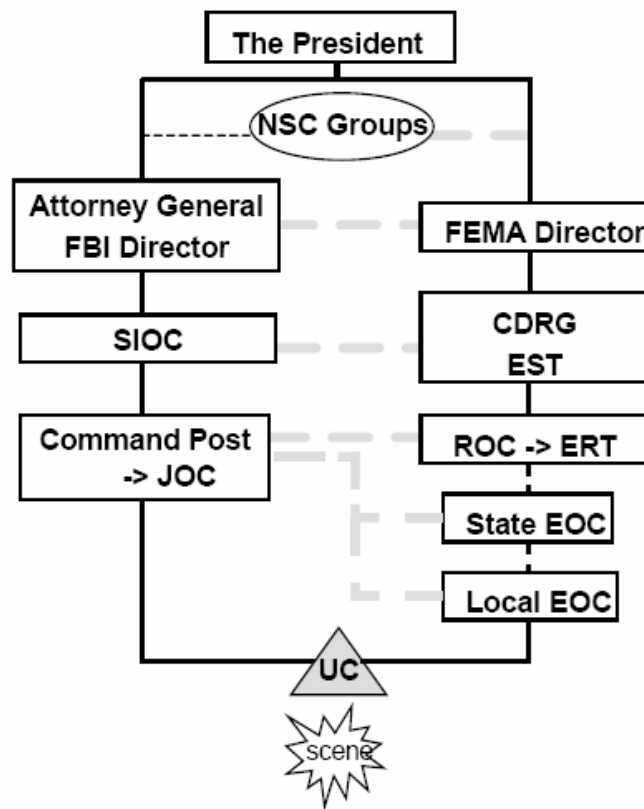


Figure 3 – Coordinating Relationships

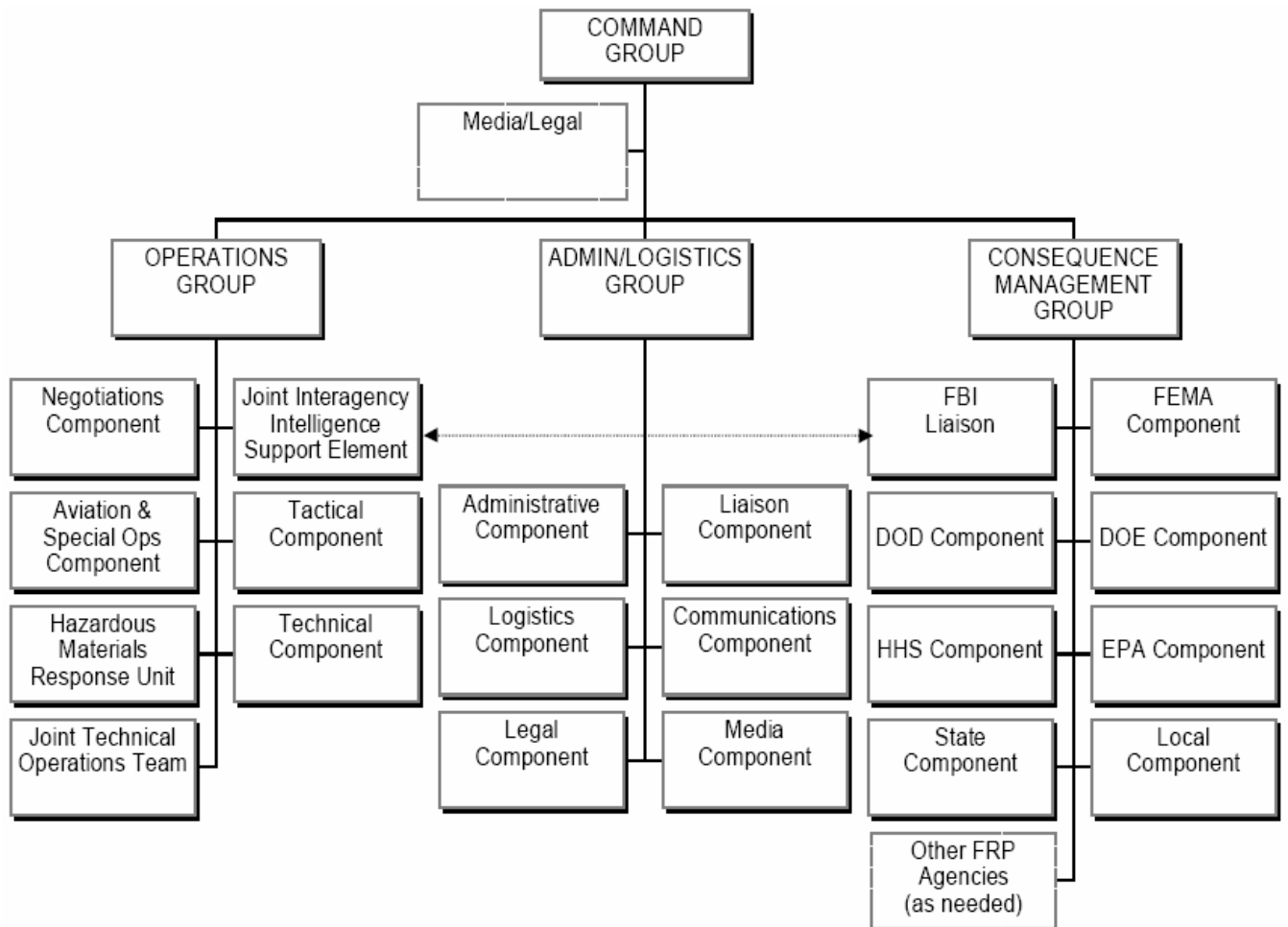
## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### 3. Field Level Coordination

During a terrorist incident, the organizational structure to implement the Federal response at the field level is the JOC. The JOC is established by the FBI under the operational control of the Federal OSC, and acts as the focal point for the strategic management and direction of on-site activities, identification of State and local requirements and priorities, and coordination of the Federal response. The local FBI field office will activate a Crisis Management Team to establish the JOC, which will be in the affected area, possibly collocated with an existing emergency operations facility. Additionally, the JOC will be augmented by outside agencies, including representatives from the DEST (if deployed), who provide interagency technical expertise as well as inter-agency continuity during the transition from an FBI command post structure to the JOC structure.

Similar to the Area Command concept within the ICS, the JOC is established to ensure inter-incident coordination and to organize multiple agencies and jurisdictions within an overall command and coordination structure. The JOC includes the following functional groups: Command, Operations, Admin/Logistics, and Consequence Management (see Figure 4). Representation within the JOC includes officials from local, State and Federal agencies with specific roles in crisis and consequence management.

The Command Group of the JOC is responsible for providing recommendations and advice to the Federal OSC regarding the development and implementation of strategic decisions to resolve the crisis situation and for approving the deployment and employment of resources. In this scope, the members of the Command Group play an important role in ensuring the coordination of Federal crisis and consequence management functions. The Command Group is composed of the FBI Federal OSC and senior officials with decision making authority from local, State, and Federal agencies, as appropriate, based upon the circumstances of the threat or incident. Strategies, tactics and priorities are jointly determined within this group. While the FBI retains authority to make Federal crisis management decisions at all times, operational decisions are made cooperatively to the greatest extent possible. The FBI Federal OSC and the senior FEMA official at the JOC will provide, or obtain from higher authority, an immediate resolution of conflicts in priorities for allocation of critical Federal resources between the crisis and consequence management responses.



**Figure 4 - Joint Operations Center**

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

A FEMA representative coordinates the actions of the JOC Consequence Management Group, and expedites activation of a Federal consequence management response should it become necessary. FBI and FEMA representatives will screen threat/incident intelligence for the Consequence Management Group. The JOC Consequence Management Group monitors the crisis management response in order to advise on decisions that may have implications for consequence management, and to provide continuity should a Federal consequence management response become necessary.

Should the threat of a terrorist incident become imminent, the JOC Consequence Management Group may forward recommendations to the ROC Director to initiate limited pre-deployment of assets under the Stafford Act. Authority to make decisions regarding FRP operations rests with the ROC Director until an FCO is appointed. The senior FEMA official in the JOC ensures appropriate coordination between FRP operations and the JOC Command Group.

### **4. On-Scene Coordination**

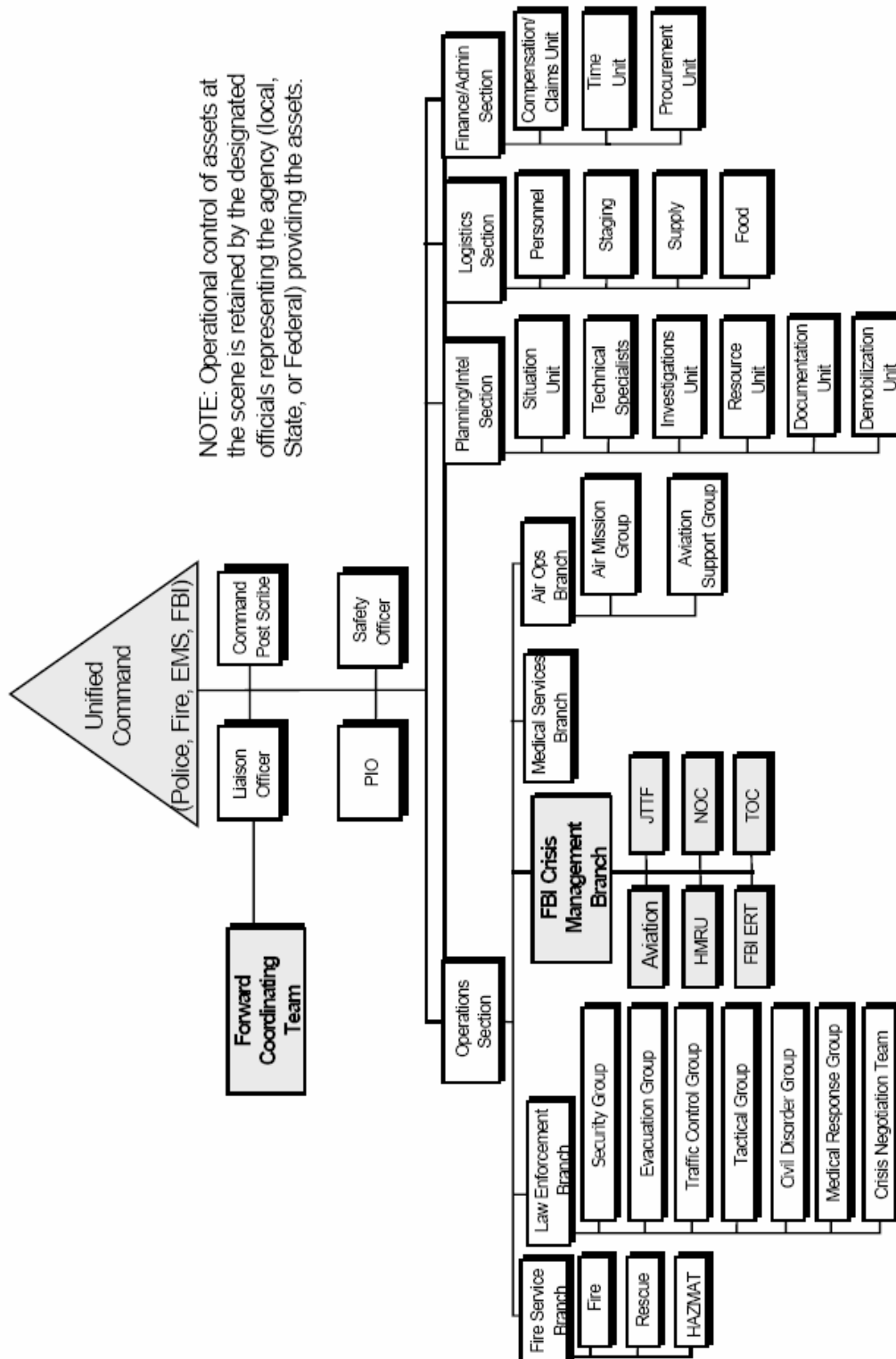
Once a WMD incident has occurred (with or without a pre-release crisis period), local government emergency response organizations will respond to the incident scene and appropriate notifications to local, State, and Federal authorities will be made. Control of this incident scene will be established by local response authorities (likely a senior fire or law enforcement official). Command and control of the incident scene is vested with the Incident Commander/Unified Command. Operational control of assets at the scene is retained by the designated officials representing the agency (local, State, or Federal) providing the assets. These officials manage tactical operations at the scene in coordination with the UC as directed by their agency counterparts at field-level operational centers, if used. As mutual aid partners, State and Federal responders arrive to augment the local responders. The incident command structure that was initially established will likely transition into a Unified Command (UC). This UC structure will facilitate both crisis and consequence management activities. The UC structure used at the scene will expand as support units and agency representatives arrive to support crisis and consequence management operations. On-scene consequence management activities will be supported by the local and State EOC, which will be augmented by the ROC or Disaster Field Office, and the Emergency Support Team, as appropriate.

When Federal resources arrive at the scene, they will operate as a Forward Coordinating Team (FCT). The senior FBI representative will join the Unified Command group while the senior FEMA representative

will coordinate activity of Federal consequence management liaisons to the Unified Command. On-scene Federal crisis management resources will be organized into a separate FBI Crisis Management Branch within the Operations Section, and an FBI representative will serve as Deputy to the Operations Section Chief. Federal consequence management resources will assist the appropriate ICS function, as directed (see Figure 5).

Throughout the incident, the actions and activities of the Unified Command at the incident scene and the Command Group of the JOC will be continuously and completely coordinated.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT



**Figure 5 – On-Scene Coordination**

## V. PHASING OF THE FEDERAL RESPONSE

Phasing of the Federal response to a threat or act of terrorism includes Notification; Activation and Deployment; Response Operations; Response Deactivation; and Recovery. Phases may be abbreviated or bypassed when warranted.

### A. Notification

Receipt of a terrorist threat or incident may be through any source or medium, may be articulated, or developed through intelligence sources. It is the responsibility of all local, State, and Federal agencies and departments to notify the FBI when such a threat is received.

Upon receipt of a threat of domestic terrorism, the FBI will conduct a formal threat credibility assessment of the information with assistance from select interagency experts. For a WMD threat, this includes three perspectives:

- Technical feasibility: An assessment of the capacity of the threatening individual or organization to obtain or produce the material at issue;
- Operational practicability: An assessment of the feasibility of delivering or employing the material in the manner threatened;
- Behavioral resolve: A psychological assessment of the likelihood that the subject(s) will carry out the threat, including a review of any written or verbal statement by the subject(s).

The FBI manages a Terrorist Threat Warning System to ensure that vital information regarding terrorism reaches those in the U.S. counterterrorism and law enforcement community responsible for countering terrorist threats. This information is transmitted via secure teletype. Each message transmitted under this system is an alert, an advisory, or an assessment—an alert if the terrorist threat is credible and specific; an advisory if the threat is credible but general in both timing and target; or an assessment to impart facts and/or threat analysis concerning terrorism.

#### 1. The role of the FBI is to:

- a. Verify the accuracy of the notification,
- b. Initiate the threat assessment process,
- c. Notify Domestic Emergency Support Team agencies, and



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

d. Notify other Federal, State and local agencies, as appropriate.

### **2. The role of FEMA is to:**

a. Advise the FBI of consequence management considerations,

b. Verify that the State and local governments have been notified, and

c. Notify other Federal agencies under the FRP, as appropriate.

### **B. Activation and Deployment**

Upon determination that the threat is credible, or an act of terrorism has occurred, FBIHQ will initiate appropriate liaison with other Federal agencies to activate their operations centers and provide liaison officers to the SIOC. In addition, FBIHQ will initiate communications with the SAC of the responsible Field Office apprising him/her of possible courses of action and discussing deployment of the DEST. The FBI SAC will establish initial operational priorities based upon the specific circumstances of the threat or incident. This information will then be forwarded to FBIHQ to coordinate identification and deployment of appropriate resources.

Based upon a credible threat assessment and a request by the SAC, the FBI Director, in consultation with the Attorney General, may request authorization through National Security Council groups to deploy the DEST to assist the SAC in mitigating the crisis situation. The DEST is a rapidly deployable, inter-agency team responsible for providing the FBI expert advice and support concerning the U.S. Government's capabilities in resolving the terrorist threat or incident. This includes crisis and consequence management assistance, technical or scientific advice and contingency planning guidance tailored to situations involving chemical, biological, or nuclear/radiological weapons.

Upon arrival at the FBI Command Post or forward location, the DEST may act as a stand alone advisory team to the SAC providing recommended courses of action. While the DEST can operate as an advance element of the JOC, DEST deployment does not have to precede JOC activation. Upon JOC activation, the SAC is the Federal On-Scene Commander (OSC). The Federal OSC serves as the on-scene manager for the United States Government and coordinates the actions of the JOC Command Group. The DEST consequence management component merges into the JOC structure under the leadership of the Senior FEMA Official.

**1. The role of the FBI is to:**

- a. Designate a Federal OSC,
- b. Deploy the DEST if warranted and approved, and provide liaison to State and local authorities as appropriate,
- c. Establish multi-agency coordination structures, as appropriate, at the incident scene, area, and national level in order to:
  - (1) Coordinate the determination of operational objectives, strategies, and priorities for the use of critical resources that have been allocated to the situation, and communicate multi-agency decisions back to individual agencies and incidents.
  - (2) Coordinate the evaluation of emerging incidents, prioritization of incidents, and projection of future needs.
  - (3) Establish a Joint Information Center and coordinate information dissemination.

**2. The role of FEMA is to:**

- a. Activate the appropriate FRP elements, as needed,
- b. Designate and deploy an individual to serve as the Senior FEMA Official to the JOC. Primary responsibilities include:
  - (1) Managing the Consequence Management Group.
  - (2) Serving as senior consequence management official on the Command Group.
  - (3) Designate an individual to work with the FBI liaison to screen intelligence for consequence management related implications.
- c. Identify the appropriate agencies to staff the JOC Consequence Management Group and advise the FBI. With FBI concurrence, notify consequence management agencies to request they deploy representatives to the JOC.

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### **C. Response Operations**

The response operations phase involves those activities necessary for an actual Federal response to address the immediate and short-term effects of a terrorist threat or incident. These activities support an emergency response with a bilateral focus on the achievement of law enforcement goals and objectives, and the planning and execution of consequence management activities to address the effects of a terrorist incident. Prior to the use or functioning of a WMD, crisis management activities will generally have priority. When an incident results in the use of WMD, consequence management activities will generally have priority. Activities may overlap and/or run concurrently during the emergency response, and are dependent on the threat and/or the strategies for responding to the incident. Events may preclude certain activities from occurring, particularly in an attack without prior warning.

### **D. Response Deactivation**

Each Federal agency will discontinue emergency response operations under the CONPLAN when advised that their assistance is no longer required in support of the FBI, or when their statutory responsibilities have been fulfilled.

Upon determination that applicable law enforcement goals and objectives have been met, no further immediate threat exists, and that Federal crisis management actions are no longer required, the Attorney General, in consultation with the FBI Director and the FEMA Director, shall transfer the LFA role to FEMA. The Federal OSC will deactivate and discontinue emergency response operations under the CONPLAN. Prior to this activity, the Federal OSC will apprise the senior officials representing agencies in the JOC Command Group of the intent to deactivate in order to confirm agreement for this decision.

Consequence management support to the State and local government(s) impacted by the incident may continue for a very long period. Termination of consequence management assistance will be handled according to the procedures established in the FRP.

### **E. Recovery**

The State and local governments share primary responsibility for planning the recovery of the affected area. Recovery efforts will be initiated at the request of the State or local governments following mutual agreement of the agencies involved and confirmation from the LFA that the incident has stabilized and that no further threat exists to public health and safety. The Federal government will assist the State and local governments in developing mitigation and recovery plans, with FEMA coordinating the overall activity of the Federal agencies involved in this phase.

## APPENDIX A: ACRONYMS

CONPLAN	Concept of Operations Plan
DEST	Domestic Emergency Support Team
DOD	Department of Defense
DOE	Department of Energy
DOJ	Department of Justice
EM	Emergency Management
EMS	Emergency Medical Services
EOC	Emergency Operations Center
EPA	Environmental Protection Agency
ERT	Evidence Response Team (FBI)
FBI	Federal Bureau of Investigation
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FRP	Federal Response Plan
HAZMAT	Hazardous Materials
HHS	Department of Health and Human Services
HMRU	Hazardous Materials Response Unit
JIC	Joint Information Center
JIIE	Joint Interagency Intelligence Support Element
JOC	Joint Operations Center
JTTF	Joint Terrorism Task Force
ICS	Incident Command System
LFA	Lead Federal Agency
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NOC	Negotiations Operations Center
OSC	On-Scene Commander (FBI) On-Scene Coordinator (EPA)
PIO	Public Information Officer
PDD-39	Presidential Decision Directive 39
ROC	Regional Operations Center
SAC	Special Agent-in-Charge
SFO	Senior FEMA Official
SIOC	Strategic Information and Operations Center
STOC	Sniper Tactical Operations Center
TOC	Tactical Operations Center
UC	Unified Command
USCG	United States Coast Guard
WMD	Weapon of Mass Destruction

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### APPENDIX B: DEFINITIONS

**Assessment** - The evaluation and interpretation of measurements and other information to provide a basis for decision-making.

**Combating Terrorism** - The full range of Federal programs and activities applied against terrorism, domestically and abroad, regardless of the source or motive.

**Consequence Management** - Consequence management is predominantly an emergency management function and includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. In an actual or potential terrorist incident, a consequence management response will be managed by FEMA using structures and resources of the Federal Response Plan (FRP). These efforts will include support missions as described in other Federal operations plans, such as predictive modeling, protective action recommendations, and mass decontamination.

**Coordinate** - To advance systematically an exchange of information among principals who have or may have a need to know certain information in order to carry out their role in a response.

**Counterterrorism** - The full range of activities directed against terrorism, including preventive, deterrent, response and crisis management efforts.

**Crisis Management** - Crisis management is predominantly a law enforcement function and includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. In a terrorist incident, a crisis management response may include traditional law enforcement missions, such as intelligence, surveillance, tactical operations, negotiations, forensics, and investigations, as well as technical support missions, such as agent identification, search, render safe procedures, transfer and disposal, and limited decontamination. In addition to the traditional law enforcement missions, crisis management also includes assurance of public health and safety.

**Disaster Field Office (DFO)** - The office established in or near the designated area to support Federal and State response and recovery operations. The Disaster Field Office houses the Federal Coordinating Officer (FCO), the Emergency Response Team, and, where possible, the State Coordinating Officer and support Staff.

**Emergency** - Any natural or man-caused situation that results in or may result in substantial injury or harm to the population or substantial damage to or loss of property.

**Emergency Operations Center (EOC)**- The site from which civil government officials (municipal, county, State and Federal) exercise direction and control in an emergency.

**Emergency Public Information** - Information which is disseminated primarily in anticipation of an emergency or at the actual time of an emergency and in addition to providing information, frequently directs actions, instructs, and transmits direct orders.

**Emergency Response Team** - (1) A team composed of Federal program and support personnel, which FEMA activates and deploys into an area affected by a major disaster or emergency. This team assists the FCO in carrying out his/her responsibilities under the Stafford Act, the declaration, applicable laws, regulations, and the FEMA-State agreement. (2) The team is an interagency team, consisting of the lead representative from each Federal department or agency assigned primary responsibility for an Emergency support Function and key members of the FCO's staff, formed to assist the FCO in carrying out his/her responsibilities. The team provides a forum for coordinating the overall Federal consequence management response requirements.

**Emergency Support Function** - A functional area of response activity established to facilitate coordinated Federal delivery of assistance required during the response phase to save lives, protect property and health, and maintain public safety. These functions represent those types of Federal assistance which the State likely will need most because of the overwhelming impact of a catastrophic event on local and State resources.

**Evacuation** - Organized, phased, and supervised dispersal of civilians from dangerous or potentially dangerous areas, and their reception and care in safe areas.

**Federal Coordinating Officer (FCO)** - (1) The person appointed by the FEMA Director, or in his/her absence, the FEMA Deputy Director, or alternatively the FEMA Associate Director for Response and Recovery, following a declaration of a major disaster or of an emergency by the President, to coordinate Federal assistance. The FCO initiates action immediately to assure that Federal Assistance is provided in accordance with the declaration, applicable laws, regulations, and the FEMA-State agreement. (2) The FCO is the senior Federal official appointed in accordance with the provisions of Public Law 93-288, as amended (the Stafford Act), to coordinate the overall consequence management response and recovery activities. The FCO represents the President as provided by Section 303 of the Stafford Act for the purpose of coordinating the administration of Federal relief activities in the designated area. Additionally, the FCO is delegated responsibilities and performs those for the FEMA Director as outlined in Executive Order 12148 and those responsibilities delegated to the FEMA Regional Director in the Code of Federal Regulations, Title 44, Part 205.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

**Federal On-Scene Commander (OSC)** - The FBI official designated upon JOC activation to ensure appropriate coordination of the overall United States government response with Federal, State and local authorities, until such time as the Attorney General transfers the LFA role to FEMA.

**Federal Response Plan (FRP)** - (1) The plan designed to address the consequences of any disaster or emergency situation in which there is a need for Federal assistance under the authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U. S.C. 5 121 et seq. (2) The FRP is the Federal government's plan of action for assisting affected States and local jurisdictions in the event of a major disaster or emergency.

**First Responder** - Local police, fire, and emergency medical personnel who first arrive on the scene of an incident and take action to save lives, protect property, and meet basic human needs.

**Joint Information Center (JIC)** - A center established to coordinate the Federal public information activities on-scene. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating Federal agencies should collocate at the JIC. Public information officials from participating State and local agencies also may collocate at the JIC.

**Joint Interagency Intelligence Support Element (JIISE)** - The JIISE is an interagency intelligence component designed to fuse intelligence information from the various agencies participating in a response to a WMD threat or incident within an FBI JOC. The JIISE is an expanded version of the investigative/intelligence component which is part of the standardized FBI command post structure. The JIISE manages five functions including: security, collections management, current intelligence, exploitation, and dissemination.

**Joint Operations Center (JOC)** - Established by the LFA under the operational control of the Federal OSC, as the focal point for management and direction of onsite activities, coordination/establishment of State requirements/priorities, and coordination of the overall Federal response.

**Lead Agency** - The Federal department or agency assigned lead responsibility under U.S. law to manage and coordinate the Federal response in a specific functional area. For the purposes of the CONPLAN, there are two lead agencies, the FBI for Crisis Management and FEMA for Consequence Management. Lead agencies support the overall Lead Federal Agency (LFA) during all phases of the response.

**Lead Federal Agency (LFA)** - The agency designated by the President to lead and coordinate the overall Federal response is referred to as the LFA and is determined by the type of emergency. In general, an LFA establishes operational structures and procedures to assemble and work with agencies providing direct support to the LFA

in order to provide an initial assessment of the situation; develop an action plan; monitor and update operational priorities; and ensure each agency exercises its concurrent and distinct authorities under US law and supports the LFA in carrying out the President's relevant policy. Specific responsibilities of an LFA vary according to the agency's unique statutory authorities.

**Liaison** - An agency official sent to another agency to facilitate interagency communications and coordination.

**Local Government** - Any county, city, village, town, district, or political subdivision of any State, and Indian tribe or authorized tribal organization, or Alaska Native village or organization, including any rural community or unincorporated town or village or any other public entity.

**On-Scene Coordinator (OSC)** - The Federal official pre-designated by the EPA and U.S. Coast Guard to coordinate and direct response and removals under the National Oil and Hazardous Substances Pollution Contingency Plan.

**Public Information Officer** - Official at headquarters or in the field responsible for preparing and coordinating the dissemination of public information in cooperation with other responding Federal, State, and local agencies.

**Recovery** - Recovery, in this document, includes all types of emergency actions dedicated to the continued protection of the public or to promoting the resumption of normal activities in the affected area.

**Recovery Plan** - A plan developed by each State, with assistance from the responding Federal agencies, to restore the affected area.

**Regional Director** - The Director of one of FEMA's ten regional offices and principal representative for working with other Federal regions, State and local governments, and the private sector in that jurisdiction.

**Regional Operations Center (ROC)** - The temporary operations facility for the coordination of Federal response and recovery activities, located at the FEMA Regional Office (or at the Federal Regional Center) and led by the FEMA Regional Director or Deputy Regional Director until the Disaster Field Office becomes operational.

**Response** - Those activities and programs designed to address the immediate and short-term effects of the onset of an emergency or disaster.

**Senior FEMA Official (SFO)** - The official appointed by the Director of FEMA, or his representative, that is responsible for deploying to the JOC to: (1) serve as the senior



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

interagency consequence management representative on the Command Group, and (2) manage and coordinate activities taken by the Consequence Management Group.

**State Coordinating Officer** - An official designated by the Governor of the affected State, upon a declaration of a major disaster or emergency, to coordinate State and local disaster assistance efforts with those of the Federal government, and to act in cooperation with the FCO to administer disaster recovery efforts.

**Terrorism** - Terrorism includes the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.

**Weapon of Mass Destruction (WMD)** - A WMD is any device, material, or substance used in a manner, in a quantity or type, or under circumstances evidencing an intent to cause death or serious injury to persons or significant damage to property.

**APPENDIX 5-21: DRAFT INITIAL NATIONAL RESPONSE PLAN**

*This plan has been replaced by the National Response Plan located at Appendix 5-24 below.*

**APPENDIX 5-22: INITIAL NATIONAL RESPONSE PLAN**

*This plan has been replaced by the National Response Plan located at Appendix 5-24 below.*

**APPENDIX 5-23: NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)**

*A copy will be posted on the CLAMO database.*

*Source:* <http://www.dhs.gov/interweb/assetlibrary/NIMS-90-web.pdf>

**APPENDIX 5-24: NATIONAL RESPONSE PLAN (NRP)**

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# National Response Plan

December 2004



Homeland  
Security

## Preface

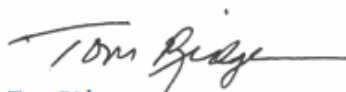
In Homeland Security Presidential Directive (HSPD)-5, the President directed the development of a new National Response Plan (NRP) to align Federal coordination structures, capabilities, and resources into a unified, all-discipline, and all-hazards approach to domestic incident management. This approach is unique and far reaching in that it, for the first time, eliminates critical seams and ties together a complete spectrum of incident management activities to include the prevention of, preparedness for, response to, and recovery from terrorism, major natural disasters, and other major emergencies. The end result is vastly improved coordination among Federal, State, local, and tribal organizations to help save lives and protect America's communities by increasing the speed, effectiveness, and efficiency of incident management.

The NRP represents a true "national" framework in terms of both product and process. The NRP development process included extensive vetting and coordination with Federal, State, local, and tribal agencies, nongovernmental organizations, private-sector entities, and the first-responder and emergency management communities across the country. The NRP incorporates best practices from a wide variety of incident management disciplines to include fire, rescue, emergency management, law enforcement, public works, and emergency medical services. The collective input we received from our public- and private-sector partners has been, and will continue to be, absolutely critical to the implementation and continued refinement of the core concepts included in this groundbreaking national plan.

The NRP is built on the template of the National Incident Management System (NIMS), which provides a consistent doctrinal framework for incident management at all jurisdictional levels, regardless of the cause, size, or complexity of the incident. The activation of the NRP and its coordinating structures and protocols—either partially or fully—for specific Incidents of National Significance provides mechanisms for the coordination and implementation of a wide variety of incident management and emergency assistance activities. Included in these activities are Federal support to State, local, and tribal authorities; interaction with nongovernmental, private donor, and private-sector organizations; and the coordinated, direct exercise of Federal authorities, when appropriate.

The NRP is also an essential element of the broader policy coordination and reconciliation mechanisms of the Federal Government. The operational and resource coordinating structures described in the NRP are designed to support existing White House policy mechanisms and decisionmaking entities during the response to a specific threat or incident. Also, while the NRP itself creates no new authorities, it serves to unify and enhance the incident management capabilities and resources of individual agencies and organizations acting under their own authorities in response to a wide array of potential threats and hazards.

Implementation of the NRP and its supporting protocols will require extensive cooperation, collaboration, and information-sharing across jurisdictions, as well as between the government and the private sector at all levels. The Letter of Instruction included with the NRP provides specific guidance on the phased implementation of the plan. I ask for your continued cooperation and assistance as we begin the implementation process for the NRP. I look forward to working with you as we use this new foundational plan to improve our national incident management capability across the board.



Tom Ridge  
Secretary  
Department of Homeland Security

## Letter of Agreement

The National Response Plan (NRP) is an all-discipline, all-hazards plan that establishes a single, comprehensive framework for the management of domestic incidents. It provides the structure and mechanisms for the coordination of Federal support to State, local, and tribal incident managers and for exercising direct Federal authorities and responsibilities. The NRP assists in the important homeland security mission of preventing terrorist attacks within the United States; reducing the vulnerability to all natural and manmade hazards; and minimizing the damage and assisting in the recovery from any type of incident that occurs.

By signing this letter of agreement, Federal departments and agencies and other organizations commit to:

- Supporting NRP concepts, processes, and structures and carrying out their assigned functional responsibilities to ensure effective and efficient incident management, including designating representatives to staff interagency coordinating structures, as required;
- Agreeing to the terms and conditions, as if separately signed, in the “Memorandum of Agreement: Mutual Aid for Incidents of National Significance (non-Stafford Act),” set forth in the Financial Management Support Annex, Attachment 3, December 2004, in the NRP (this provision is applicable only to Federal departments and agencies);
- Providing cooperation, resources, and support to the Secretary of Homeland Security in the implementation of the NRP, as appropriate and consistent with their own authorities and responsibilities;
- Cooperating with appropriate Federal incident management leadership including the Principal Federal Official, Federal Coordinating Officer, and Federal Resource Coordinator, as appropriate and consistent with their own authorities and responsibilities, in order to enable effective and efficient incident management;
- Modifying existing interagency and agency incident management and emergency response plans to facilitate compliance with the NRP;
- Forming and maintaining incident management partnerships with State, local, tribal, and regional entities, the private sector, and nongovernmental organizations;
- Utilizing department- and agency-specific authorities, resources, and programs to facilitate incident management activities in accordance with the NRP; and
- Developing, exercising, and refining headquarters and regional capabilities to ensure sustained operational readiness in support of the NRP.

Signatory departments and agencies follow:

## Signatories

---



Ann M. Veneman  
Secretary  
Department of Agriculture



Donald L. Evans  
Secretary  
Department of Commerce



Donald H. Rumsfeld  
Secretary  
Department of Defense



Rod Paige  
Secretary  
Department of Education



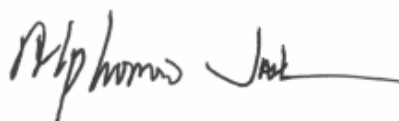
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Secretary  
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Tommy G. Thompson  
Secretary  
Department of Health and Human Services



Tom Ridge  
Secretary  
Department of Homeland Security



Alphonso Jackson  
Secretary  
Department of Housing and Urban Development

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

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Gale A. Norton  
Secretary  
Department of the Interior



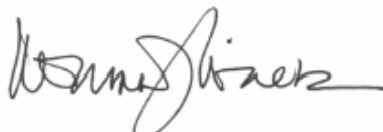
John Ashcroft  
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Department of Justice



Elaine L. Chao  
Secretary  
Department of Labor



Colin L. Powell  
Secretary  
Department of State



Norman Y. Mineta  
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Department of Transportation



John W. Snow  
Secretary  
Department of the Treasury



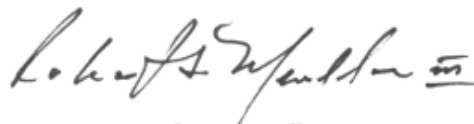
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Porter J. Goss  
Director of Central Intelligence  
Central Intelligence Agency



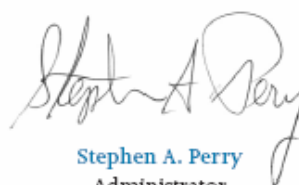
Michael O. Leavitt  
Administrator  
Environmental Protection Agency



Robert S. Mueller, III  
Director  
Federal Bureau of Investigation



Michael Powell  
Chairman  
Federal Communications Commission



Stephen A. Perry  
Administrator  
General Services Administration



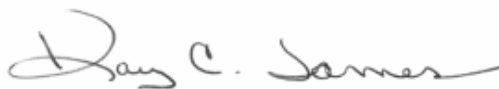
Sean O'Keefe  
Administrator  
National Aeronautics and Space Administration



Ellen Engleman Conners  
Chairman  
National Transportation Safety Board



Nils J. Diaz  
Chairman  
Nuclear Regulatory Commission



Kay Coles James  
Director  
Office of Personnel Management



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

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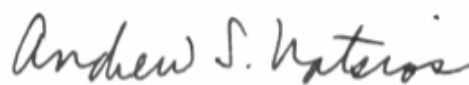
Hector V. Barreto  
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Small Business Administration



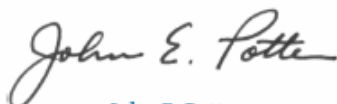
Jo Anne B. Barnhart  
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Social Security Administration



Glenn L. McCullough, Jr.  
Chairman  
Tennessee Valley Authority



Andrew S. Natsios  
Administrator  
U.S. Agency for International Development



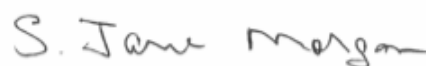
John E. Potter  
Postmaster General and Chief Executive Officer  
U.S. Postal Service



Marsha J. Evans  
President and Chief Executive Officer  
American Red Cross



David Eisner  
Chief Executive Officer  
Corporation for National and Community Service



S. Jane Morgan  
President  
National Voluntary Organizations Active in Disaster

# Letter of Instruction

## Implementation Guidance

### General

The National Response Plan (NRP) is effective upon issuance with a phased implementation process during the first year. During the first 120 days of this implementation process, the Initial NRP (INRP), Federal Response Plan (FRP), U.S. Government Domestic Terrorism Concept of Operations Plan (CONPLAN), and Federal Radiological Emergency Response Plan (FRERP) remain in effect. The implementation phases are as follows:

- **Phase I – Transitional Period (0 to 60 days):** This 60-day timeframe is intended to provide a transitional period for departments and agencies and other organizations to modify training, designate staffing of NRP organizational elements, and become familiar with NRP structures, processes, and protocols.
- **Phase II – Plan Modification (60 to 120 days):** This second 60-day timeframe is intended to provide departments and agencies the opportunity to modify existing Federal interagency plans to align with the NRP and conduct necessary training.
- **Phase III – Initial Implementation and Testing (120 days to 1 year):** Four months after its issuance, the NRP is to be fully implemented, and the INRP, FRP, CONPLAN, and FRERP are superseded. Other existing plans remain in effect, modified to align with the NRP. During this timeframe, the Department of Homeland Security (DHS) will conduct systematic assessments of NRP coordinating structures, processes, and protocols implemented for actual incidents of National Significance (defined on page 4 of the NRP), national-level homeland security exercises, and National Special Security Events (NSSEs). These assessments will gauge the plan's effectiveness in meeting specific objectives outlined in Homeland Security Presidential Directive-5 (HSPD-5). At the end of this period, DHS will conduct a 1-year review to assess the implementation process and make recommendations to the Secretary on necessary NRP revisions. Following this initial review, the NRP will begin a deliberate 4-year review and reissuance cycle.

The Secretary of Homeland Security may accelerate the implementation of the NRP if warranted by circumstances.

### Requirements

This section provides specific requirements or recommendations for the Secretary of Homeland Security; Federal departments and agencies; State, local, and tribal governments; and private-sector and nongovernmental organizations (NGOs) to enable full NRP implementation.

#### Secretary of Homeland Security

Within 120 days of the issuance of this plan, in coordination and consultation with other departments and agencies, the Secretary of Homeland Security will:

- Develop and publish detailed operational procedures for the Homeland Security Operations Center (HSOC), National Response Coordination Center (NRCC), Interagency Incident Management Group (IIMG), and Joint Field Office (JFO);
- Identify appropriate assets and establish agreements and procedures for their rapid deployment and employment in accordance with the NRP Catastrophic Incident Supplement;
- Designate representatives to staff the HSOC, NRCC, and IIMG; and
- Develop appropriate training programs for HSOC, IIMG, NRCC, Principal Federal Official (PFO), and Federal Coordinating Officer (FCO) cadres.

Within 1 year of its effective date, the Secretary of Homeland Security will conduct an interagency review to assess the effectiveness of the NRP, identify improvements, and provide recommendations regarding plan modifications and reissuance, if required.

#### Federal Departments and Agencies

As required by HSPD-5, Federal departments and agencies will:

- Provide cooperation, resources, and support to the Secretary of Homeland Security in the implementation of the NRP, as appropriate and consistent with their own authorities and responsibilities;
- Designate representatives to staff the HSOC, NRCC, and IIMG;

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

- Carry out responsibilities assigned in the Emergency Support Function (ESF) Annexes to the NRP, developing supplemental plans and procedures as required;
- Establish connectivity with and report incidents to the National Joint Terrorism Task Force (NJTTF), the HSOC, and the National Counterterrorism Center (NCTC) as outlined in section V (page 46) of this document; and
- Within 120 days of the issuance of this plan, modify existing interagency incident management and emergency response plans and protocols, to the extent authorized by law, incorporating:
  - Linkages to key NRP processes and coordinating structures (i.e., the IIMG, HSOC, NRCC, Regional Response Coordination Center (RRCC), JFO, etc.);
  - Principles and terminology used in the National Incident Management System (NIMS) and NRP;
  - NRP incident-reporting requirements;
  - Procedures for transitioning from localized incidents to Incidents of National Significance; and
  - Accelerated resource activation, mobilization, and deployment requirements outlined in the NRP Catastrophic Incident Annex.

Modifications to existing Federal interagency plans must be completed and reported to DHS within 120 days of the publication of the NRP. When it may not be feasible for plan modifications to be completed within 120 days (such as the National Oil and Hazardous Substances Pollution Contingency Plan (NCP)<sup>1</sup>), agencies must commence modification within this timeframe and provide a timeline for completion to the Secretary of Homeland Security.

### State, Local, and Tribal Governments and Nongovernmental Organizations

State, local, and tribal governments and NGOs are requested to:

- Utilize established incident reporting protocols to notify local and regional Joint Terrorism Task Forces (JTTFs) and the HSOC, as appropriate, as outlined in section V (page 46) of this document.

- Coordinate with the HSOC regarding procedures for establishing connectivity for domestic incident management purposes. Local government procedures should be coordinated with the respective State government and/or emergency management agency.
- Modify existing incident management and emergency operations plans within 120 days (or no later than the next major plan maintenance cycle) to ensure proper alignment with NRP coordinating structures, processes, and protocols.
- Notify the Secretary of Homeland Security of any substantial conflicts between this plan and State or tribal government laws or regulations. This plan is not intended to compromise existing State or tribal government laws or corresponding incident management or emergency response plans.

### Federal Regional Organizations

Federal regional organizations will:

- Designate representatives to the RRCC and Regional Interagency Steering Committee (RISC) at the request of the Secretary of Homeland Security;
- Develop regional supplements to the NRP as required; and
- Update existing standard operating procedures (SOPs) pertaining to the RRCC to align with NRP requirements.

### Private Sector

Private-sector owners and operators, particularly those who represent critical elements of infrastructure or key resources whose disruption may have national or major regional impact, are encouraged (or in some cases required under law) to develop appropriate emergency response and business continuity plans and information-sharing and incident-reporting protocols that are tailored to the unique requirements of their respective sector or industry, and that clearly map to regional, State, and local emergency response plans and information-sharing networks.

These plans and information-sharing and reporting protocols should be consistent with the NRP Base Plan and supporting annexes.

---

<sup>1</sup> The NCP is a regulation subject to notice and comment requirements. For modifications to the NCP, rulemaking activities will be commenced within 120 days of publication of this plan.

## Foreword

### Organization of the National Response Plan

The National Response Plan (NRP) consists of the components depicted in Figure 1 on the following page. The paragraphs below describe each of the components.

- The **Base Plan** describes the structure and processes comprising a national approach to domestic incident management designed to integrate the efforts and resources of Federal, State, local, tribal, private-sector, and nongovernmental organizations. The Base Plan includes planning assumptions, roles and responsibilities, concept of operations, incident management actions, and plan maintenance instructions.
- **Appendixes** provide other relevant, more detailed supporting information, including terms, definitions, acronyms, authorities, and a compendium of national interagency plans.
- The **Emergency Support Function (ESF) Annexes** detail the missions, policies, structures, and responsibilities of Federal agencies for coordinating resource and programmatic support to States, tribes, and other Federal agencies or other jurisdictions and entities during Incidents of National Significance. The introduction to the ESF Annexes summarizes the functions of ESF coordinators and primary and support agencies. The chart on page 12 provides a summary of the scope of each ESF.
- The **Support Annexes** provide guidance and describe the functional processes and administrative requirements necessary to ensure efficient and effective implementation of NRP incident management objectives. The Support Annexes are described below.

#### Support Annexes

- **Financial Management** provides guidance for NRP implementation to ensure that incident-related funds are provided expeditiously and that financial management activities are conducted in accordance with established law, policies, regulations, and standards.
- **International Coordination** provides guidance for carrying out responsibilities regarding international coordination in support of the Federal response to domestic Incidents of National Significance.
- **Logistics Management** describes the framework within which the overall NRP logistics management function operates. It also outlines logistics management responsibilities and mechanisms for integrating Federal, State, local, and tribal resource providers.
- **Private-Sector Coordination** outlines processes to ensure effective incident management coordination and integration with the private sector, including representatives of the Nation's Critical Infrastructure/Key Resources (CI/KR) sectors and other industries.
- **Public Affairs** describes interagency incident communications procedures designed to enable the coordination and dissemination of timely public information during Incidents of National Significance.
- **Science and Technology** provides guidance and mechanisms to ensure that all levels of government can leverage the Nation's science and technology resources efficiently and effectively in the management of Incidents of National Significance.
- **Tribal Relations** describes the policies, responsibilities, and concept of operations for effective coordination and interaction with tribal governments and communities during Incidents of National Significance.
- **Volunteer and Donations Management** provides guidance on volunteer and donations management functions related to Incidents of National Significance.
- **Worker Safety and Health** details processes to ensure coordinated, comprehensive efforts to identify responder safety and health risks and implement procedures to minimize or eliminate illness or injuries during incident management and emergency response activities.

# APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

FIGURE 1. Organization of the National Response Plan

Base Plan	
Appendixes	<ul style="list-style-type: none"> <li>▪ Glossary of Key Terms</li> <li>▪ List of Acronyms</li> <li>▪ Authorities and References</li> <li>▪ Compendium of National/International Interagency Plans</li> <li>▪ Overview of Initial Federal Involvement Under the Stafford Act</li> <li>▪ Overview of Federal-to-Federal Support in Non-Stafford Act Situations</li> </ul>
Emergency Support Function Annexes	<ul style="list-style-type: none"> <li>▪ ESF #1 - Transportation</li> <li>▪ ESF #2 - Communications</li> <li>▪ ESF #3 - Public Works and Engineering</li> <li>▪ ESF #4 - Firefighting</li> <li>▪ ESF #5 - Emergency Management</li> <li>▪ ESF #6 - Mass Care, Housing, and Human Services</li> <li>▪ ESF #7 - Resource Support</li> <li>▪ ESF #8 - Public Health and Medical Services</li> <li>▪ ESF #9 - Urban Search and Rescue</li> <li>▪ ESF #10 - Oil and Hazardous Materials Response</li> <li>▪ ESF #11 - Agriculture and Natural Resources</li> <li>▪ ESF #12 - Energy</li> <li>▪ ESF #13 - Public Safety and Security</li> <li>▪ ESF #14 - Long-Term Community Recovery and Mitigation</li> <li>▪ ESF #15 - External Affairs</li> </ul>
Support Annexes	<ul style="list-style-type: none"> <li>▪ Financial Management</li> <li>▪ International Coordination</li> <li>▪ Logistics Management</li> <li>▪ Private-Sector Coordination</li> <li>▪ Public Affairs</li> <li>▪ Science and Technology</li> <li>▪ Tribal Relations</li> <li>▪ Volunteer and Donations Management</li> <li>▪ Worker Safety and Health</li> </ul>
Incident Annexes	<ul style="list-style-type: none"> <li>▪ Biological Incident</li> <li>▪ Catastrophic Incident</li> <li>▪ Cyber Incident</li> <li>▪ Food and Agriculture Incident (to be published in a subsequent version of this plan)</li> <li>▪ Nuclear/Radiological Incident</li> <li>▪ Oil and Hazardous Materials Incident</li> <li>▪ Terrorism Incident Law Enforcement and Investigation</li> </ul>

- The **Incident Annexes** address contingency or hazard situations requiring specialized application of the NRP. The Incident Annexes describe the missions, policies, responsibilities, and coordination processes that govern the interaction of public and private entities engaged in

incident management and emergency response operations across a spectrum of potential hazards. These annexes are typically augmented by a variety of supporting plans and operational supplements. The Incident Annexes are described below.

## Incident Annexes

- The **Biological Incident Annex** describes incident management activities related to a biological terrorism event, pandemic, emerging infectious disease, or novel pathogen outbreak.
- The **Catastrophic Incident Annex** establishes the strategy for implementing and coordinating an accelerated national response to a catastrophic incident.
- The **Cyber Incident Annex** establishes procedures for a multidisciplinary, broad-based approach to prepare for, remediate, and recover from catastrophic cyber events impacting critical national processes and the national economy.
- The **Food and Agriculture Incident Annex** describes incident management activities related to a terrorist attack, major disaster, or other emergency involving the Nation's agriculture and food systems. (To be published in a subsequent version of this plan.)
- The **Nuclear/Radiological Incident Annex** describes incident management activities related to nuclear/radiological incidents.
- The **Oil and Hazardous Materials Incident Annex** describes incident management activities related to certain nationally significant oil and hazardous materials pollution incidents.
- The **Terrorism Incident Law Enforcement and Investigation Annex** describes law enforcement and criminal investigation coordinating structures and processes in response to a terrorist event.



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## Emergency Support Function Annexes

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ESF #3 – Public Works and Engineering	
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ESF #5 – Emergency Management	
ESF #6 – Mass Care, Housing, and Human Services	
ESF #7 – Resource Support	
ESF #8 – Public Health and Medical Services	
ESF #9 – Urban Search and Rescue	
ESF #10 – Oil and Hazardous Materials Response	
ESF #11 – Agriculture and Natural Resources	
ESF #12 – Energy	
ESF #13 – Public Safety and Security	
ESF #14 – Long-Term Community Recovery and Mitigation	
ESF #15 – External Affairs	

## Support Annexes

Financial Management	
International Coordination	
Logistics Management	
Private-Sector Coordination	
Public Affairs	
Science and Technology	
Tribal Relations	
Volunteer and Donations Management	
Worker Safety and Health	

## Incident Annexes

Biological Incident	
Catastrophic Incident	
Cyber Incident	
Food and Agriculture Incident (to be published in a subsequent version of this plan)	
Nuclear/Radiological Incident	
Oil and Hazardous Materials Incident	
Terrorism Incident Law Enforcement and Investigation	



# NATIONAL RESPONSE PLAN

## I. Introduction

The Nation's domestic incident management landscape changed dramatically following the terrorist attacks of September 11, 2001. Today's threat environment includes not only the traditional spectrum of manmade and natural hazards—wildland and urban fires, floods, oil spills, hazardous materials releases, transportation accidents, earthquakes, hurricanes, tornadoes, pandemics, and disruptions to the Nation's energy and information technology infrastructure—but also the deadly and devastating terrorist arsenal of chemical, biological, radiological, nuclear, and high-yield explosive weapons.

These complex and emerging 21st century threats and hazards demand a unified and coordinated national approach to domestic incident management. The National Strategy for Homeland Security; Homeland Security Act of 2002; and Homeland Security Presidential Directive-5 (HSPD-5), Management of Domestic Incidents, establish clear objectives for a concerted national effort to prevent terrorist attacks within the United States; reduce America's vulnerability to terrorism, major disasters, and other emergencies; and minimize the damage and recover from attacks, major disasters, and other emergencies that occur.

### The NRP

A concerted national effort to prevent terrorist attacks within the United States; reduce America's vulnerability to terrorism, major disasters, and other emergencies; and minimize the damage and recover from attacks, major disasters, and other emergencies that occur.

### Development and Implementation of a National Response Plan

Achieving these homeland security objectives is a challenge requiring bold steps and adjustments to established structures, processes, and protocols. An important initiative called for in the above documents is the development and implementation of a National Response Plan (NRP), predicated on a new National Incident Management System (NIMS), that aligns the patchwork of Federal special-purpose incident management and emergency response plans into an effective and efficient structure. Together, the NRP and

the NIMS (published March 1, 2004) integrate the capabilities and resources of various governmental jurisdictions, incident management and emergency response disciplines, nongovernmental organizations (NGOs), and the private sector into a cohesive, coordinated, and seamless national framework for domestic incident management.

The NRP, using the NIMS, is an all-hazards plan that provides the structure and mechanisms for national-level policy and operational coordination for domestic incident management. Consistent with the model provided in the NIMS, the NRP can be partially or fully implemented in the context of a threat, anticipation of a significant event, or the response to a significant event. Selective implementation through the activation of one or more of the system's components allows maximum flexibility in meeting the unique operational and information-sharing requirements of the situation at hand and enabling effective interaction between various Federal and non-Federal entities.

### The NIMS

Provides a nationwide template enabling Federal, State, local, and tribal governments and private-sector and nongovernmental organizations to work together effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents regardless of cause, size, or complexity.

The NRP incorporates relevant portions of and, upon full implementation, supersedes the Initial National Response Plan (INRP), Federal Response Plan (FRP), U.S. Government Interagency Domestic Terrorism Concept of Operations Plan (CONPLAN), and Federal Radiological Emergency Response Plan (FRERP). The NRP, as the core operational plan for national incident management, also establishes national-level coordinating structures, processes, and protocols that will be incorporated into certain existing Federal interagency incident- or hazard-specific plans (such as the National Oil and Hazardous Substances Pollution Contingency Plan (NCP)) that are designed to implement the specific statutory authorities and responsibilities of various departments and agencies in particular contingency

scenarios. These plans are linked to the NRP in the context of Incidents of National Significance (defined on page 4), but remain as stand-alone documents in that they also provide detailed protocols for responding to routine incidents that normally are managed by Federal agencies without the need for Department of Homeland Security (DHS) coordination. The NRP also incorporates other existing Federal emergency response and incident management plans (with appropriate modifications and revisions) as integrated components, operational supplements, or supporting tactical plans. Further details on NRP-supporting plans and documents are included in section VI (page 60).

## Existing Authorities

Nothing in this plan alters or impedes the ability of Federal, State, local, or tribal departments and agencies to carry out their specific authorities or perform their responsibilities under all applicable laws, Executive orders, and directives. Additionally, nothing in this plan is intended to impact or impede the ability of any Federal department or agency head to take an issue of concern directly to the President, the Assistant to the President for Homeland Security, the Assistant to the President for National Security Affairs, or any other member of the President's staff.

## Purpose

The purpose of the NRP is to establish a comprehensive, national, all-hazards approach to domestic incident management across a spectrum of activities including prevention, preparedness, response, and recovery.

The NRP incorporates best practices and procedures from various incident management disciplines—homeland security, emergency management, law enforcement, firefighting, hazardous materials response, public works, public health, emergency medical services, and responder and recovery worker health and safety—and integrates them into a unified coordinating structure.

### Purpose

To establish a comprehensive, national, all-hazards approach to domestic incident management across a spectrum of activities including prevention, preparedness, response, and recovery.

The NRP provides the framework for Federal interaction with State, local, and tribal governments; the private sector; and NGOs in the context of domestic incident prevention, preparedness, response, and recovery activities. It describes capabilities and resources and establishes responsibilities, operational processes, and protocols to help protect the Nation from terrorist attacks and other natural and manmade hazards; save lives; protect public health, safety, property, and the environment; and reduce adverse

psychological consequences and disruptions. Finally, the NRP serves as the foundation for the development of detailed supplemental plans and procedures to effectively and efficiently implement Federal incident management activities and assistance in the context of specific types of incidents.

The NRP, using the NIMS, establishes mechanisms to:

- Maximize the integration of incident-related prevention, preparedness, response, and recovery activities;
- Improve coordination and integration of Federal, State, local, tribal, regional, private-sector, and nongovernmental organization partners;
- Maximize efficient utilization of resources needed for effective incident management and Critical Infrastructure/Key Resources (CI/KR) protection and restoration;
- Improve incident management communications and increase situational awareness across jurisdictions and between the public and private sectors;
- Facilitate emergency mutual aid and Federal emergency support to State, local, and tribal governments;
- Facilitate Federal-to-Federal interaction and emergency support;
- Provide a proactive and integrated Federal response to catastrophic events; and
- Address linkages to other Federal incident management and emergency response plans developed for specific types of incidents or hazards.

### Scope and Applicability

The NRP covers the full range of complex and constantly changing requirements in anticipation of or in response to threats or acts of terrorism, major disasters, and other emergencies. The NRP also provides the basis to initiate long-term community recovery and mitigation activities.

#### NRP Scope

Covers the full range of complex and constantly changing requirements in anticipation of or in response to threats or acts of terrorism, major disasters, and other emergencies.

The NRP establishes interagency and multijurisdictional mechanisms for Federal Government involvement in, and DHS coordination of, domestic incident management operations.

This includes coordinating structures and processes for incidents requiring:

- Federal support to State, local, and tribal governments;
- Federal-to-Federal support;
- The exercise of direct Federal authorities and responsibilities, as appropriate under the law; and
- Public and private-sector domestic incident management integration.

This plan distinguishes between incidents that require DHS coordination, termed Incidents of National Significance, and the majority of incidents occurring each year that are handled by responsible jurisdictions or agencies through other established authorities and existing plans.

In addition, the NRP:

- Recognizes and incorporates the various jurisdictional and functional authorities of Federal departments and agencies; State, local, and tribal governments; and private-sector organizations in domestic incident management.

- Details the specific domestic incident management roles and responsibilities of the Secretary of Homeland Security, Attorney General, Secretary of Defense, Secretary of State, and other departments and agencies involved in domestic incident management as defined in HSPD-5 and other relevant statutes and directives.
- Establishes the multiagency organizational structures and processes required to implement the authorities, roles, and responsibilities of the Secretary of Homeland Security as the “principal Federal official” for domestic incident management.

This plan is applicable to all Federal departments and agencies that may be requested to provide assistance or conduct operations in the context of actual or potential Incidents of National Significance. This includes the American Red Cross, which functions as an Emergency Support Function (ESF) primary organization in coordinating the use of mass care resources in a Presidentially declared disaster or emergency. The NRP is applicable to incidents that may occur at sites under the control of the Legislative or Judicial Branches of the Federal Government.

#### NRP Applicability

The NRP applies to all Federal departments and agencies that may be requested to provide assistance or conduct operations in actual or potential Incidents of National Significance. These incidents require a coordinated response by an appropriate combination of Federal, State, local, tribal, private-sector, and nongovernmental entities.

Based on the criteria established in HSPD-5, Incidents of National Significance are those high-impact events that require a coordinated and effective response by an appropriate combination of Federal, State, local, tribal, private-sector, and nongovernmental entities in order to save lives, minimize damage, and provide the basis for long-term community recovery and mitigation activities.

### Incidents of National Significance

Pursuant to HSPD-5, as the principal Federal official for domestic incident management, the Secretary of Homeland Security declares Incidents of National Significance (in consultation with other departments and agencies as appropriate) and provides coordination for

Federal operations and/or resources, establishes reporting requirements, and conducts ongoing communications with Federal, State, local, tribal, private-sector, and nongovernmental organizations to maintain situational awareness, analyze threats, assess national implications of threat and operational response activities, and coordinate threat or incident response activities.

The NRP bases the definition of Incidents of National Significance on situations related to the following four criteria set forth in HSPD-5:

1. A Federal department or agency acting under its own authority has requested the assistance of the Secretary of Homeland Security.
2. The resources of State and local authorities are overwhelmed and Federal assistance has been requested by the appropriate State and local authorities. Examples include:
  - Major disasters or emergencies as defined under the Stafford Act; and
  - Catastrophic incidents (see definition on page 43).
3. More than one Federal department or agency has become substantially involved in responding to an incident. Examples include:
  - Credible threats, indications or warnings of imminent terrorist attack, or acts of terrorism directed domestically against the people, property, environment, or political or legal institutions of the United States or its territories or possessions; and
  - Threats or incidents related to high-profile, large-scale events that present high-probability targets such as National Special Security Events (NSSEs) and other special events as determined by the Secretary of Homeland Security, in coordination with other Federal departments and agencies.
4. The Secretary of Homeland Security has been directed to assume responsibility for managing a domestic incident by the President.

### Incident Management Activities

This plan addresses the full spectrum of activities related to domestic incident management, including prevention, preparedness, response, and recovery actions. The NRP focuses on those activities that are directly related to an evolving incident or potential incident rather than steady-state preparedness or readiness activities conducted in the absence of a specific threat or hazard.

Additionally, since Incidents of National Significance typically result in impacts far beyond the immediate or initial incident area, the NRP provides a framework to enable the management of cascading impacts and multiple incidents as well as the prevention of and preparation for subsequent events. Examples of incident management actions from a national perspective include:

- Increasing nationwide public awareness;
- Assessing trends that point to potential terrorist activity;

- Elevating the national Homeland Security Advisory System (HSAS) alert condition and coordinating protective measures across jurisdictions;
- Increasing countermeasures such as inspections, surveillance, security, counterintelligence, and infrastructure protection;
- Conducting public health surveillance and assessment processes and, where appropriate, conducting a wide range of prevention measures to include, but not be limited to, immunizations;
- Providing immediate and long-term public health and medical response assets;
- Coordinating Federal support to State, local, and tribal authorities in the aftermath of an incident;
- Providing strategies for coordination of Federal resources required to handle subsequent events;
- Restoring public confidence after a terrorist attack; and
- Enabling immediate recovery activities, as well as addressing long-term consequences in the impacted area.



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### Authorities

Various Federal statutory authorities and policies provide the basis for Federal actions and activities in the context of domestic incident management. The NRP uses the foundation provided by the Homeland Security Act, HSPD-5, and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to provide a comprehensive, all-hazards approach to domestic incident management. Nothing in the NRP alters the existing authorities of individual Federal departments and agencies. The NRP does not convey new authorities upon the Secretary of Homeland Security or any other Federal official.

Rather, this plan establishes the coordinating structures, processes, and protocols required to integrate the

specific statutory and policy authorities of various Federal departments and agencies in a collective framework for action to include prevention, preparedness, response, and recovery activities. Appendix 3 provides a summary of key statutes, Executive orders, and Presidential directives that provide additional authority and policy direction relevant to domestic incident management.

The NRP may be used in conjunction with other Federal incident management and emergency operations plans developed under these and other authorities as well as memorandums of understanding (MOUs) among various Federal agencies.

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### Key Concepts

This section summarizes key concepts that are reflected throughout the NRP.

- Systematic and coordinated incident management, including protocols for:
  - Incident reporting;
  - Coordinated action;
  - Alert and notification;
  - Mobilization of Federal resources to augment existing Federal, State, local, and tribal capabilities;
  - Operating under differing threats or threat levels; and
  - Integration of crisis and consequence management functions.
- Proactive notification and deployment of Federal resources in anticipation of or in response to catastrophic events in coordination and collaboration with State, local, and tribal governments and private entities when possible.
- Organizing interagency efforts to minimize damage, restore impacted areas to pre-incident conditions if feasible, and/or implement programs to mitigate vulnerability to future events.
- Coordinating incident communication, worker safety and health, private-sector involvement, and other activities that are common to the majority of incidents (see Support Annexes).
- Organizing ESFs to facilitate the delivery of critical Federal resources, assets, and assistance. Federal departments and agencies are assigned to lead or support ESFs based on authorities, resources, and capabilities.
- Providing mechanisms for vertical and horizontal coordination, communications, and information-sharing in response to threats or incidents. These mechanisms facilitate coordination among State, local, and tribal entities and the Federal Government, as well as between the public and private sectors.
- Facilitating Federal support to Federal departments and agencies acting under the requesting department's or agency's own authorities.
- Developing detailed supplemental operations, tactical, and hazard-specific contingency plans and procedures.
- Providing the basis for coordination of interagency and intergovernmental planning, training, exercising, assessment, coordination, and information exchange.

## II. Planning Assumptions & Considerations

The NRP is based on the planning assumptions and considerations presented in this section.

- Incidents are typically managed at the lowest possible geographic, organizational, and jurisdictional level.
- Incident management activities will be initiated and conducted using the principles contained in the NIMS.
- The combined expertise and capabilities of government at all levels, the private sector, and nongovernmental organizations will be required to prevent, prepare for, respond to, and recover from Incidents of National Significance.
- Incidents of National Significance require the Secretary of Homeland Security to coordinate operations and/or resources, and may:
  - Occur at any time with little or no warning in the context of a general or specific threat or hazard;
  - Require significant information-sharing at the unclassified and classified levels across multiple jurisdictions and between the public and private sectors;
  - Involve single or multiple geographic areas;
  - Have significant international impact and/or require significant international information-sharing, resource coordination, and/or assistance;
  - Span the spectrum of incident management to include prevention, preparedness, response, and recovery;
  - Involve multiple, highly varied hazards or threats on a local, regional, or national scale;
  - Result in numerous casualties; fatalities; displaced people; property loss; disruption of normal life-support systems, essential public services, and basic infrastructure; and significant damage to the environment;
  - Impact critical infrastructures across sectors;
  - Overwhelm capabilities of State, local, and tribal governments, and private-sector infrastructure owners and operators;
  - Attract a sizeable influx of independent, spontaneous volunteers and supplies;
  - Require extremely short-notice Federal asset coordination and response timelines; and
  - Require prolonged, sustained incident management operations and support activities.
- Top priorities for incident management are to:
  - Save lives and protect the health and safety of the public, responders, and recovery workers;
  - Ensure security of the homeland;
  - Prevent an imminent incident, including acts of terrorism, from occurring;
  - Protect and restore critical infrastructure and key resources;
  - Conduct law enforcement investigations to resolve the incident, apprehend the perpetrators, and collect and preserve evidence for prosecution and/or attribution;
  - Protect property and mitigate damages and impacts to individuals, communities, and the environment; and
  - Facilitate recovery of individuals, families, businesses, governments, and the environment.
- Deployment of resources and incident management actions during an actual or potential terrorist incident are conducted in coordination with the Department of Justice (DOJ).
- Departments and agencies at all levels of government and certain NGOs, such as the American Red Cross, may be required to deploy to Incidents of National Significance on short notice to provide timely and effective mutual aid and/or intergovernmental assistance.
- The degree of Federal involvement in incident operations depends largely upon specific Federal authority or jurisdiction. Other factors that may be considered include:
  - The State, local, or tribal needs and/or requests for external support, or ability to manage the incident;
  - The economic ability of the affected entity to recover from the incident;
  - The type or location of the incident;
  - The severity and magnitude of the incident; and
  - The need to protect the public health or welfare or the environment.
- Federal departments and agencies support the homeland security mission in accordance with national authorities and guidance and are expected to provide:
  - Initial and/or ongoing response, when warranted, under their own authorities and funding;
  - Alert, notification, pre-positioning, and timely delivery of resources to enable the management of

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- potential and actual Incidents of National Significance; and
- Proactive support for catastrophic or potentially catastrophic incidents using protocols for expedited delivery of resources.
  - For Incidents of National Significance that are Presidentially declared disasters or emergencies, Federal support to States is delivered in accordance with relevant provisions of the Stafford Act (see Appendix 3, Authorities and References). (Note that while all Presidentially declared disasters and emergencies under the Stafford Act are considered Incidents of National Significance, not all Incidents of National Significance necessarily result in disaster or emergency declarations under the Stafford Act.)
- Under provisions of the Stafford Act and applicable regulations:
- A Governor may request the President to declare a major disaster or emergency if the Governor finds that effective response to the event is beyond the combined response capabilities of the State and affected local governments. Based on the findings of a joint Federal-State-local Preliminary Damage Assessment (PDA) indicating the damages are of sufficient severity and magnitude to warrant assistance under the act, the President may grant a major disaster or emergency declaration. (Note: In a particularly fast-moving or clearly devastating disaster, the PDA process may be deferred until after the declaration.)
  - If the President determines that an emergency exists where the primary responsibility for response rests with the Government of the United States, or because the emergency involves an area or facility for which the Federal Government exercises exclusive or preeminent primary responsibility and authority, the President may unilaterally direct the provision of assistance under the act and will, if practicable, consult with the Governor of the State.
  - DHS can use limited pre-declaration authorities to move initial response resources (critical goods typically needed in the immediate aftermath of a disaster such as food, water, emergency generators, etc.) closer to a potentially affected area.
  - Federal assistance takes many forms—including the direct provision of goods and services, financial assistance (through insurance, grants, loans, and direct payments), and technical assistance—and can come from various sources.
  - In a major disaster or emergency as defined in the Stafford Act, the President “may direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts...” [sections 402(a)(1) and 502(a)(1) of the Stafford Act, 42 U.S.C. § 5170a(1) and § 5192(a)(1)].
  - In an actual or potential Incident of National Significance that is not encompassed by the Stafford Act, the President may instruct a Federal department or agency, subject to any statutory limitations on the department or agency, to utilize the authorities and resources granted to it by Congress. In accordance with HSPD-5, Federal departments and agencies are expected to provide their full and prompt cooperation, available resources, and support, as appropriate and consistent with their own responsibilities for protecting national security.
  - Federal-to-Federal support refers to the circumstance in which a Federal department or agency requests Federal resource support under the NRP that is not addressed by the Stafford Act or other mechanisms (e.g., Executive orders, MOUs, memorandums of agreement (MOAs), etc.).
- This support:
- Is coordinated by DHS using the multiagency coordination structures established in the NRP and in accordance with the NIMS;
  - Generally is funded by the Federal entity with primary responsibility and statutory authority for the incident in accordance with provisions of the Economy Act, 31 U.S.C. 1535, unless other statutory authorities exist;
  - Is facilitated by the interagency MOU for Mutual Aid, and executed at the time of the incident through interagency agreements (see the Financial Management Support Annex for more information);
  - May include support to incident operations at sites under the control of the Legislative or Judicial Branches of the Federal Government; and
  - May be used to coordinate U.S. Government support in the event of an overseas incident, if recommended by the Department of State (DOS).

## III. Roles and Responsibilities

This section discusses the roles and responsibilities of Federal, State, local, tribal, private-sector, and nongovernmental organizations and citizens involved in support of domestic incident management.

### State, Local, and Tribal Governments

Police, fire, public health and medical, emergency management, public works, environmental response, and other personnel are often the first to arrive and the last to leave an incident site. In some instances, a Federal agency in the local area may act as a first responder, and the local assets of Federal agencies may be used to advise or assist State or local officials in accordance with agency authorities and procedures. Mutual aid agreements provide mechanisms to mobilize and employ resources from neighboring jurisdictions to support the incident command.

When State resources and capabilities are overwhelmed, Governors may request Federal assistance under a Presidential disaster or emergency declaration. Summarized below are the responsibilities of the Governor, Local Chief Executive Officer, and Tribal Chief Executive Officer.

#### Governor

As a State's chief executive, the Governor is responsible for the public safety and welfare of the people of that State or territory. The Governor:

- Is responsible for coordinating State resources to address the full spectrum of actions to prevent, prepare for, respond to, and recover from incidents in an all-hazards context to include terrorism, natural disasters, accidents, and other contingencies;
- Under certain emergency conditions, typically has police powers to make, amend, and rescind orders and regulations;
- Provides leadership and plays a key role in communicating to the public and in helping people, businesses, and organizations cope with the consequences of any type of declared emergency within State jurisdiction;
- Encourages participation in mutual aid and implements authorities for the State to enter into mutual aid agreements with other States, tribes, and territories to facilitate resource-sharing;
- Is the Commander-in-Chief of State military forces (National Guard when in State Active Duty or Title 32 Status and the authorized State militias); and

- Requests Federal assistance when it becomes clear that State or tribal capabilities will be insufficient or have been exceeded or exhausted.

#### Local Chief Executive Officer

A mayor or city or county manager, as a jurisdiction's chief executive, is responsible for the public safety and welfare of the people of that jurisdiction. The Local Chief Executive Officer:

- Is responsible for coordinating local resources to address the full spectrum of actions to prevent, prepare for, respond to, and recover from incidents involving all hazards including terrorism, natural disasters, accidents, and other contingencies;
- Dependent upon State and local law, has extraordinary powers to suspend local laws and ordinances, such as to establish a curfew, direct evacuations, and, in coordination with the local health authority, to order a quarantine;
- Provides leadership and plays a key role in communicating to the public, and in helping people, businesses, and organizations cope with the consequences of any type of domestic incident within the jurisdiction;
- Negotiates and enters into mutual aid agreements with other jurisdictions to facilitate resource-sharing; and
- Requests State and, if necessary, Federal assistance through the Governor of the State when the jurisdiction's capabilities have been exceeded or exhausted.

#### Tribal Chief Executive Officer

The Tribal Chief Executive Officer is responsible for the public safety and welfare of the people of that tribe. The Tribal Chief Executive Officer, as authorized by tribal government:

- Is responsible for coordinating tribal resources to address the full spectrum of actions to prevent, prepare for, respond to, and recover from incidents involving all hazards including terrorism, natural disasters, accidents, and other contingencies;
- Has extraordinary powers to suspend tribal laws and ordinances, such as to establish a curfew, direct evacuations, and order a quarantine;



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- Provides leadership and plays a key role in communicating to the tribal nation, and in helping people, businesses, and organizations cope with the consequences of any type of domestic incident within the jurisdiction;
- Negotiates and enters into mutual aid agreements with other tribes/jurisdictions to facilitate resource-sharing;
- Can request State and Federal assistance through the Governor of the State when the tribe's capabilities have been exceeded or exhausted; and
- Can elect to deal directly with the Federal Government. (Although a State Governor must request a Presidential disaster declaration on behalf of a tribe under the Stafford Act, Federal agencies can work directly with the tribe within existing authorities and resources.)

### Federal Government

#### Department of Homeland Security

The Homeland Security Act of 2002 established DHS to prevent terrorist attacks within the United States; reduce the vulnerability of the United States to terrorism, natural disasters, and other emergencies; and minimize the damage and assist in the recovery from terrorist attacks, natural disasters, and other emergencies. The act also designates DHS as "a focal point regarding natural and manmade crises and emergency planning."

##### Secretary of Homeland Security

Pursuant to HSPD-5, the Secretary of Homeland Security is responsible for coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. HSPD-5 further designates the Secretary of Homeland Security as the "principal Federal official" for domestic incident management.

In this role, the Secretary is also responsible for coordinating Federal resources utilized in response to or recovery from terrorist attacks, major disasters, or other emergencies if and when any of the following four conditions applies:

- (1) a Federal department or agency acting under its own authority has requested DHS assistance;
- (2) the resources of State and local authorities are overwhelmed and Federal assistance has been requested;
- (3) more than one Federal department or agency has become substantially involved in responding to the incident; or
- (4) the Secretary has been directed to assume incident management responsibilities by the President.

#### Department of Justice

The Attorney General is the chief law enforcement officer in the United States.

##### Attorney General

In accordance with HSPD-5 and other relevant statutes and directives, the Attorney General has lead responsibility for criminal investigations of terrorist acts or terrorist threats by individuals or groups inside the United States, or directed at U.S. citizens or institutions abroad, where such acts are within the Federal criminal jurisdiction of the United States, as well as for related intelligence-collection activities within the United States, subject to applicable laws, Executive orders, directives, and procedures.

Generally acting through the Federal Bureau of Investigation (FBI), the Attorney General, in cooperation with other Federal departments and agencies engaged in activities to protect national security, coordinates the activities of the other members of the law enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States. This includes actions to prevent, preempt, and disrupt specific terrorist threats or actual incidents that are based upon specific intelligence or law enforcement information. Nothing in this plan derogates the Attorney General's status or responsibilities.

Following a terrorist threat or an actual incident that falls within the criminal jurisdiction of the United States, the full capabilities of the United States will be dedicated to assisting the Attorney General to identify the perpetrators and bring them to justice, consistent

with U.S. law and with authorities of other Federal departments and agencies to protect national security.

### Department of Defense (DOD)

DOD has significant resources that may be available to support the Federal response to an Incident of National Significance.

#### Secretary of Defense

The Secretary of Defense authorizes Defense Support of Civil Authorities (DSCA) for domestic incidents as directed by the President or when consistent with military readiness operations and appropriate under the circumstances and the law. The Secretary of Defense retains command of military forces under DSCA, as with all other situations and operations.

Concepts of “command” and “unity of command” have distinct legal and cultural meanings for military forces and operations. For military forces, command runs from the President to the Secretary of Defense to the Commander of the combatant command to the commander of the forces. The “Unified Command” concept utilized by civil authorities is distinct from the military chain of command.

Nothing in this plan impairs or otherwise affects the authority of the Secretary of Defense over the DOD, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures. The Secretary of Defense shall provide defense support of civil authorities for domestic incidents as directed by the President or when consistent with military readiness and appropriate under the circumstances and the law. The Secretary of Defense shall retain command of military forces providing civil support.

### Department of State

DOS has international coordination responsibilities.

#### Secretary of State

The Secretary of State is responsible for coordinating international prevention, preparedness, response, and recovery activities relating to domestic incidents, and for the protection of U.S. citizens and U.S. interests overseas.

### Other Federal Agencies

During an Incident of National Significance, other Federal departments or agencies may play primary, coordinating, and/or support roles based on their authorities and resources and the nature of the incident. In situations where a Federal agency has jurisdictional authority and responsibility for directing or managing a major aspect of the response, that agency is part of the national leadership for the incident and participates as a Senior Federal Official (SFO) or Senior Federal Law Enforcement Official (SFLFO) in the Joint Field Office (JFO) Coordination Group at the field level, and as part of the Interagency Incident Management Group (IIMG) and/or Homeland Security Council (HSC)/National Security Council (NSC) Policy Coordination Committees (PCC). (See section IV, page 22.)

Some Federal agencies with jurisdictional authority and responsibility may also participate in the Unified Command at the Incident Command Post (ICP). Federal departments and agencies participate in the ISF structure as coordinators, primary agencies, and/or support agencies and/or as required to support incident management activities.

#### Emergency Support Function

A grouping of government and certain private-sector capabilities into an organizational structure to provide support, resources, and services.

HSPD-5 directs the heads of all Federal departments and agencies, in the context of domestic incident management, to “provide their full and prompt cooperation, resources, and support, as appropriate and consistent with their own responsibilities for protecting our national security, to the Secretary of Homeland Security, the Attorney General, the Secretary of Defense, and the Secretary of State.”

Several Federal agencies have independent authorities to declare disasters or emergencies. These authorities may be exercised concurrently with or become part of a major disaster or emergency declared under the Stafford Act. Some examples of agencies exercising independent authorities include the following scenarios:

- The Secretary of Agriculture may declare a disaster in certain situations in which a county sustained production loss of 30 percent or greater in a single major enterprise, authorizing emergency loans for physical damages and crop loss.

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- The Administrator of the Small Business Administration may make a disaster declaration based on physical damage to buildings, machinery, equipment, inventory, homes, and other property as well as economic injury.
- The Secretary of Commerce may make a declaration of a commercial fisheries failure or fishery resources disaster.
- The Secretary of Health and Human Services may declare a public health emergency.
- The U.S. Army Corps of Engineers (USACE) Chief of Engineers may issue a disaster declaration in response to flooding and coastal storms. USACE is authorized to undertake emergency operations and activities.
- A Federal On-Scene Coordinator (OSC), designated by the Environmental Protection Agency (EPA), DHS/U.S. Coast Guard (DHS/USCG), DOD, or the Department of Energy (DOE) under the NCP, has the authority to direct response efforts at the scene of a discharge or release of oil, hazardous substance, pollutants, or contaminants, depending on the substance and the location and source of release.

The ESF, Support, and Incident Annexes provide further discussion of the domestic incident management roles and responsibilities of other Federal departments and agencies.

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### Emergency Support Functions

The NRP applies a functional approach that groups the capabilities of Federal departments and agencies and the American Red Cross into ESFs to provide the planning, support, resources, program implementation, and emergency services that are most likely to be needed during Incidents of National Significance. The Federal response to actual or potential Incidents of National Significance is typically provided through the full or

partial activation of the ESF structure as necessary. The ESFs serve as the coordination mechanism to provide assistance to State, local, and tribal governments or to Federal departments and agencies conducting missions of primary Federal responsibility. ESFs may be selectively activated for both Stafford Act and non-Stafford Act incidents where Federal departments or agencies request DHS assistance or under other circumstances as defined in HSPD-5. The ESFs provide staffing for the National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), JFO, and ICP as required by the situation at hand.

Each ESF is composed of primary and support agencies. The NRP identifies primary agencies on the basis of authorities, resources, and capabilities. Support agencies are assigned based on resources and capabilities in a given functional area. The resources provided by the ESFs reflect the resource-typing categories identified in the NIMS. The scope of each ESF is summarized in Figure 2 on the following page. ESFs are expected to support one another in carrying out their respective roles and responsibilities. Additional discussion on roles and responsibilities of ESF coordinators, primary agencies, and support agencies can be found in the introduction to the ESF Annexes.

Note that not all Incidents of National Significance result in the activation of ESFs. It is possible that an Incident of National Significance can be adequately addressed by DHS and other Federal agencies through activation of certain NRP elements (e.g., Principal Federal Official (PFO), IIMG) without the activation of ESFs. Similarly, operational security considerations may dictate that activation of NRP elements be kept to a minimum, particularly in the context of certain terrorism prevention activities.

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### Nongovernmental and Volunteer Organizations

NGOs collaborate with first responders, governments at all levels, and other agencies and organizations providing relief services to sustain life, reduce physical and emotional distress, and promote recovery of disaster victims when assistance is not available from other sources. For example, the American Red Cross is an NGO that provides relief at the local level and also coordinates the Mass Care element of ESF #6. Community-based organizations (CBOs) receive government funding to provide essential public health services.

The National Voluntary Organizations Active in Disaster (NVOAD) is a consortium of more than 30 recognized national organizations of volunteers active in disaster relief. Such entities provide significant capabilities to incident management and response efforts at all levels. For example, the wildlife rescue and rehabilitation activities conducted during a pollution emergency are often carried out by private, nonprofit organizations working with natural resource trustee agencies.

FIGURE 2. Emergency Support Functions

ESF	Scope
ESF #1 - Transportation	<ul style="list-style-type: none"> <li>Federal and civil transportation support</li> <li>Transportation safety</li> <li>Restoration/recovery of transportation infrastructure</li> <li>Movement restrictions</li> <li>Damage and impact assessment</li> </ul>
ESF #2 - Communications	<ul style="list-style-type: none"> <li>Coordination with telecommunications industry</li> <li>Restoration/repair of telecommunications infrastructure</li> <li>Protection, restoration, and sustainment of national cyber and information technology resources</li> </ul>
ESF #3 - Public Works and Engineering	<ul style="list-style-type: none"> <li>Infrastructure protection and emergency repair</li> <li>Infrastructure restoration</li> <li>Engineering services, construction management</li> <li>Critical infrastructure liaison</li> </ul>
ESF #4 - Firefighting	<ul style="list-style-type: none"> <li>Firefighting activities on Federal lands</li> <li>Resource support to rural and urban firefighting operations</li> </ul>
ESF #5 - Emergency Management	<ul style="list-style-type: none"> <li>Coordination of incident management efforts</li> <li>Issuance of mission assignments</li> <li>Resource and human capital</li> <li>Incident action planning</li> <li>Financial management</li> </ul>
ESF #6 - Mass Care, Housing, and Human Services	<ul style="list-style-type: none"> <li>Mass care</li> <li>Disaster housing</li> <li>Human services</li> </ul>
ESF #7 - Resource Support	<ul style="list-style-type: none"> <li>Resource support (facility space, office equipment and supplies, contracting services, etc.)</li> </ul>
ESF #8 - Public Health and Medical Services	<ul style="list-style-type: none"> <li>Public health</li> <li>Medical</li> <li>Mental health services</li> <li>Mortuary services</li> </ul>
ESF #9 - Urban Search and Rescue	<ul style="list-style-type: none"> <li>Life-saving assistance</li> <li>Urban search and rescue</li> </ul>
ESF #10 - Oil and Hazardous Materials Response	<ul style="list-style-type: none"> <li>Oil and hazardous materials (chemical, biological, radiological, etc.) response</li> <li>Environmental safety and short- and long-term cleanup</li> </ul>
ESF #11 - Agriculture and Natural Resources	<ul style="list-style-type: none"> <li>Nutrition assistance</li> <li>Animal and plant disease/pest response</li> <li>Food safety and security</li> <li>Natural and cultural resources and historic properties protection and restoration</li> </ul>
ESF #12 - Energy	<ul style="list-style-type: none"> <li>Energy infrastructure assessment, repair, and restoration</li> <li>Energy industry utilities coordination</li> <li>Energy forecast</li> </ul>
ESF #13 - Public Safety and Security	<ul style="list-style-type: none"> <li>Facility and resource security</li> <li>Security planning and technical and resource assistance</li> <li>Public safety/security support</li> <li>Support to access, traffic, and crowd control</li> </ul>
ESF #14 - Long-Term Community Recovery and Mitigation	<ul style="list-style-type: none"> <li>Social and economic community impact assessment</li> <li>Long-term community recovery assistance to States, local governments, and the private sector</li> <li>Mitigation analysis and program implementation</li> </ul>
ESF #15 - External Affairs	<ul style="list-style-type: none"> <li>Emergency public information and protective action guidance</li> <li>Media and community relations</li> <li>Congressional and international affairs</li> <li>Tribal and insular affairs</li> </ul>

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### Private Sector

DHS and NRP primary and support agencies coordinate with the private sector to effectively share information, form courses of action, and incorporate available resources to prevent, prepare for, respond to, and recover from Incidents of National Significance. Further, the Secretary of Homeland Security utilizes a private-sector advisory group with broad representation to provide advice on incident

management and emergency response issues impacting their stakeholders.

**Roles:** The roles, responsibilities, and participation of the private sector during Incidents of National Significance vary based on the nature of the organization and the type and impact of the incident. The roles of private-sector organizations are summarized below.

Type of Organization	Role
Impacted Organization or Infrastructure	Private-sector organizations may be affected by direct or indirect consequences of the incident, including privately owned critical infrastructure, key resources, and those main private-sector organizations that are significant to local, regional, and national economic recovery from the incident. Examples of privately owned infrastructure include transportation, telecommunications, private utilities, financial institutions, and hospitals.
Response Resource	Private-sector organizations provide response resources (donated or compensated) during an incident—including specialized teams, equipment, and advanced technologies—through local public-private emergency plans, mutual aid agreements, or incident-specific requests from government and private-sector-volunteered initiatives.
Regulated and/or Responsible Party	Owners/operators of certain regulated facilities or hazardous operations may bear responsibilities under the law for preparing for and preventing incidents from occurring, and responding to an incident once it occurs. For example, Federal regulations require owners/operators of Nuclear Regulatory Commission (NRC)-regulated nuclear facilities and activities to maintain emergency (incident) preparedness plans, procedures, and facilities and to perform assessments, prompt notifications, and training for a response to an incident.
State/Local Emergency Organization Member	Private-sector organizations may serve as an active partner in local and State emergency preparedness and response organizations and activities.

**Responsibilities:** Private-sector organizations support the NRP (voluntarily or to comply with applicable laws and regulations) by sharing information with the government, identifying risks, performing vulnerability assessments, developing emergency response and business continuity plans, enhancing their overall readiness, implementing appropriate prevention and protection programs, and donating or otherwise providing goods and services through contractual arrangement or government purchases to assist in response to and recovery from an incident.

Certain organizations are required by existing law and regulation to bear the cost of planning and response to incidents, regardless of cause. In the case of an Incident of National Significance, these private-sector

organizations are expected to mobilize and employ the resources necessary and available in accordance with their plans to address the consequences of incidents at their own facilities or incidents for which they are otherwise responsible.

**Response Resources:** Unless the response role is inherently governmental (e.g., law enforcement, etc.), private-sector organizations are encouraged to develop and maintain capabilities to respond to and manage a complete spectrum of incidents and emergencies. The Federal Government maintains ongoing interaction with the critical infrastructure and key resources industries to provide coordination for prevention, preparedness, response, and recovery activities. When practical, or when required under Federal law, private-

sector representatives should be included in planning and exercises. The government may, in some cases, direct private-sector response resources when they have contractual relationships, using government funds. Through the Defense Production Act of 1950, 64 Stat. 798 (1950), as amended, and the Homeland Security Act, DHS has the authority to redirect production and distribution of certain response and incident management resources.

**Functional Coordination:** The primary agency(ies) for each ESF maintains working relations with its associated private-sector counterparts through partnership committees or other means (e.g., ESF #2, Communications – telecommunications industry; ESF #10, Oil and Hazardous Materials Response – oil and hazardous materials industries; etc.).

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## Citizen Involvement

Strong partnerships with citizen groups and organizations provide support for incident management prevention, preparedness, response, recovery, and mitigation.

The U.S. Citizen Corps brings these groups together and focuses efforts of individuals through education, training, and volunteer service to help make communities safer, stronger, and better prepared to address the threats of terrorism, crime, public health issues, and disasters of all kinds.

Local Citizen Corps Councils implement Citizen Corps programs, which include Community Emergency Response Teams (CERTs), Medical Reserve Corps, Neighborhood Watch, Volunteers in Police Service, and the affiliate programs; provide opportunities for special skills and interests; develop targeted outreach for special-needs groups; and organize special projects and community events.

Citizen Corps Affiliate Programs expand the resources and materials available to States and local communities through partnerships with programs and organizations that offer resources for public education, outreach, and training; represent volunteers interested in helping to

### Citizen Corps

The Citizen Corps works through a national network of State, local, and tribal Citizen Corps Councils, which bring together leaders from law enforcement, fire, emergency medical and other emergency management, volunteer organizations, local elected officials, the private sector, and other community stakeholders.

make their communities safer; or offer volunteer service opportunities to support first responders, disaster relief activities, and community safety efforts.

Other programs unaffiliated with Citizen Corps also provide organized citizen involvement opportunities in support of Federal response to major disasters and events of national significance. One example is the National Animal Health Emergency Response Corps (NAHERC), which helps protect public health by providing a ready reserve of private and State animal health technicians and veterinarians to combat threats to U.S. livestock and poultry in the event of a large outbreak of a foreign animal disease.



## IV. Concept of Operations

### General

This section describes the Federal coordinating structures, processes, and protocols employed to manage Incidents of National Significance. These coordinating structures and processes are designed to enable execution of the responsibilities of the President through the appropriate Federal departments and agencies, and to integrate Federal, State, local, tribal, NGO, and private-sector efforts into a comprehensive national approach to domestic incident management.

A basic premise of the NRP is that incidents are generally handled at the lowest jurisdictional level possible. Police, fire, public health and medical, emergency management, and other personnel are responsible for incident management at the local level. In some instances, a Federal agency in the local area may act as a first responder and may provide direction or assistance consistent with its specific statutory authorities and responsibilities. In the vast majority of incidents, State and local resources and interstate mutual aid normally provide the first line of emergency response and incident management support.

When an incident or potential incident is of such severity, magnitude, and/or complexity that it is

A basic premise of the NRP is that incidents are generally handled at the lowest jurisdictional level possible.

In an Incident of National Significance, the Secretary of Homeland Security, in coordination with other Federal departments and agencies, initiates actions to prevent, prepare for, respond to, and recover from the incident. These actions are taken in conjunction with State, local, tribal, nongovernmental, and private-sector entities.

considered an Incident of National Significance according to the criteria established in this plan, the Secretary of Homeland Security, in coordination with other Federal departments and agencies, initiates actions to prevent, prepare for, respond to, and recover from the incident. These actions are taken in conjunction with State, local, tribal, nongovernmental, and private-sector entities as appropriate to the threat or incident. In the context of Stafford Act disasters or emergencies, DHS coordinates supplemental Federal assistance when the consequences of the incident exceed State, local, or tribal capabilities.

### Overall Coordination of Federal Incident Management Activities

The President leads the Nation in responding effectively and ensuring the necessary resources are applied quickly and efficiently to all Incidents of National Significance. As necessary, the Assistant to the President for Homeland Security convenes interagency meetings to coordinate policy issues. Though White House-level coordination mechanisms are not described in detail in the NRP, all other Federal coordinating mechanisms and entities described in the NRP support, and are consistent with, White House-level interagency coordination.

During actual or potential Incidents of National Significance, the overall coordination of Federal incident management activities is executed through the Secretary of Homeland Security. Other Federal departments and agencies carry out their incident management and emergency response authorities and responsibilities within this overarching coordinating framework.

The Secretary of Homeland Security utilizes multiagency structures at the headquarters, regional, and field levels to coordinate efforts and provide appropriate support to the incident command structure. At the Federal headquarters level, incident information-sharing, operational planning, and deployment of Federal resources are coordinated by the Homeland Security Operations Center (HSOC), and its component element, the NRCC.

Strategic-level interagency incident management coordination and course of action development are facilitated by the IIMG, which also serves as an advisory body to the Secretary of Homeland Security. Issues beyond the Secretary's authority to resolve are referred to the appropriate White House entity for resolution.

At the regional level, interagency resource coordination and multiagency incident support are provided by the RRCC. In the field, the Secretary of Homeland Security is represented by the PFO (and/or the Federal Coordinating Officer (FCO)/Federal Resource Coordinator (FRC) as appropriate). Overall Federal support to the incident command structure on-scene is coordinated through the JFO.

The **RRCC** coordinates regional response efforts, establishes Federal priorities, and implements local Federal program support until a JFO is established.

The **JFO** is a temporary Federal facility established locally to coordinate operational Federal assistance activities to the affected jurisdiction(s) during Incidents of National Significance.

For terrorist incidents, the primary responsibilities for coordinating and conducting all Federal law enforcement and criminal investigation activities are executed by the Attorney General acting through the FBI. During a terrorist incident, the local FBI Special Agent-in-Charge

(SAC) coordinates these activities with other members of the law enforcement community, and works in conjunction with the PFO, who coordinates overall Federal incident management activities. Notwithstanding any other provision of the NRP, when a terrorist threat or actual incident falls within the criminal jurisdiction of the United States, any incident management activity by any other Federal department or agency that could adversely affect the Attorney General's ability to prevent, preempt, disrupt, and respond to such a threat or incident must be coordinated with the Attorney General through the SFLEO (i.e., the FBI SAC).

The framework created by these coordinating structures is designed to accommodate the various roles the Federal Government plays during an incident, whether it is Federal support to (and in coordination with) State, local, or tribal authorities; Federal-to-Federal support; or direct implementation of Federal incident management authorities and responsibilities when appropriate under Federal law. This structure also encompasses the dual roles and responsibilities of the Secretary of Homeland Security for operational and resource coordination in the context of domestic incident management.

## Concurrent Implementation of Other Plans

The NRP is the core plan for managing domestic incidents and details the Federal coordinating structures and processes used during Incidents of National Significance. Other supplemental agency and interagency plans provide details on authorities, response protocols, and technical guidance for responding to and managing specific contingency situations (such as hazardous materials spills, wildland fires, etc.).

In many cases, Federal agencies manage localized incidents under these plans using their own authorities without the need for coordination by the Secretary of Homeland Security. In the context of Incidents of National Significance, these supplemental agency or interagency plans may be implemented concurrently

with the NRP, but are subordinated to the overarching core coordinating structures, processes, and protocols detailed in the NRP. In this case, the department or agency with primary responsibility for execution of the supplemental agency or interagency plan is also responsible for ensuring that all ongoing activities conform to the processes and protocols prescribed in the NRP. This helps enable effective and coordinated Federal incident management operations, consistent with individual department and agency authorities and responsibilities. Similarly, this same principle applies to the implementation of security plans developed to support special security events, particularly NSSEs. A comprehensive listing and summary of representative national agency and interagency plans is included in Appendix 4.

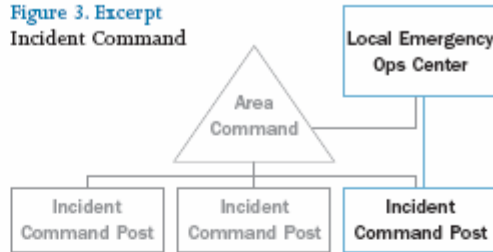


## Organizational Structure

The national structure for incident management establishes a clear progression of coordination and communication from the local level to regional to national headquarters level. This structure is diagramed in Figure 3 on page 19.

As illustrated in Figure 3, the local incident command structures (namely the ICP(s) and Area Command) are responsible for directing on-scene emergency management and maintaining command and control of on-scene incident operations.

**Figure 3. Excerpt**  
**Incident Command**



The support and coordination components consist of multiagency coordination centers/emergency operations centers (EOCs) and multiagency coordination entities. Multiagency coordination centers/EOCs provide central locations for operational information-sharing and resource coordination in support of on-scene efforts.

**Figure 3. Excerpt**  
**EOCs/Multiagency Coordination Centers**



Multiagency coordination entities aid in establishing priorities among the incidents and associated resource allocations, resolving agency policy conflicts, and providing strategic guidance to support incident management activities.

**Figure 3. Excerpt**  
**Multiagency Coordination Entities**



In accordance with NIMS processes, resource and policy issues are addressed at the lowest organizational level practicable. If the issues cannot be resolved at that level, they are forwarded up to the next level for resolution. Reflecting the NIMS construct, the NRP includes the following command and coordination structures:

- ICPs on-scene using the Incident Command System (ICS)/Unified Command;
- Area Command (if needed);
- State, local, tribal, and private-sector EOCs;
- JFO, which is responsible for coordinating Federal assistance and supporting incident management activities locally;
- RRCC and HSOC, which serve as regional and national-level multiagency situational awareness and operational coordination centers;

- IIMG, which serves as the national headquarters-level multiagency coordination entity for domestic incident management; and
- HSC and other White House organizations, which serve as the national-level multiagency coordination entities to advise and assist the President on homeland security and other policy issues.

The NRP organizational structure addresses both site-specific incident management activities and the broader regional or national issues related to the incident, such as impacts to the rest of the country, immediate regional or national actions required to avert or prepare for potential subsequent events, and the management of multiple threats or incidents (particularly those that are non-site specific, geographically dispersed, or evolve over a long period of time).

The role of regional coordinating structures varies depending on the situation. Many incidents may be coordinated by regional structures primarily using regional assets. Larger, more complex incidents may require direct coordination between the JFO and national level, with regional structures continuing to play a supporting role.

Variations of the basic structure are diagrammed in the following figures:

- Figure 4 reflects modifications for terrorist incidents and the role of the DOJ working through the FBI's

Strategic Information and Operations Center (SIOC) and the Joint Operations Center (JOC).

- Figure 5 depicts the coordination structure for Federal-to-Federal support when DHS is coordinating resources to support another Federal agency in non-Stafford Act situations.

Additional information about each component of these organizational structures is presented following the figures.

FIGURE 3. Structure for NRP coordination

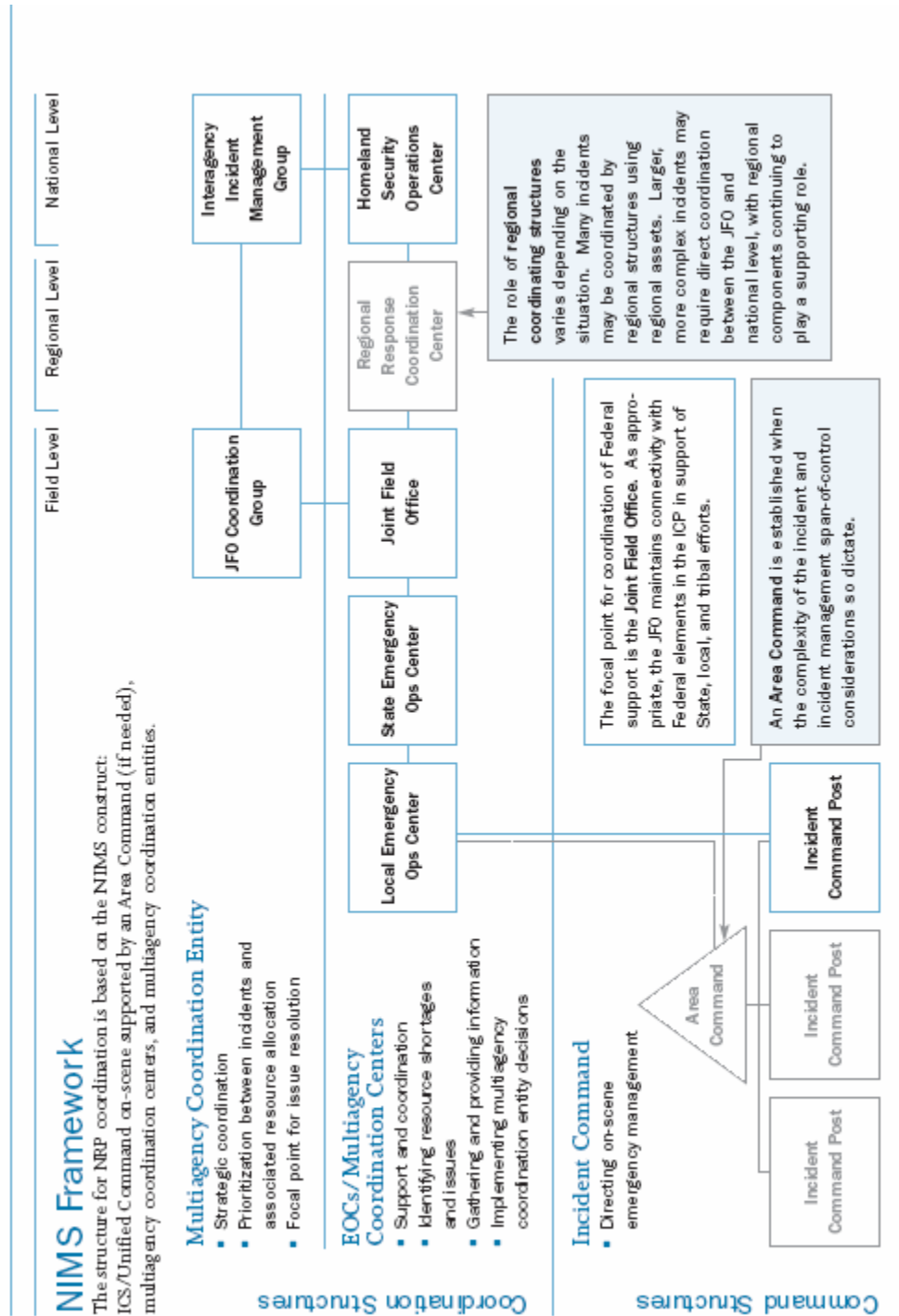


FIGURE 4. Structure for NRP coordination: Terrorist incident

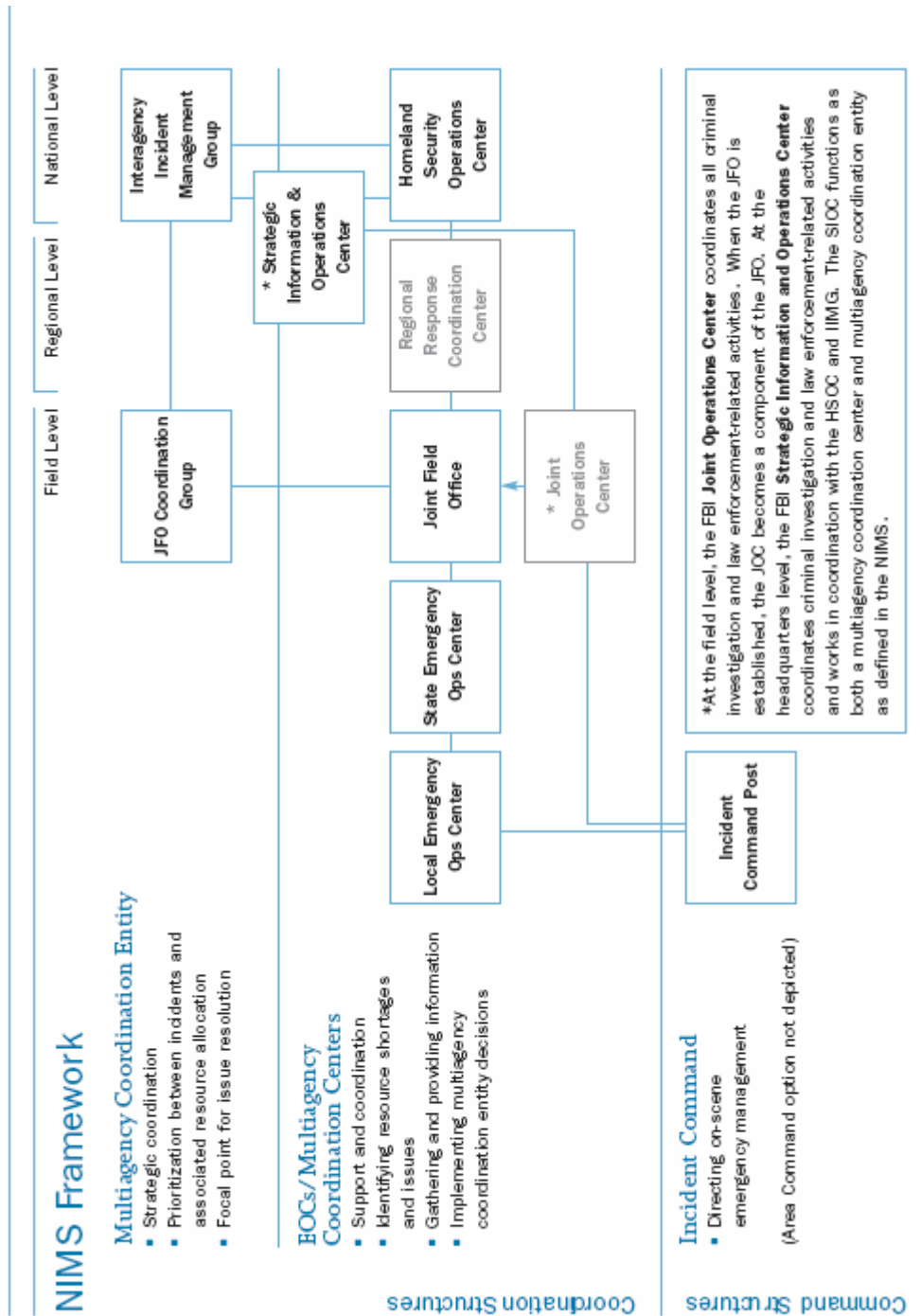
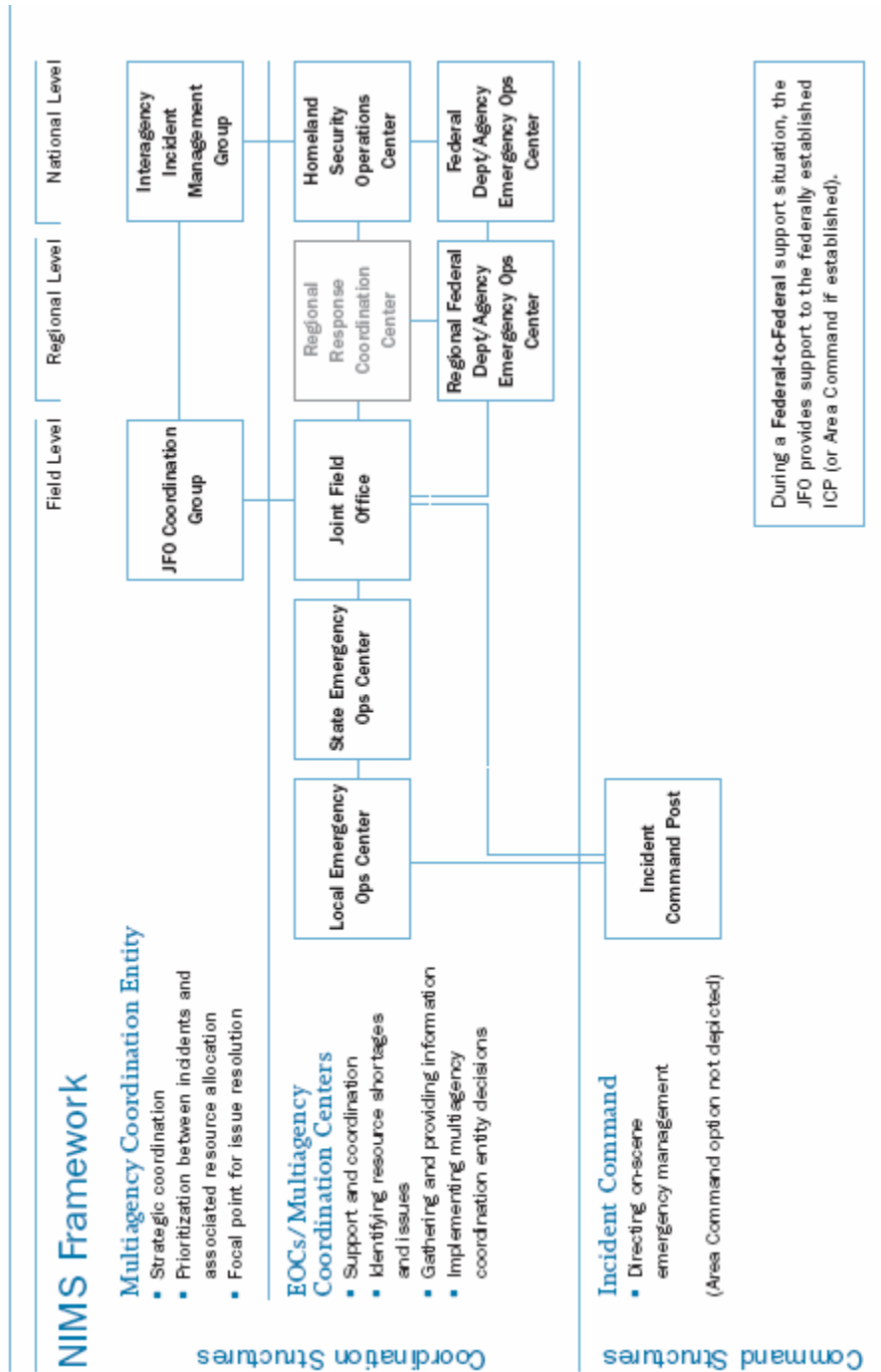


FIGURE 5. Structure for NRP coordination: Federal-to-Federal support



## Principal NRP Organizational Elements

This section discusses the major organizational elements in the structure for Federal NRP coordination diagramed in Figures 3 through 5. Included in the discussion are special teams and other associated components, to include White House-level entities.

### Homeland Security Council/National Security Council

As stated in HSPD-5, the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs are responsible for interagency policy coordination regarding domestic and international incident management, respectively, as directed by the President. Following an initial assessment by the Secretary of Homeland Security, interagency policy issues and courses of action framed by the IIMG, particularly those of a time-sensitive nature, those that require policy adjudication, or those outside the authorities of the Secretary, as defined in the Homeland Security Act, Stafford Act, and other relevant statutes, Executive orders, and directives, are elevated for resolution through the HSC/NSC system.

The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs work together to ensure that domestic and international incident management efforts are seamlessly united.

### Policy Coordination Committees (PCCs)

PCCs coordinate policy issues as part of the White House process. PCCs may be convened at the request of any member agency on an emergency basis based on a threat, an Incident of National Significance, or a policy issue of an urgent nature.

### Interagency Incident Management Group

The IIMG is a Federal headquarters-level multiagency coordination entity that facilitates strategic Federal domestic incident management for Incidents of National Significance. The Secretary of Homeland Security activates the IIMG based on the nature,

severity, magnitude, and complexity of the threat or incident. The Secretary of Homeland Security may activate the IIMG for high-profile, large-scale events that present high-probability targets, such as NSSEs, and in heightened threat situations. The IIMG is comprised of senior representatives from DHS components, other Federal departments and agencies, and NGOs, as required. (For incident-specific activities, the IIMG replaces the Catastrophic Disaster Response Group that served as the policy-level multiagency coordination entity under the FRP.)

The IIMG membership is flexible and can be tailored or task-organized to provide the appropriate subject-matter expertise required for the specific threat or incident at hand. When activated, the IIMG:

- Serves as a focal point for Federal strategic incident management planning and coordination;
- Maintains situational awareness of threat assessments and ongoing incident-related operations and activities;
- Provides decisionmaking support for threat or incident-related prevention, preparedness, response, and recovery efforts;
- Synthesizes information, frames issues, and makes recommendations to the Secretary of Homeland Security on:
  - Actions to take in response to credible threats,
  - Changes in the national HSAS alert level,
  - Policy issues,
  - Operational courses of action, and
  - Priorities for the use or allocation of Federal resources;
- Provides strategic coordination and recommendations for the application of Federal resources in cooperation with existing agency and interagency resource management and private-sector entities;
- Assesses national impacts of the incident(s) as well as those associated with the actual or proposed Federal response;
- Anticipates evolving Federal resource and operational requirements according to the specifics of the situation;
- Maintains ongoing coordination with the PFO and the JFO Coordination Group;
- Coordinates with the FBI SIOC on terrorism-related issues;

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

- Facilitates interagency operational coordination and coordination with other public and private entities required for implementation of decisions and directions from the President or other appropriate White House entities; and
- Develops strategies for implementing existing policies and provides incident information to DHS and the White House to facilitate policymaking. The White House originates any new policies pertaining to a major incident and resolves interagency policy disputes.

### IIMG Director, Deputy, or Designee

The IIMG coordinates with and provides information to the White House including, but not limited to: situational awareness and operational prevention, protection, preparedness, response, and recovery activities, as well as policy course of action recommendations. The IIMG Director, deputy, or designee, in support of the Secretary of Homeland Security, may participate in White House organization meetings. Policy decisions made through the HSC/NSC system are referred to the IIMG and the appropriate departments and agencies for implementation.

The IIMG monitors policy and operational courses of action implemented by individual departments and agencies, monitors progress, and reports status back through the DHS representative on a timely basis.

### IIMG Staffing

As indicated below, the IIMG consists of an Executive Staff, Core Group, and Subject-Matter Expert Augmentation.

#### IIMG Executive Staff

The Executive Staff includes a Director, Deputy Director, Operations Deputy, Information Analyst, Information Requirements Manager, Recorder, Situation Briefer, Resource Tracker, and Administrative Assistant. The Secretary of Homeland Security will designate a senior department representative to serve as the IIMG Director.

#### IIMG Core Group

The IIMG Core Group includes representatives from Federal departments and agencies, DHS components,

and other organizations as required. Affected States may be represented on the IIMG either through the DHS Office of State and Local Government Coordination and Preparedness (OSLGCP) or, if needed, through a State liaison to the IIMG. At the time of activation of the IIMG, actual IIMG membership and participation is tailored to include departments and agencies with the appropriate jurisdictional authority and expertise for the incident at hand, including the following scenarios: chemical, biological, radiological, or nuclear event; non-WMD terrorist event; cyber event; oil/hazardous materials spill; natural disaster; mass migration event; and other emergencies as required.

#### IIMG Core Group Staffing

- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Energy
- Department of Health and Human Services
- Department of Homeland Security
  - Border and Transportation Security
  - Citizenship and Immigration Services
  - Congressional Liaison
  - Customs and Border Protection
  - Emergency Preparedness and Response/Federal Emergency Management Agency
  - Immigration and Customs Enforcement
  - Information Analysis and Infrastructure Protection
  - International Affairs Office
  - Legislative Affairs
  - Office of General Counsel
  - Office of National Capital Region Coordination
  - Office of State and Local Government Coordination and Preparedness
  - Public Affairs
  - Science and Technology
  - Special Assistant to the Secretary for the Private Sector
  - Transportation Security Administration
  - U.S. Coast Guard
  - U.S. Secret Service
- Department of Housing and Urban Development
- Department of the Interior
- Department of Justice
  - Bureau of Alcohol, Tobacco, Firearms and Explosives
  - Drug Enforcement Agency
  - Federal Bureau of Investigation
  - U.S. Marshals Service



- Department of Labor
- Department of State
- Department of Transportation
- Department of the Treasury
- Department of Veterans Affairs
- Central Intelligence Agency
- Environmental Protection Agency
- General Services Administration
- National Aeronautics and Space Administration
- Nuclear Regulatory Commission
- Office of Personnel Management
- Small Business Administration
- U.S. Postal Service
- White House Office of Science and Technology Policy
- American Red Cross

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#### Subject-Matter Expert Augmentation

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In addition to the Executive Staff and Core Group, the IIMG integrates immediately available and on-call operational subject-matter expertise and reach-back capability to meet the demands of the particular incident. For some responses, pre-established subject-matter expert groups are part of ESE, Support, or Incident Annex planning efforts, and provide appropriate technical advice. For example, for incidents involving hazardous materials, the National Response Team (NRT) can provide assistance to the IIMG. (See the Science and Technology Support Annex for additional information.)

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#### IIMG Procedures

Procedures governing the designation, activation, recall, assembly, and operational interaction of IIMG members will be developed in concert with other Federal departments and agencies and published by the Secretary of Homeland Security in a separate document.

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#### Homeland Security Operations Center

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The HSOC is the primary national hub for domestic incident management operational coordination and situational awareness. The HSOC is a standing 24/7 interagency organization fusing law enforcement, national intelligence, emergency response, and private-sector reporting. The HSOC facilitates homeland security information-sharing and operational coordination with other Federal, State, local, tribal, and nongovernmental EOCs.

HSOC roles and responsibilities include:

- Establishing and maintaining real-time communications links to other Federal EOCs at the national level, as well as appropriate State, tribal, local, regional, and nongovernmental EOCs and relevant elements of the private sector;
- Maintaining communications with private-sector critical infrastructure and key resources information-sharing entities;
- Maintaining communications with Federal incident management officials;
- Coordinating resources pertaining to domestic incident management, and the protection against and prevention of terrorists attacks;
- Coordinating with the Terrorist Screening Center (TSC), FBI SIOC, National Counterterrorism Center (NCTC), and other Federal Government entities for terrorism-related threat analysis and incident response, consistent with applicable Executive orders;
- Providing general domestic situational awareness, common operational picture, and support to and acting upon requests for information from the IIMG and DHS leadership; and
- Acting as the primary conduit for the White House Situation Room and IIMG for domestic situational awareness.

The HSOC consists of a 24/7 multiagency watch and operational coordination center and integrated elements of DHS Information Analysis and Infrastructure Protection/Office of the Assistant Secretary for Information Analysis (DHS/IAIP/OIA) and DHS Emergency Preparedness and Response/Federal Emergency Management Agency (DHS/EPR/FEMA). These elements work in close coordination to address information/intelligence analysis and response coordination.

#### HSOC (DHS Headquarters facility elements)

The HSOC integrates representatives from DHS and other Federal departments and agencies to support steady-state threat-monitoring requirements and situational awareness, as well as operational incident management coordination. The organizational structure of the HSOC is designed to integrate a full spectrum of interagency subject-matter expertise and reach-back capability to meet the demands of a wide range of potential incident scenarios.



## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### HSOC Representatives

The HSOC includes representatives from:

- Department of Agriculture\*
- Department of Commerce
  - National Oceanic and Atmospheric Administration
- Department of Defense
- Department of Energy
- Department of Health and Human Services
- Department of Homeland Security
  - Border and Transportation Security
  - Customs and Border Protection
  - Emergency Preparedness and Response/Federal Emergency Management Agency
  - Federal Protective Service
  - Immigration and Customs Enforcement
  - Information Analysis and Infrastructure Protection
  - Office of the National Capital Region Coordination
  - Office of State and Local Government Coordination and Preparedness
  - Public Affairs
  - Science and Technology
  - Transportation Security Administration
  - U.S. Coast Guard
  - U.S. Secret Service
- Department of the Interior
- Department of Justice
  - Bureau of Alcohol, Tobacco, Firearms and Explosives
  - Drug Enforcement Agency
  - Federal Bureau of Investigation
  - U.S. Marshals Service
- Department of Labor\*
- Department of State
- Department of Transportation\*
  - Federal Aviation Administration\*
- Department of Veterans Affairs
- Central Intelligence Agency
- Environmental Protection Agency
- Nuclear Regulatory Commission\*
- Office of Personnel Management
- U.S. Postal Service
- American Red Cross\*
- State and local law enforcement

\* Staffing from these entities is situation dependent.

This list represents a generic template for steady-state staffing for DHS Headquarters elements of the HSOC. At the time of an incident, participation may be expanded based on the specifics of the situation.

DHS component operations centers establish and maintain direct connectivity, or capability for connectivity, with the HSOC on a 24/7 basis and keep it apprised of all operational activities conducted in support of incident management requirements.

Nothing in this plan impacts or impedes the ability of other Federal departments and agencies to establish their own emergency operations centers and maintain a direct flow of information to these operations centers from government or private-sector representatives at the local incident site.

### Intelligence/Information Analysis

In partnership with other elements of the HSOC, DHS/IAIP/OIA is responsible for interagency intelligence collection requirements, analysis, production, and product dissemination for DHS. DHS/IAIP/OIA:

- Coordinates or disseminates homeland security threat warnings, advisory bulletins, and other information pertinent to national incident management to Federal, State, regional, local, and nongovernmental EOCs and incident management officials and relevant elements of the private sector;
- Coordinates with the TSC, FBI SIOC, NCTC, and other Federal Government entities for terrorism-related and homeland security-related threat analysis and warning, consistent with applicable Executive orders;
- Provides direct analytical support and coordinated Request for Information (RFI) processing with the HSOC in support of the IIMG;
- Provides the threat/intelligence aspects of situational awareness and forecasting of follow-on threat activities/incidents; and
- Maintains real-time communications links to other national intelligence organizations.

The FBI develops and disseminates FBI intelligence bulletins and threat warnings to law enforcement in coordination with DHS.

### Response and Resource Coordination

The NRCC is a multiagency center that provides overall Federal response coordination for Incidents of National Significance and emergency management program implementation. DHS/EPR/FEMA maintains the NRCC as a functional component of the HSOC in support of incident management operations.

The NRCC monitors potential or developing Incidents of National Significance and supports the efforts of regional and field components. NRCC functions in support of multiagency planning and coordination of incident management operations include:

- Monitoring the preparedness of national-level emergency response teams and resources;
- In coordination with RRCs, initiating mission assignments or reimbursable agreements to activate other Federal departments and agencies;
- Activating and deploying national-level entities such as the National Disaster Medical System (NDMS), Urban Search and Rescue Task Forces, Mobile Emergency Response Support (MERS), and Emergency Response Team (ERT);
- Coordinating and sustaining the Federal response to potential and actual Incidents of National Significance, including coordinating the use of Federal remote sensing/disaster assessment support;
- Providing management of field facilities, supplies, and equipment;
- Coordinating operational response and resource allocation planning with the appropriate Federal departments and agencies, RRCs, and the JFO;
- Tracking and managing Federal resource allocations (see the Financial Management Support Annex regarding financial tracking and management during Federal-to-Federal support situations);
- Collecting, evaluating, and disseminating information regarding the incident response and status of resources; and
- Drafting and distributing operational warnings and orders in coordination with other elements of the HSOC.

In addition, the NRCC resolves Federal resource support conflicts and other implementation issues forwarded by the JFO. Those issues that cannot be resolved by the NRCC are referred to the IIMG.

During an incident, the NRCC operates on a 24/7 basis or as required in coordination with other elements of the HSOC. To support incident operations, more than 40 departments and agencies from activated ESF primary and support agencies provide representatives to augment the NRCC. Additional interagency representatives may be requested based on the situation at hand. DHS/EPR/FEMA provides management and support staff for functions not filled by ESF personnel. The DHS/EPR/FEMA Operations Center (FOC)

supports the NRCC with a 24-hour watch and provides notification to departments and agencies on the activation (or potential activation) of ESFs.

#### Critical Infrastructure Protection

The HSOC maintains communications and coordinates with critical infrastructure and key resources information-sharing entities through the National Infrastructure Coordinating Center (NICC). The NICC monitors the Nation's critical infrastructure and key resources on an ongoing basis, and conducts daily polling of the standing information-sharing entities for incidents and abnormalities. During an incident, the NICC provides a coordinating vehicle to share information across infrastructure and key resources sectors through appropriate information-sharing entities.

#### Strategic Information and Operations Center

The FBI SIOC is the focal point and operational control center for all Federal intelligence, law enforcement, and investigative law enforcement activities related to domestic terrorist incidents or credible threats, including leading attribution investigations. The SIOC serves as an information clearinghouse to help collect, process, vet, and disseminate information relevant to law enforcement and criminal investigation efforts in a timely manner. The SIOC maintains direct connectivity with the HSOC and IIMG. The SIOC, located at FBI Headquarters, supports the FBI's mission in leading efforts of the law enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States.

The **FBI SIOC** is the focal point and operational control center for all Federal intelligence, law enforcement, and investigative law enforcement activities related to domestic terrorist incidents or credible threats, including leading attribution investigations.

The SIOC houses the National Joint Terrorism Task Force (NJTTF). The mission of the NJTTF is to enhance communications, coordination, and cooperation among Federal, State, local, and tribal agencies representing the intelligence, law enforcement, defense, diplomatic, public safety, and homeland security communities by

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

providing a point of fusion for terrorism intelligence and by supporting Joint Terrorism Task Forces (JTTFs) throughout the United States.

In situations other than terrorism, the Attorney General may coordinate Federal law enforcement activities through another DOJ operations center, as appropriate, in coordination with the HSOC.

### National Counterterrorism Center

The NCTC serves as the primary Federal organization for analyzing and integrating all intelligence possessed or acquired by the U.S. Government pertaining to terrorism and counterterrorism, excepting purely domestic counterterrorism information. The NCTC may, consistent with applicable law, receive, retain, and disseminate information from any Federal, State, or local government or other source necessary to fulfill its responsibilities.

The NCTC also conducts strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies. It assigns operational responsibilities to agencies for counterterrorism activities that are consistent with applicable law and support strategic plans to counter terrorism. The NCTC ensures that agencies have access to and receive intelligence needed to accomplish their assigned activities. It does not direct the execution of operations.

In addition, the NCTC serves as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support. The NCTC ensures that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

### Emergency Support Functions

The ESF structure provides a modular structure to energize the precise components that can best address the requirements of the incident. For example, a large-scale natural disaster or massive terrorist event may

require the activation of all ESFs. A localized flood or tornado might only require activation of a select number of ESFs. Based on the requirements of the incident, ESFs provide the interagency staff to support operations of the NRCC, the RRCC, and the JFO. Depending on the incident, deployed assets of the ESFs may also participate in the staffing of the ICP.

Under the NRP, each ESF is structured to provide optimal support of evolving incident management requirements. ESFs may be activated for Stafford Act and non-Stafford Act implementation of the NRP (although some Incidents of National Significance may not require ESF activations). ESF funding for non-Stafford Act situations will be accomplished using NRP Federal-to-Federal support mechanisms and will vary based on the incident. ESF activities and involvement vary throughout an incident from high-visibility, high-intensity activities during the early response, to program implementation and management during recovery, to a stage of declining requirements and deactivation as ESFs or ESF components complete their missions.

### Regional Coordination

Some Incidents of National Significance may be managed primarily using regional resources, with headquarters-level monitoring. In large-magnitude, high-visibility, and/or sensitive situations, the JFO coordinates directly with the headquarters-level HSOC and IIMG. In these situations, regional organizational elements remain in support roles.

The RRCC is a standing facility operated by DHS/EPR/FEMA that is activated to coordinate regional response efforts, establish Federal priorities, and implement local Federal program support until a JFO is established in the field and/or the PFO, FCO, or FRC can assume their NRP coordination responsibilities. The RRCC establishes communications with the affected State emergency management agency and the NRCC, coordinates deployment of the Emergency Response Team-Advance Element (ERT-A) to field locations, assesses damage information, develops situation reports, and issues initial mission assignments.

The DHS/EPR/FEMA Regional Director activates the RRCC based on the level of response required. The RRCC is led by an RRCC Director and includes

DHS/EPR/FEMA staff and regional ESF representatives. The RRCC may also include a DOD Regional Emergency Preparedness Liaison Officer (REPLO) who assists in coordination of requests for defense support. Financial management activity at the RRCC is monitored and reported by the Comptroller. (The RRCC replaces the Regional Operations Center (ROC) in the FRP)

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## Joint Field Office

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The JFO is a multiagency coordination center established locally. It provides a central location for coordination of Federal, State, local, tribal, nongovernmental, and private-sector organizations with primary responsibility for threat response and incident support. The JFO enables the effective and efficient coordination of Federal incident-related prevention, preparedness, response, and recovery actions.

The JFO utilizes the scalable organizational structure of the NIMS ICS in the context of both pre-incident and post-incident management activities. The JFO organization adapts to the magnitude and complexity of the situation at hand, and incorporates the NIMS principles regarding span of control and organizational structure: management, operations, planning, logistics, and finance/administration. Although the JFO uses an ICS structure, the JFO does not manage on-scene operations. Instead, the JFO focuses on providing support to on-scene efforts and conducting broader support operations that may extend beyond the incident site.

As described in the NIMS, the JFO may also incorporate a sixth element focused on intelligence and information. This element may be included as a position in the Coordination Staff, a unit within the Planning Section, a branch within the Operations Section, or as a separate General Staff Section. The placement of the intelligence function is determined by the JFO Coordination Group based on the role intelligence plays in the incident and/or the volume of classified or highly sensitive information. Personnel from Federal departments and agencies, other jurisdictional entities, and private-sector and

nongovernmental organizations provide staffing for the JFO, generally through their respective ESFs.

The JFO fully replaces the DHS/EPR/FEMA Disaster Field Office (DFO), and accommodates all entities (or their designated representatives) essential to incident management, information-sharing, and the delivery of disaster assistance and other support.

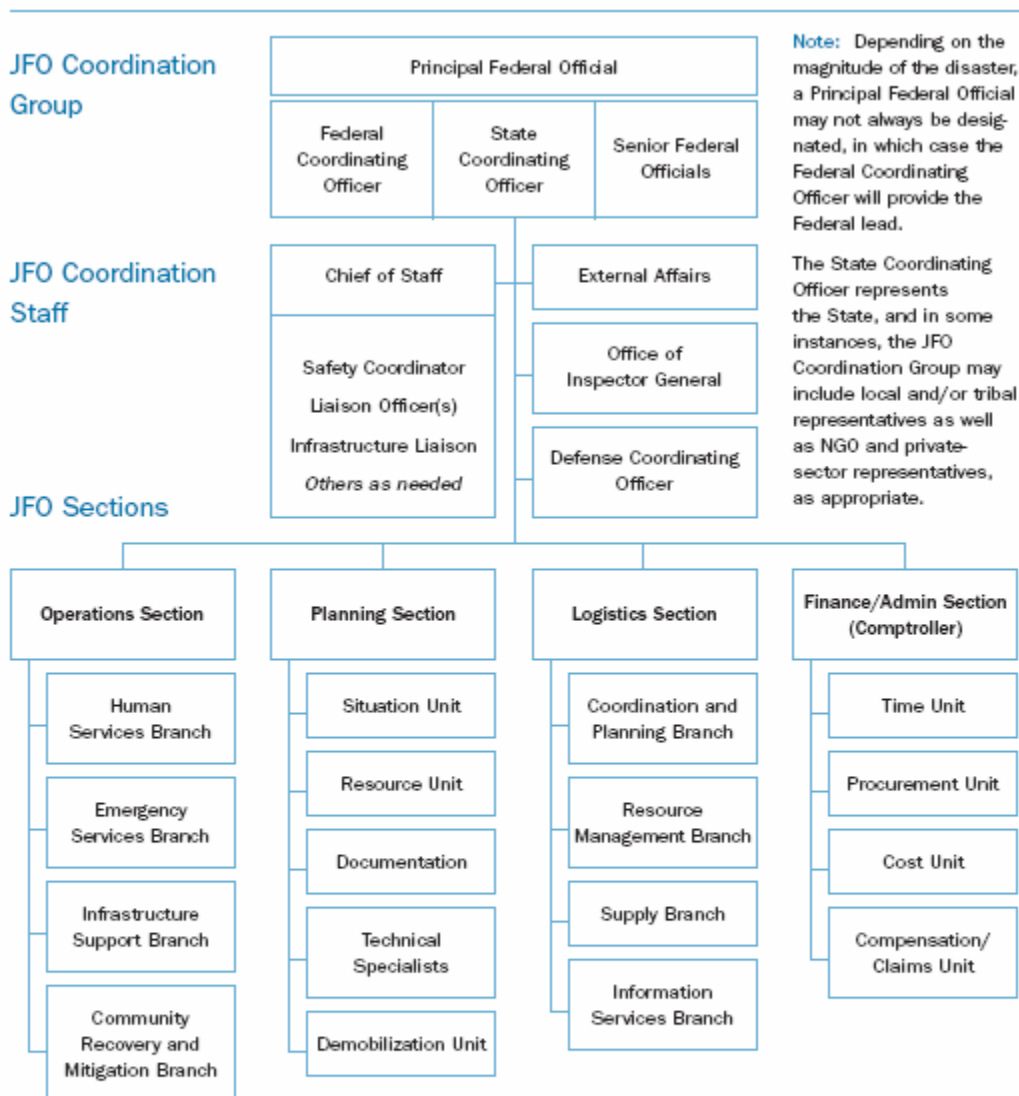
When activated to support an NSSE or other security coordination function, the DHS/U.S. Secret Service (USSS) Multiagency Command Center (MACC) and the FBI JOC are collocated at the JFO when possible. Other Federal operations centers collocate at the JFO whenever possible. In the event that collocation is not practical, Federal agencies are connected virtually to the JFO and assign liaisons to the JFO to facilitate the coordination of Federal incident management and assistance efforts. State, local, tribal, private-sector, and nongovernmental organizations are encouraged to assign liaisons to the JFO to facilitate interaction, communication, and coordination. Law enforcement activities are managed through the JOC, which becomes an operational branch of the JFO during terrorist-related Incidents of National Significance when required.

Threat situations or incidents that impact multiple States or localities may require separate JFOs. In these situations, one of the JFOs may be identified (typically in the most heavily impacted area) to provide strategic leadership and coordination for the overall incident management effort.

Figures 6 through 9 illustrate possible JFO organizational structures for various types of threat scenarios and incidents. Figure 6 illustrates the organization for natural disasters, Figure 7 shows modifications for terrorism, Figure 8 shows modifications for incidents involving Federal-to-Federal support, and Figure 9 depicts the JFO organization for an NSSE. All or portions of these organizational structures may be stood up based on the nature and magnitude of the threat or incident.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

FIGURE 6. Sample JFO organization during natural disasters

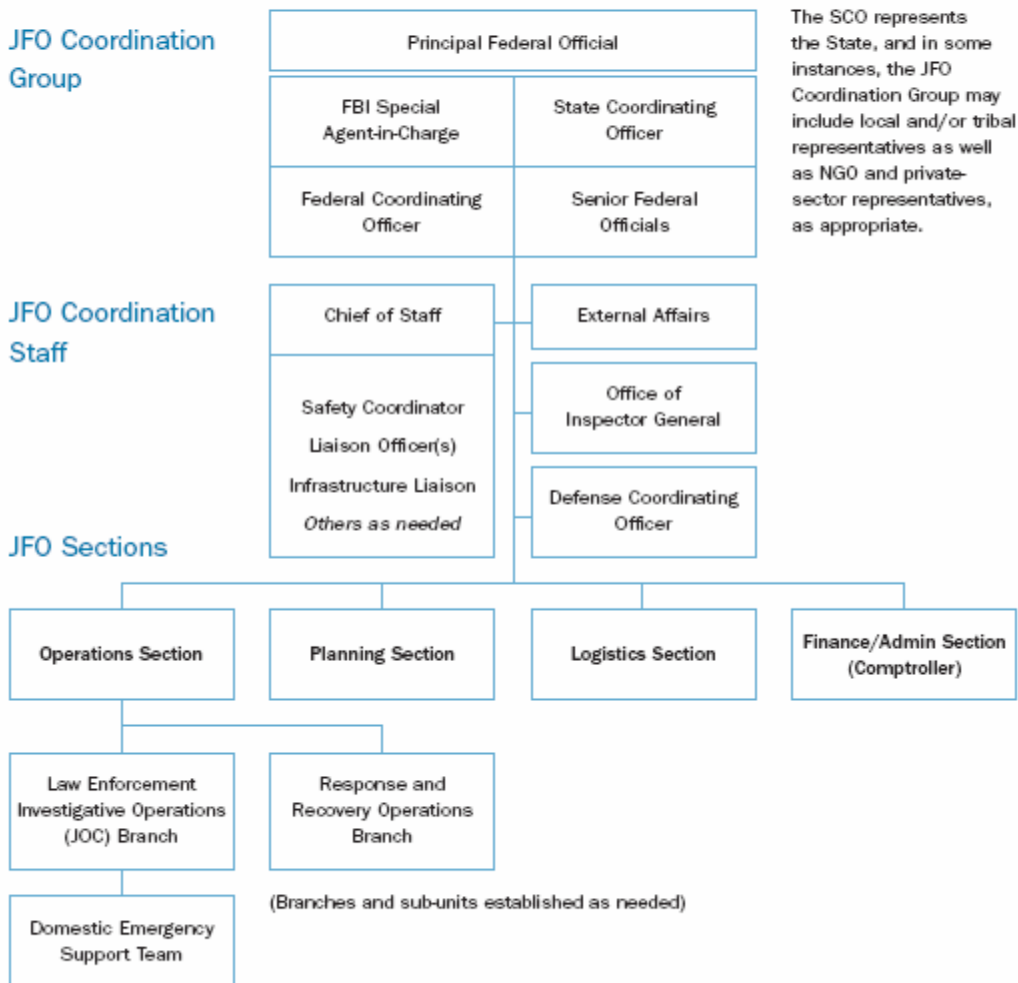


## JFO Organization for Terrorist Incidents

For terrorist threats or incidents, the establishment of the FBI JOC may precede the establishment of the other components of the JFO in time and may constitute the initial Federal coordinating presence locally. With the establishment of a JFO, the JOC is incorporated as a branch within the Operations Section (as shown in

Figure 7) with appropriate consideration given to the protection of sensitive law enforcement and investigative information within this structure. Utilizing the flexibility of NIMS, this JFO structure aids in the protection of sensitive information while fully integrating law enforcement operations with other incident management activities, as appropriate.

FIGURE 7. Sample JFO organization for terrorist incidents



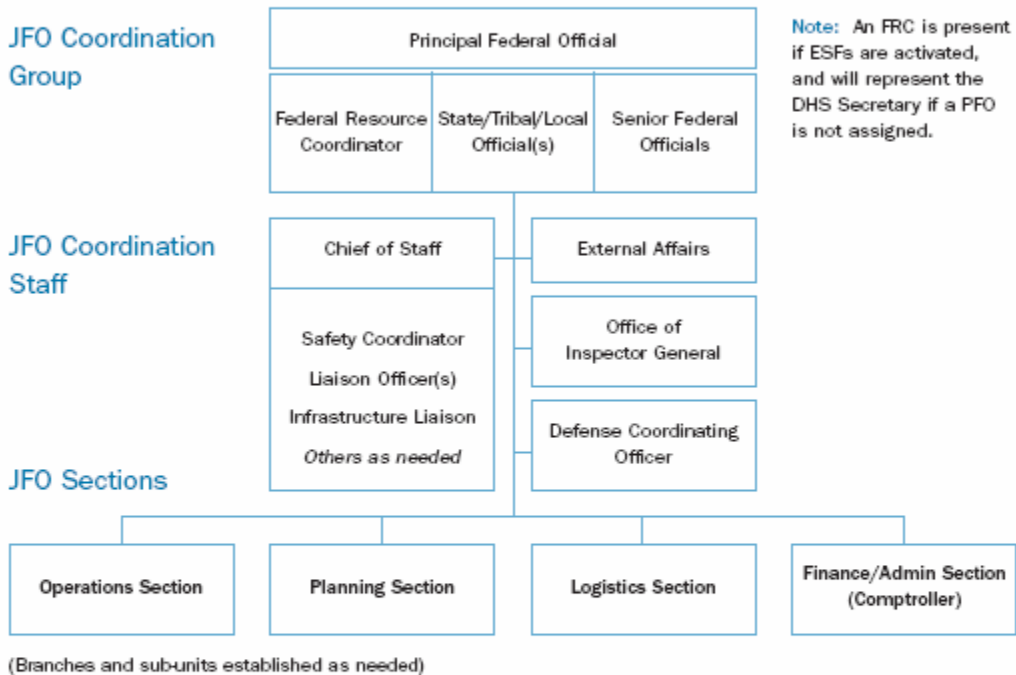
## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

### JFO Organization for Federal-to-Federal Support

Other situations for which a JFO may be established include incidents managed by one or more Federal agencies that request DHS assistance or events that escalate to Incidents of National Significance, such as

an oil spill escalating to a Spill of National Significance. Again, the JFO organization is tailored to the incident (based on NIMS), and includes SFOs from agencies with relevant authority/jurisdiction as members of the JFO Coordination Group.

FIGURE 8. Sample JFO organization for Federal-to-Federal support



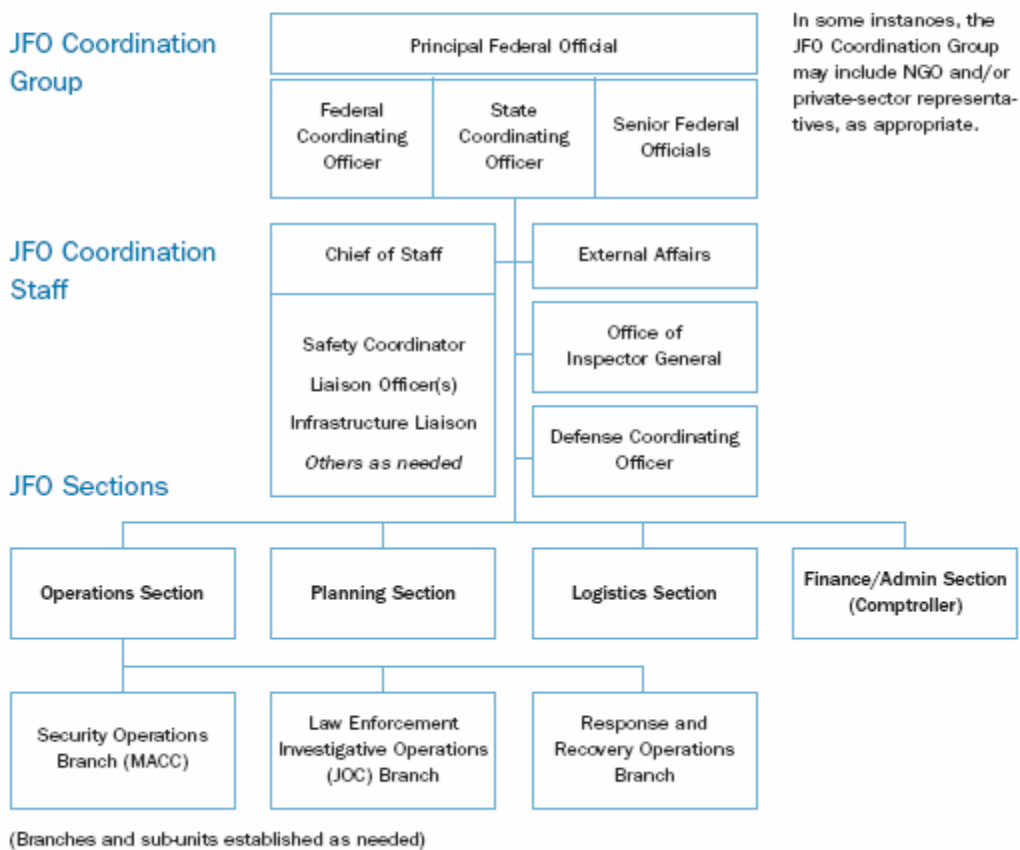


### JFO Organization for National Special Security Events

PDD-62 formalized and delineated the roles and responsibilities of Federal agencies in the development of security plans for NSSEs. HSPD-7 established the new process for designating events of national and international significance as NSSEs. Designated by the Secretary of Homeland Security, these events include summits of world leaders, meetings of international organizations, national political party conventions, and major national or international sporting events, which by virtue of their political, economic, social, or religious significance may be targets of terrorism or other criminal activity.

For NSSEs, DHS/USSS has primary responsibility for security design, planning, and implementation; FBI has primary responsibility for law enforcement, intelligence, hostage rescue, counterterrorism, and criminal investigation; and DHS/EPR/FEMA has primary responsibility for emergency response and recovery planning and coordination. These agencies work together using the principles of Unified Command, with a pre-designated PFO facilitating interagency incident management coordination during NSSE planning and execution. For these situations, the JFO combines the functions of the DHS/USSS MACC, the FBI JOC, and the Response and Recovery Operations Branch, as illustrated in Figure 9.

FIGURE 9. Sample JFO organization for National Special Security Events





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### JFO Organization Components

The JFO organization components are described in the following sections.

#### JFO Coordination Group

Utilizing the NIMS principle of Unified Command, JFO activities are directed by a JFO Coordination Group, which may include the PFO, SFLEO, FCO/FRC, or other SFOs with primary jurisdictional responsibility or functional authority for the incident.

#### JFO Coordination Group

Principal Federal Official		
Federal Coordinating Officer	State Coordinating Officer	Senior Federal Officials

The JFO Coordination Group also includes a limited number of principal State, local, and tribal officials (such as the SCO), as well as NGO and private-sector representatives. The JFO Coordination Group functions as a multiagency coordination entity and works jointly to establish priorities (single or multiple incidents) and associated resource allocation, resolve agency policy issues, and provide strategic guidance to support Federal incident management activities. Generally, the PFO, in consultation with the FCO and SFLEO, determines the composition of the JFO Coordination Group. The exact composition of the JFO is dependent on the nature and magnitude of the incident, and generally includes the personnel described in the following subsections.

The JFO Coordination Group provides strategic guidance and resolution of any conflicts in priorities for allocation of critical Federal resources. If policy issue resolution cannot be achieved between JFO Coordination Group members, issues can be raised to the IIMG or through the appropriate agency chain of command for consideration by higher authorities. Unresolved resource issues are forwarded to the NRCC, then to the IIMG if further deliberation is required.

### Principal Federal Official

The PFO is personally designated by the Secretary of Homeland Security to facilitate Federal support to the established ICS Unified Command structure and to coordinate overall Federal incident management and assistance activities across the spectrum of prevention, preparedness, response, and recovery. The PFO ensures that incident management efforts are maximized through effective and efficient coordination. The PFO provides a primary point of contact and situational awareness locally for the Secretary of Homeland Security. The Secretary is not restricted to DHS officials when selecting a PFO.

The PFO does not direct or replace the incident command structure established at the incident, nor does the PFO have directive authority over the SFLEO, FCO, or other Federal and State officials. Other Federal incident management officials retain their authorities as defined in existing statutes and directives. The PFO coordinates the activities of the SFLEO, FCO, and other Federal officials involved in incident management activities acting under their own authorities. The PFO also provides a channel for media and public communications and an interface with appropriate jurisdictional officials pertaining to the incident. Once formally designated, PFOs relinquish the conduct of all normal duties and functions. PFOs may not be “dual-hatted” with any other roles or responsibilities that could detract from their overall incident management responsibilities.

#### PFO Responsibilities

The specific roles and responsibilities of the PFO include the following:

- Representing the Secretary of Homeland Security as the lead Federal official;
- Ensuring overall coordination of Federal domestic incident management and resource allocation activities;
- Ensuring the seamless integration of Federal activities in support of and in coordination with State, local, and tribal requirements;
- Providing strategic guidance to Federal entities;
- Facilitating interagency conflict resolution as necessary;

- Serving as a primary, although not exclusive, point of contact for Federal interface with State, local, and tribal senior elected/appointed officials, the media, and the private sector;
- Providing real-time incident information to the Secretary of Homeland Security through the HSOC and the IIMG, as required;
- Coordinating response resource needs between multiple incidents as necessary, or as directed by the Secretary of Homeland Security;
- Coordinating the overall Federal strategy locally to ensure consistency of Federal interagency communications to the public;
- Ensuring that adequate connectivity is maintained between the JFO and the HSOC; local, county, State, and regional EOCs; nongovernmental EOCs; and relevant elements of the private sector; and
- Participating in ongoing steady-state preparedness efforts (as appropriate for PFOs designated in a “pre-incident” mode, when a threat can be ascribed to a particular geographic area).

For an actual incident, the Secretary may designate a local Federal official as an “initial PFO” until the primary PFO is in place. The initial PFO is accountable for the same responsibilities as the PFO. In certain scenarios, a PFO may be pre-designated by the Secretary of Homeland Security to facilitate Federal domestic incident planning and coordination at the local level outside the context of a specific threat or incident. A PFO also may be designated in a pre-incident mode for a specific geographic area based on threat and other considerations. The PFO may hand off duties to the FCO or other designated Federal official as appropriate after an event transitions to long-term recovery and/or cleanup operations.

The Secretary of Homeland Security announces designation of the PFO via a message from the HSOC to other Federal, State, and local emergency operations centers, as well as through a letter to the Governor/mayor of the affected jurisdiction(s).

The PFO and a small staff component may deploy with the Domestic Emergency Support Team (DEST) to facilitate their timely arrival and enhance initial situational awareness. The PFO and supporting staff conform to the deployment timelines and other guidelines established in DEST procedures including, but not limited to, those outlined in the MOU between

DHS and the FBI regarding the DEST program. Nothing in the NRP alters the existing DEST concept of operation or affects the mission of the DEST to support the FBI SAC at the scene of a weapons of mass destruction (WMD) threat or incident.

DHS conducts a formal training program for PFO-designates. Unless extenuating circumstances dictate otherwise, all PFO-designates should satisfactorily complete this training program prior to performing PFO-related responsibilities.

#### Federal Coordinating Officer

The FCO manages and coordinates Federal resource support activities related to Stafford Act disasters and emergencies. The FCO assists the Unified Command and/or the Area Command. The FCO works closely with the PFO, SFLBO, and other SFOs. In Stafford Act situations where a PFO has not been assigned, the FCO provides overall coordination for the Federal components of the JFO and works in partnership with the SCO to determine and satisfy State and local assistance requirements.

#### FCO Responsibilities

Roles and responsibilities of the FCO include the following:

- Conducting an initial appraisal of the types of assistance most urgently needed;
- Coordinating the timely delivery of Federal assistance to affected State, local, and tribal governments and disaster victims;
- Supporting the PFO, when one is designated;
- When delegated from the DHS/EPR/FEMA Regional Director, serving as Disaster Recovery Manager (DRM) to administer the financial aspects of assistance authorized under the Stafford Act;
- Working in partnership with the SCO (appointed by the Governor to oversee operations for the State) and the Governor’s Authorized Representative (GAR) (empowered by the Governor to execute all necessary documents for Federal assistance on behalf of the State); and
- Taking other such action consistent with the authority delegated to him/her as deemed necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

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### Federal Resource Coordinator

In non-Stafford Act situations when a Federal department or agency acting under its own authority has requested the assistance of the Secretary of Homeland Security to obtain support from other Federal departments and agencies, DHS designates an FRC. In these situations, the FRC coordinates support through interagency agreements and MOUs. Relying on the same skill set, DHS may select the FRC from the FCO cadre or other personnel with equivalent knowledge, skills, and abilities.

The FRC is responsible for coordinating the timely delivery of resources to the requesting agency.

### Senior Federal Law Enforcement Official

The SFLEO is the senior law enforcement official from the agency with primary jurisdictional responsibility as directed by statute, Presidential directive, existing Federal policies, and/or the Attorney General. The SFLEO directs intelligence/investigative law enforcement operations related to the incident and supports the law enforcement component of the Unified Command on-scene. In the event of a terrorist incident, this official will normally be the FBI SAC.

### State/Local/Tribal Official(s)

The JFO Coordination Group also includes State representatives such as the SCO, who serves as the State counterpart to the FCO and manages the State's incident management programs and activities, and the GAR, who represents the Governor of the impacted State. The JFO Coordination Group may also include tribal and/or local area representatives with primary statutory authority for incident management.

### Senior Federal Officials

The JFO Coordination Group may also include officials representing other Federal departments or agencies with primary statutory responsibility for certain aspects of incident management. SFOs utilize existing authorities, expertise, and capabilities to assist in management of the incident working in coordination

with the PFO, FCO, SFLEO, and other members of the JFO Coordination Group. When appropriate, the JFO Coordination Group may also include U.S. attorneys or other senior officials or their designees from DOJ to provide expert legal counsel.

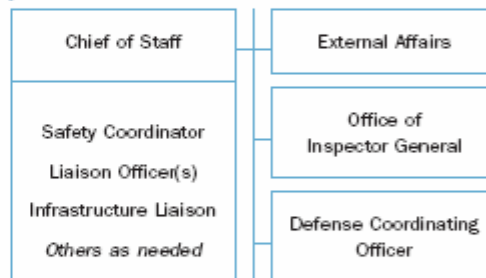
### Responsible/Regulated Party

If the source of the incident is a privately owned facility or vessel, the JFO Coordination Group may also include a representative of the owners/operators of the facility or vessel.

### JFO Coordination Staff

In accordance with NIMS and ICS principles, the JFO structure normally includes a Coordination Staff. The JFO Coordination Group determines the extent of staffing based on the type and magnitude of the incident.

#### JFO Coordination Staff



The following paragraphs provide information on typical staff positions.

#### Chief of Staff and Support Staff

The JFO Coordination Staff may include a Chief of Staff and representatives providing specialized assistance, which may include support in the following areas: safety, legal counsel, equal rights, security, infrastructure liaison, and other liaisons.

- The **Safety Coordinator** has the following roles:
  - 1) ensure that the Chief of Staff and the PFO receive coordinated, consistent, accurate, and timely safety and health information and technical assistance;

2) support the Safety Officer(s) at the ICP(s) by coordinating worker safety and health resources and providing technical assistance as necessary; and  
 3) ensure the safety of the personnel in the JFO. The Safety Coordinator may receive technical assistance from responding safety and health personnel by implementing the Worker Safety and Health Support Annex.

- **Legal Affairs** serves as the primary legal advisor to the JFO Coordination Group and may also work with each section chief to support programmatic, logistical, and personnel matters as required.
- The **Equal Rights Officer** serves to promote a discrimination-free workplace and equal access to recovery programs and benefits.
- The **Security Officer** is responsible for safeguarding JFO personnel and JFO facility security. When not assigned elsewhere, the Security Officer also is responsible for information security and operational security, ensuring that sensitive information of all types (e.g., classified information, sensitive law enforcement information, proprietary and personal information, or export-controlled information) is handled in a way that not only safeguards the information but also ensures that it gets to those who need access to it so that they can effectively and safely conduct their missions.
- **Liaisons** serve as the point of contact for assisting and coordinating activities with various agencies and groups, and are assigned as needed.
- The **Infrastructure Liaison**, designated by DHS/IAIP, serves as the principal advisor to the JFO Coordination Group regarding all national- and regional-level CI/KR incident-related issues. The Infrastructure Liaison:
  - Acts as liaison between the national- and regional-level CI/KR, the private sector, and JFO activities;
  - Coordinates CI/KR and ESF issues between the JFO Coordination Group and IAIP representatives located at the IIMG and NRCC;
  - Provides situational awareness concerning the affected CI/KR and provides periodic updates to the JFO Coordination Group; and
  - Communicates information to the IAIP representative at the IIMG, NRCC, and NICC.

### External Affairs Officer

The External Affairs Officer provides support to the JFO leadership in all functions involving communications with external audiences. External Affairs includes Public Affairs, Community Relations, Congressional Affairs, State and Local Coordination, Tribal Affairs, and International Affairs, when appropriate. Resources for the various External Affairs Functions are coordinated through ESF #15. (See the ESF #15 Annex for more information.)

The External Affairs Officer also is responsible for overseeing operations of the Federal Joint Information Center (JIC) established to support the JFO. The following is a description of the JIC:

- The JIC is a physical location where public affairs professionals from organizations involved in incident management activities work together to provide critical emergency information, crisis communications, and public affairs support. The JIC serves as a focal point for the coordination and dissemination of information to the public and media concerning incident prevention, preparedness, response, recovery, and mitigation. The JIC may be established at an on-scene location in coordination with State and local agencies depending on the requirements of the incident. In most cases, the JIC is established at, or is virtually connected to, the JFO and is coordinated by Federal and State lead Public Information Officers. In most Incidents of National Significance, the Federal lead will be a DHS Public Information Officer, who works with other Federal, State, local, tribal, NGO, and private-sector public affairs personnel. The JFO JIC works in close coordination with other JICs to integrate into a Joint Information System (JIS) providing consistent, coordinated, and timely information during an incident. (See the NIMS for more details on the JIS.)

The **JIC** serves as a focal point for the coordination and dissemination of information to the public and media concerning incident prevention, preparedness, response, recovery, and mitigation.

- The JIC develops, coordinates, and disseminates unified news releases. News releases are cleared through the JFO Coordination Group to ensure

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consistent messages, avoid release of conflicting information, and prevent negative impact on operations. This formal approval process for news releases ensures protection of law enforcement-sensitive information. Agencies may issue their own news releases related to their policies, procedures, programs, and capabilities; however, these should be coordinated with the JIC.

- The PFO is supported by a dedicated DHS Public Affairs Director who functions as the Press Secretary, coordinates media activities, provides strategic communications guidance to the JIC, and serves as a designated spokesperson when directed by the PFO and/or DHS Public Affairs.
- The following elements should be represented at the JIC: (1) DHS/EPR/FEMA Public Information Officer and staff; (2) FBI Public Information Officer and staff (when activated in support of a terrorist incident); (3) other Federal agency Public Information Officers, as required; and (4) State, local, tribal, and NGO Public Information Officers. (See the BSF #15 Annex and the Public Affairs Support Annex for additional information on the JIC, public outreach, and information dissemination.)

### Defense Coordinating Officer

If appointed by DOD, the DCO serves as DOD's single point of contact at the JFO. With few exceptions, requests for DSCA originating at the JFO are coordinated with and processed through the DCO. The DCO may have a Defense Coordinating Element (DCE) consisting of a staff and military liaison officers in order to facilitate coordination and support to activated ESFs. Specific responsibilities of the DCO (subject to modification based on the situation) include processing requirements for military support, forwarding mission assignments to the appropriate military organizations through DOD-designated channels, and assigning military liaisons, as appropriate, to activated ESFs.

### JFO Sections

The JFO is organized into four sections: Operations Section, Planning Section, Logistics Section, and Finance/Administration Section (Comptroller).

#### JFO Sections

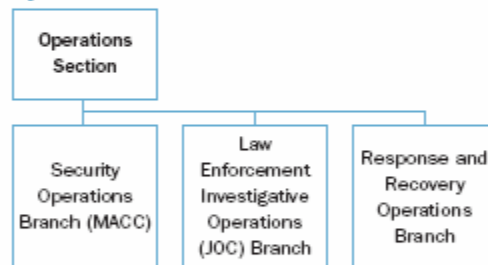


#### Operations Section

The Operations Section coordinates operational support to on-scene incident management efforts. Branches may be added or deleted as required, depending on the nature of the incident. The Operations Section also is responsible for coordination with other Federal command posts that may be established to support incident management activities.

For terrorist incidents, the Operations Section includes a Law Enforcement Investigative Branch and a Response and Recovery Branch. For NSSEs, a third branch, the Security Operations Branch, may be added to coordinate protection and security efforts.

#### Operations Section Branches



In these situations, the Operations Section Chief is designated by mutual agreement of the JFO Coordination Group based on the agency with greatest jurisdictional involvement and statutory authority for the current incident priorities. The agency providing the Operations Section Chief may change over time as incident priorities change. Each of the Operations Section branches is described below.

- **Law Enforcement Investigative Operations Branch/Joint Operations Center:** The JOC Branch is established by the SFLEO (e.g., the FBI SAC during terrorist incidents) to coordinate and direct law enforcement and criminal investigation activities related to the incident.



The JOC Branch ensures management and coordination of Federal, State, local, and tribal investigative/law enforcement activities. The emphasis of the JOC is on prevention as well as intelligence collection, investigation, and prosecution of a criminal act. This emphasis includes managing unique tactical issues inherent to a crisis situation (e.g., a hostage situation or terrorist threat).

When this branch is included as part of the JFO, it is responsible for coordinating the intelligence and information function (as described in NIMS), which includes information and operational security, and the collection, analysis, and distribution of all incident-related intelligence. Accordingly, the Intelligence Unit within the JOC Branch serves as the interagency fusion center for all intelligence related to an incident. All intelligence collected on-scene and through the investigation is gathered at the Intelligence Unit. Additionally, intelligence collected throughout the Intelligence Community that may directly relate to the incident is sent to the Intelligence Unit after being assessed and verified at the SIOC. The Intelligence Unit gathers this intelligence, dedassifies it as necessary, and distributes to members of the JFO as appropriate. (See the Terrorism Incident Law Enforcement and Investigation Annex for more information on JOC functions.)

- **Response and Recovery Operations Branch:** The Response and Recovery Operations Branch coordinates the request and delivery of Federal assistance and support from various special teams. This branch is comprised of four groups: Emergency Services, Human Services, Infrastructure Support, and Community Recovery and Mitigation.
- **Security Operations Branch:** The Security Operations Branch coordinates protection and site security efforts, and incorporates the functions of the DHS/USSS MACC during NSSEs.

#### Planning Section

The Planning Section's function includes the collection, evaluation, dissemination, and use of information regarding the threat or incident and the status of Federal resources. The Planning Section is responsible for preparing and documenting Federal support actions, and developing strategic, contingency, long-term, and other plans related to the threat or incident, as needed.

The Planning Section provides current information to the JFO Coordination Group to ensure situational awareness, determine cascading effects, identify national implications, and determine specific areas of interest requiring long-term attention. The Planning Section also provides technical and scientific expertise. The Planning Section is comprised of the following units: Situation, Resource, Documentation, Technical Specialists, and Demobilization. The Planning Section may also include an Information and Intelligence Unit (if not assigned elsewhere) and an HSOC representative who aids in the development of reports for the HSOC and IIMG.

#### Logistics Section

This section coordinates logistics support that includes control and accountability for Federal supplies and equipment; resource ordering; delivery of equipment, supplies, and services to the JFO and other field locations; facility location, setup, space management, building services, and general facility operations; transportation coordination and fleet management services; information and technology systems services; administrative services such as mail management and reproduction; and customer assistance. The Logistics Section may include Coordination and Planning, Resource Management, Supply, and Information Services Branches.

#### Finance/Administration Section (Comptroller)

The Finance/Administration Section is responsible for the financial management, monitoring, and tracking of all Federal costs relating to the incident and the functioning of the JFO while adhering to all Federal laws, acts, and regulations. The position of the Financial/Administration Chief will be exclusively held by a Comptroller who serves as the Senior Financial Advisor to the team leader (e.g., FCO) and represents the coordinating agency's Chief Financial Officer (CFO) as prescribed by the CFO Act of 1990.

The Financial Management Support Annex provides guidance to ensure that funds are provided expeditiously and that financial operations are conducted in accordance with established law, regulations, and standards.

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### Other Incident Facilities

#### State, County, and Local Operations Centers

State, county, and local EOCs represent the physical location at which the coordination of information and resources to support incident management activities normally takes place. EOCs are typically organized by major functional discipline (fire, law enforcement, medical services, and so on); by jurisdiction (city, county, region, and so on); or, more likely, by some combination thereof.

State, county, and local EOCs facilitate the execution of local, State, and interstate mutual aid agreements to support on-scene operations. During Incidents of National Significance, the JFO works in coordination with the State, county, and local EOCs to support incident management efforts.

#### Incident Command Post

The tactical-level, on-scene incident command and management organization is located at the ICP. It is typically comprised of designated incident management officials and responders from Federal, State, local, and tribal agencies, as well as private-sector and nongovernmental organizations. When multiple command authorities are involved, the ICP may be led by a Unified Command, comprised of officials who have jurisdictional authority or functional responsibility for the incident under an appropriate law, ordinance, or agreement. The Unified Command provides direct, on-scene control of tactical operations and utilizes a NIMS ICS incident management team organization, typically including Operations, Planning, Logistics, and Finance/Administration Sections.

The ICP is usually located at or in the immediate vicinity of the incident site. The location is selected by the agency having primary jurisdictional authority for

managing the incident at this level. Generally, there is one ICP established for each incident. Depending on the number and location of incidents, there may be multiple ICPs managed by an Area Command.

#### Area Command/Unified Area Command

An Area Command is established to oversee the management of multiple incidents that are each being handled by a separate ICS organization or to oversee the management of a very large or complex incident that has multiple incident management teams engaged. The Area Command has the responsibility to set overall strategy and priorities, allocate critical resources according to priorities, ensure that incidents are properly managed, and ensure that objectives are met and strategies followed. Area Command becomes Unified Area Command when incidents are multijurisdictional.

#### Disaster Recovery Center (DRC)

When established in coordination with State and local jurisdictions, a DRC is a satellite component of the JFO and provides a central facility where individuals affected by a disaster can obtain information on disaster recovery assistance programs from various Federal, State, local, tribal, private-sector, and voluntary organizations.

#### Interim Operating Facility (IOF)

The IOF is a temporary field facility used by a DHS/EPR/FEMA-led ERT in the early stages of an incident when the team cannot operate at the State EOC due to space limitations or other reasons, and the JFO is not yet established. An IOF is generally located at or near the State EOC, or near the incident site. The IOF remains in operation until the JFO is established. Functions accomplished at the IOF include interaction with State representatives and key ESF agencies, collection and assessment of information, and initiation of assistance programs.

## Emergency Response and Support Teams (Field Level)

Various teams are available to deploy during incidents or potential incidents to assist in incident management, set up emergency response facilities, or provide specialized expertise and capabilities. These teams are trained and certified to the standards published by the NIMS Integration Center. Teams that may be utilized during NRP operations are described below.

#### Deployed PFO Support Staff

The Deployed PFO Support Staff is a small interagency team of various subject-matter experts that may deploy or be activated with the PFO to provide initial support staffing until a JFO is established. This team may include representatives from various ESFs and typically

functions during the pre-incident phase or during the initial response to conduct assessments, coordinate security and information-sharing efforts, facilitate public affairs activities, and provide technical support. When the JFO is established, this team is integrated into the JFO staff.

## Emergency Response Team

The ERT is the principal interagency group that staffs the JFO. The ERT is composed of DHS/EPR/FEMA staff and ESF personnel. The ERT includes an advance element, known as the ERT-A, that conducts assessments and initiates coordination with the State and initial deployment of Federal resources. Each DHS/EPR/FEMA region maintains an ERT ready to deploy in response to threats or incidents. The National Emergency Response Team (ERT-N) deploys for large-scale, high-impact events, or as required.

The **ERT** is the principal interagency group that staffs the JFO.

The ERT provides staffing for the JFO and ensures Federal resources are available to meet Federal incident management and State requirements identified by the SCO. The size and composition of the ERT is scalable depending on the scope and magnitude of the event.

Typically, the ERT organizational structure encompasses the JFO Coordination Group, JFO Coordination Staff, and the four JFO sections (Operations, Planning, Logistics, and Finance/Administration).

The ERT-A deploys during the early stages of an incident. It is headed by a team leader from DHS/EPR/FEMA and is composed of program and support staff and representatives from selected ESF primary agencies. A part of the ERT-A deploys to the State EOC or to other locations to work directly with the State to obtain information on the impact of the

event and to identify specific State requests for Federal incident management assistance. Other elements of the ERT-A (including MERS personnel and equipment) deploy directly to or near the affected area to establish field communications, locate and establish field facilities, and set up support activities.

The **ERT-A** deploys during the early stages of an incident to work directly with the State to obtain information on the impact of the event and to identify specific State requests for Federal incident management assistance.

The ERT-A consults and coordinates with State, local, and/or tribal entities to determine the location of the JFO and mobilization center(s). The ERT-A identifies or validates the suitability of candidate sites for the location of mobilization center(s) and the JFO. The ERT-A conducts initial on-the-ground situational awareness analysis to include changes in topography caused by the incident, impacts to the physical and social environment, and documentation of losses avoided based on previous mitigation measures to serve as a backdrop to the Federal support strategies.

An ERT-N may pre-deploy based on threat conditions. The Secretary of Homeland Security determines the need for ERT-N deployment, coordinating the plans with the affected region and other Federal agencies.

The **ERT-N** deploys for large-scale, high-impact events, or as required.

The ERT-N includes staff from DHS/EPR/FEMA Headquarters and regional offices as well as other Federal agencies. (Three ERT-N teams are structured, with one team on call every third month. A fourth standing team is on call year-round exclusively to manage incidents in the National Capital Region (NCR).)



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### Federal Incident Response Support Team (FIRST)

The FIRST is designed to be a quick and readily deployable resource to support the Federal response to Incidents of National Significance. The FIRST deploys within 2 hours of notification, to be on-scene within 12 hours of notification. DHS/EPR/FEMA maintains and deploys the FIRST.

The **FIRST** is a forward component of the ERT-A that provides on-scene support to the local Incident Command or Area Command structure.

The FIRST is a forward component of the ERT-A that provides on-scene support to the local Incident Command or Area Command structure in order to facilitate an integrated interjurisdictional response. After linking up with local and State officials, the team assesses the situation and identifies the potential requirements for Federal support, provides protective action recommendations, identifies critical unmet needs, and coordinates response activities with other Federal responders. They also oversee on-scene Federal assistance, which could include critical life-saving and life-sustaining items.

The FIRST is not intended to supplant existing response teams, but to bring a near-time immediate Federal presence to the scene of an Incident of National Significance. The FIRST is robust enough to represent a "value-added" resource in the earliest phase of a response operation. Upon the subsequent deployment

of an ERT, the FIRST integrates into the Operations Section of the JFO.

### Other Federal Teams

In addition, there are numerous special teams available to support incident management and disaster response and recovery operations. Examples include:

- Damage assessment teams
- Nuclear Incident Response Team (NIRT)
- Disaster Medical Assistance Teams (DMATs)
- HHS Secretary's Emergency Response Team
- DOL/OSHA's Specialized Response Teams
- Veterinarian Medical Assistance Teams (VMATs)
- Disaster Mortuary Operational Response Teams (DMORTs)
- National Medical Response Teams (NMRTs)
- Scientific and Technical Advisory and Response Teams (STARTs)
- Donations Coordination Teams
- Urban Search and Rescue (US&R) task forces
- US&R Incident Support Teams
- Federal Type 1 and Type 2 Incident Management Teams (IMTs)
- Domestic Emergency Support Team (DEST)
- Domestic Animal and Wildlife Emergency Response Teams and mitigation assessment teams

Many of these additional teams and capabilities are discussed in the annexes. Other supporting documents provide additional listing of teams and their capabilities, such as DHS/EPR/FEMA's Emergency Teams Handbook and the DHS/USCG Hazardous Materials Response Special Teams Handbook.

## Defense Support of Civil Authorities

DOD provides DSCA in response to requests for assistance during domestic incidents to include terrorist attacks, major disasters, and other emergencies. DSCA refers to DOD support provided by Federal military forces, DOD civilians and contract personnel, and DOD agencies and components, in response to requests for assistance. Continuous coordination with Federal, State, local, and tribal elements before, during, and after an event is essential for efficient and effective utilization of DOD's DSCA efforts.

**DSCA** refers to DOD support military forces, DOD civilians and contract personnel, and DOD agencies and components, in response to requests for assistance during domestic incidents to include terrorist threats or attacks, major disasters, and other emergencies.

In most instances, DOD provides DSCA in response to requests for assistance from a lead or primary agency. However, support provided under Immediate Response

Authority (described below) is authorized by DOD directive and prior approval of the Secretary of Defense. DSCA normally is provided when local, State, and Federal resources are overwhelmed, provided that it does not interfere with the Department's military readiness or operations. DOD typically provides DSCA on a reimbursable basis as authorized by law.

### Requesting Defense Support of Civil Authorities

Initial requests for assistance are made to the Office of the Secretary of Defense, Executive Secretariat. If approved by the Secretary of Defense, DOD designates a supported combatant commander for the response. The supported combatant commander determines the appropriate level of command and control for each response and usually directs a senior military officer to deploy to the incident site. Under most circumstances, the senior military officer at the incident site is the DCO. The DCO serves as DOD's single point of contact in the JFO.

Requests for DSCA originating at the JFO will be coordinated and processed through the DCO with the exception of requests for USACE support, National Guard forces operating in State Active Duty or Title 32 status (i.e., not in Federal service), or, in some circumstances, DOD forces in support of the FBI. These exceptions are detailed later in this section. Specific responsibilities of the DCO are subject to modification by the supported combatant commander based on the situation. In general, the DCO will:

- Collocate with the PFO/PCO/FRC/SFLBO in the JFO;
- Coordinate and process applicable requests for assistance from the PFO/PCO/FRC/SFLBO or designated representative;
- Orchestrate the accomplishment of approved mission assignments utilizing available resources;
- Assign military liaison officers as appropriate to ESF agencies at the JFO to provide technical assistance or facilitate timely coordination; and
- Refer problematic or contentious issues through the appropriate military chain of command to the Office of the Assistant Secretary of Defense for Homeland Defense.

Based on the magnitude, type of disaster, and anticipated level of resource involvement, the supported combatant commander may utilize a Joint Task Force (JTF) to consolidate and manage supporting

military activities. A JTF commander exercises operational control of all allocated DOD resources (excluding USACE resources, National Guard forces operating in State Active Duty or Title 32 status, and, in some circumstances, DOD forces in support of the FBI). In the event that a JTF is utilized, the DCO may continue to perform all duties set forth above.

### Exceptions

Requests for DSCA originating at the JFO will be coordinated and processed through the DCO with the exception of requests for DOD/USACE support, National Guard forces operating in State Active Duty or Title 32 status, and, in some cases, DOD forces in support of the FBI.

- **U.S. Army Corps of Engineers:** USACE is a public engineering organization within DOD providing engineering support and services to DOD activities around the globe as well as to the Nation's Civil Works flood protection and navigation infrastructure. USACE provides support as a primary agency and coordinating agency for ESF #3, and as a support agency to other ESFs as specified in the annexes. USACE performs emergency support activities under separate authorities, to include Public Law 84-99.
- **Army and Air National Guard Forces:** National Guard forces employed under State Active Duty or Title 32 status are providing support to the Governor of their State and are not part of Federal military response efforts.
- **Support to the Federal Bureau of Investigation:** Support for law enforcement and domestic counterterrorism activities is provided in limited circumstances consistent with applicable laws and, in some circumstances, independent of the DCO.

### Immediate Response Authority

Imminently serious conditions resulting from any civil emergency may require immediate action to save lives, prevent human suffering, or mitigate property damage. When such conditions exist and time does not permit approval from higher headquarters, local military commanders and responsible officials from DOD components and agencies are authorized by DOD directive

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and pre-approval by the Secretary of Defense, subject to any supplemental direction that may be provided by their DOD component, to take necessary action to respond to requests of civil authorities consistent with the Posse Comitatus Act (18 U.S.C. § 1385). All such necessary action is referred to as "Immediate Response."

### Export of DOD Specialized Capabilities and Training

In addition to direct support for incident response, DOD possesses specialized capabilities employed in

support of Federal, State, local, and tribal government agencies, to include their first responder communities. Included among these specialized capabilities are test and evaluation facilities and capabilities; education and exercise expertise; explosive detection; technical escort; medical services; the transfer of applicable technologies, including those developed through DOD science and technology programs; and the expertise of DOD personnel. The DOD Homeland Defense Coordination Office established at DHS Headquarters facilitates interdepartmental cooperation and transfer of these capabilities to the emergency responder community.

## Federal Law Enforcement Assistance

Each State has jurisdiction for enforcement of State law, using State and local resources, including the National Guard (to the extent that the National Guard remains under State authority and has not been called into Federal service or ordered to active duty).

The Federal Government has jurisdiction for enforcement of Federal law, using Federal resources. State and local law enforcement agencies may be

requested to provide support to Federal law enforcement during Incidents of National Significance.

Federal agencies may be requested to provide public safety and security support during Incidents of National Significance. The ESF #13 Annex provides further guidance on the integration of public safety and security resources to support the full range of incident management functions.

## Proactive Federal Response to Catastrophic Events

The NRP establishes policies, procedures, and mechanisms for proactive Federal response to catastrophic events. A catastrophic event is any natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions. A catastrophic event could result in sustained national impacts over a prolonged period of time; almost immediately exceeds resources normally available to State, local, tribal, and private-sector authorities in the impacted area; and significantly interrupts governmental operations and emergency services to such an extent that national security could be threatened. All catastrophic events are Incidents of National Significance.

### Implementation of Proactive Federal Response Protocols

Protocols for proactive Federal response are most likely to be implemented for catastrophic events involving chemical, biological, radiological, nuclear, or high-yield explosive weapons of mass destruction, or large-magnitude earthquakes or other natural or technological disasters in or near heavily populated areas.

### Guiding Principles for Proactive Federal Response

Guiding principles for proactive Federal response include the following:

- The primary mission is to save lives; protect critical infrastructure, property, and the environment; contain the event; and preserve national security.

- Standard procedures regarding requests for assistance may be expedited or, under extreme circumstances, suspended in the immediate aftermath of an event of catastrophic magnitude.
- Identified Federal response resources will deploy and begin necessary operations as required to commence life-safety activities.
- Notification and full coordination with States will occur, but the coordination process must not delay or impede the rapid deployment and use of critical resources. States are urged to notify and coordinate with local governments regarding a proactive Federal response.
- State and local governments are encouraged to conduct collaborative planning with the Federal Government as a part of “steady-state” preparedness for catastrophic incidents.

### Implementation Mechanisms for Proactive Federal Response to Catastrophic Events

The NRP Catastrophic Incident Supplement (described in the Catastrophic Incident Annex) addresses resource and procedural implications of catastrophic events to ensure the rapid and efficient delivery of resources and assets, including special teams, equipment, and supplies that provide critical life-

saving support and incident containment capabilities. These assets may be so specialized or costly that they are either not available or are in insufficient quantities in most localities.

The procedures outlined in the NRP Catastrophic Incident Supplement are based on the following:

- The pre-identification of Federal assets and capabilities;
- The strategic location of pre-identified assets for rapid deployment; and
- The use of pre-scripted mission assignments for Stafford Act declarations, or individual agency authority and funding, to expedite deployment upon notification by DHS (in accordance with procedures established in the NRP Catastrophic Incident Supplement) of a potential catastrophic event.

Agencies responsible for these assets will keep DHS apprised, through the HSOC, of their ongoing status and location until the JFO is established. Upon arrival at the scene, Federal assets will coordinate with the Unified Command, the SFLEO, and the JFO (or its forward elements) when established. Demobilization processes, including full coordination with the JFO Coordination Group, are initiated either when the mission is completed or when it is determined the magnitude of the event does not warrant continued use of the asset.

## U.S. Possessions and Freely Associated States

The NRP concept of operations, in general, is applicable to any response to Incidents of National Significance occurring within the U.S. possessions, including the insular areas,<sup>1</sup> as well as in the Federated States of Micronesia and the Republic of the Marshall Islands.<sup>2</sup> Stafford Act assistance is available to include Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, which are included in the definition of “State” in the Stafford Act. At present, Stafford Act assistance is also available to

the Federated States of Micronesia and the Republic of the Marshall Islands under the Compact of Free Association.<sup>4</sup>

Nevertheless, there are unique factors involved in working with the U.S. possessions and Freely Associated States. The Department of the Interior (DOI), through the Office of Insular Affairs, is responsible for coordinating relationships with the insular areas and the Freely Associated States and is available to serve as a resource for agencies with disaster assistance responsibilities.

<sup>1</sup> Insular areas include American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands.

<sup>2</sup> The Federated States of Micronesia and the Republic of the Marshall Islands are two of the Freely Associated States under the Compact of Free Association. The U.S. Government does not provide disaster assistance to the Republic of Palau, the third Freely Associated State, in accordance with the Compact of Free Association.

<sup>4</sup> The mechanism for the provision of disaster assistance to the Federated States of Micronesia and the Republic of the Marshall Islands has been renegotiated. Following enactment by Congress of legislation approving the new mechanism, it is anticipated that the U.S. Agency for International Development will assume the lead role in the provision of disaster assistance to these independent nations.

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### External Affairs

This section discusses the mechanisms for ensuring accurate, consistent, and timely communications with all of the critical external audiences—the general

public, media, congressional and governmental leaders, and the international community. (See the Public Affairs and ESF #15 Annexes for additional information.)

Component	Description
Public Affairs	<p>Public Affairs activities ensure the coordinated and timely release of incident-related prevention, preparedness, response, recovery, and mitigation information to the public. ESF #15 provides the interagency coordination mechanisms and the resource support for Federal JIC activities.</p> <p>The Public Affairs Support Annex provides an overview of the required protocols and processes for media relations and incident communications, including protocols for handling sensitive information, which are further outlined in the NRP Incident Communications Emergency Supplement (published as a separate document).</p>
Community Relations	<p>Community Relations activities provide information on assistance programs to affected individuals, groups, organizations, and local governments. Community Relations serves as a direct link to these communities and works closely with program elements to deliver messages relating to the availability of programs and resources.</p>
Congressional Affairs	<p>Congressional Affairs provides information to the Washington, DC, and district offices of Members of Congress and addresses incident-related questions, concerns, and problems expressed by their constituents.</p>
International Affairs	<p>International Affairs provides guidance for events that include cross-border issues, coordination of foreign visitors, and response to offers of assistance from foreign governments. (See the International Coordination Support Annex for additional information.)</p>
State and Local Coordination	<p>State and Local Coordination assists JFO leadership with direct communications, interaction, and outreach to local and State elected officials. (See the ESF #15 Annex for additional information.)</p>
Tribal Affairs	<p>Tribal Affairs provides procedures to facilitate incident management programs and resources available to tribal governments to assist them in protecting their families, community livelihood, and cultural and environmental resources. (See the Tribal Relations Support Annex for additional information.)</p>



## V. Incident Management Actions

### Actions

This section describes incident management actions ranging from initial threat notification to early coordination efforts to assess and disrupt the threat, to preparatory activation of the ESF structure, to deployment of Federal resources in support of incident response and recovery operations. These actions do not necessarily occur in sequential order; many may be undertaken concurrently in response to single or multiple threats or incidents.

Figure 10 depicts initial incident management actions. In situations where it is apparent that an Incident of National Significance may be imminent or has already occurred, assessment and pre-incident interagency coordination typically are compressed. In these instances, DHS moves quickly to coordinate multiple Federal activities to include the following: information-sharing, interagency course of action development, alert and deployment of resources, operational coordination, and other assistance as required, in consultation and coordination with other Federal departments and agencies and the affected jurisdiction(s).

### Notification and Assessment

Federal, State, local, tribal, private-sector, and nongovernmental organizations report threats, incidents, and potential incidents using established communications and reporting channels. The HSOC receives threat and operational information regarding incidents or potential incidents and makes an initial determination to initiate the coordination of Federal information-sharing and incident management activities.

### Reporting Requirements

Federal, State, tribal, private-sector, and NGO EOCs are either required or encouraged, as noted below, to report incident information to the HSOC. In most situations, incident information is reported using existing mechanisms to State or Federal operations centers, which will in turn report the information to the HSOC. Suspicious activity, terrorist threats, and actual incidents with a potential or actual terrorist nexus are reported immediately to a local or regional JTTF (or the NJTTF, in the case of Federal departments/agencies). Subsequently, the FBI SIOC immediately reports the terrorist threat, if the

FBI deems the threat to be credible, or the actual incident to the HSOC and the NCTC. Additionally, actual incidents, regardless of whether or not there is a terrorist nexus, are reported immediately to the HSOC by appropriate governmental and nongovernmental entities.

- **Federal Departments and Agencies:** Federal departments and agencies are required to report information relating to actual or potential Incidents of National Significance to the HSOC. This information may include:
  - Implementation of a Federal department or agency emergency response plan;
  - Actions to prevent, respond to, or recover from an Incident of National Significance for which a Federal department or agency has responsibility under law or directive;
  - Submission of requests for assistance to, or receipt of a request from, another Federal department or agency in the context of an Incident of National Significance;
  - Receipt of requests for assistance from State, local, or tribal governments; NGOs; or the private sector in the context of an Incident of National Significance; and
  - Suspicious activities or threats with a potential terrorist nexus (normally through the FBI SIOC to the HSOC and the NCTC).
- **State/Tribal Governments:** State and tribal governments and emergency management agencies use established reporting mechanisms and are encouraged to report information relating to actual or potential Incidents of National Significance to the HSOC, using procedures established by DHS. (Information regarding potential terrorist threats should be reported through the local or regional JTTF.) This information may include:
  - Implementation of an incident management or emergency response plan or action to prevent, respond to, or recover from an Incident of National Significance;
  - Announcement of emergency proclamations or declarations made under State, local, or tribal authority; and
  - Activation of State or tribal mutual-aid agreements or compacts in response to incidents resulting in emergency proclamations or declarations, or requiring Federal assistance.

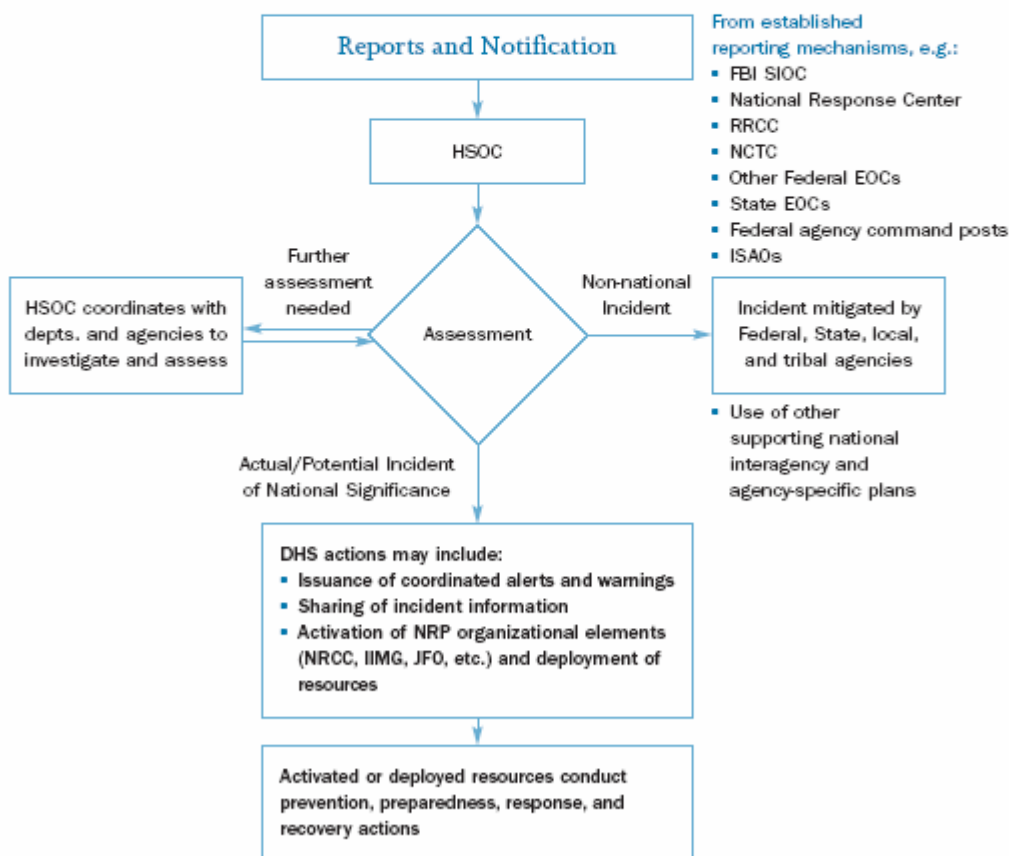
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- **Local Governments:** Local governments communicate information regarding actual or potential Incidents of National Significance to the HSOC through established reporting mechanisms in coordination with State government officials and EOCs.
- **Private-Sector/Nongovernmental Organizations:** Private-sector and nongovernmental organizations are encouraged to communicate information regarding actual or potential Incidents of National Significance to the HSOC through existing jurisdictional reporting mechanisms, as well as established information-sharing and analysis organizations (ISAOs).

### Situational Awareness and Initial Incident Assessment

The HSOC maintains daily situational awareness to identify and monitor threats or potential threats inside, on, or approaching the borders of the United States. Upon receipt, the HSOC passes such information to appropriate Federal, State, local, and tribal intelligence and law enforcement agencies as expeditiously as possible, according to established security protocols and in coordination with the FBI and NCTC.

FIGURE 10. Flow of initial national-level incident management actions



The **HSOC** maintains daily situational awareness to identify and monitor threats or potential threats inside, on, or approaching the borders of the United States.

The HSOC also monitors nonterrorist hazards and accidents, and receives reports from various operations centers, such as the FOC regarding natural hazards (severe storms, floods, etc.) and the National Response Center regarding oil spills and hazardous materials releases. When notified of a hazard or an incident with possible national-level implications, the HSOC assesses the situation and notifies the Secretary of Homeland Security accordingly. Based on the information, the Secretary of Homeland Security determines the need for activation of NRP elements. The HSOC coordinates with other departments and agencies regarding further field investigation, as required.

The FBI, NCTC, and DHS/IAIP evaluate intelligence relating to terrorist threats and other potential incidents. All Federal, State, local, and tribal departments and agencies must notify their local or regional FBI JTTF regarding information associated with a threat of terrorism or an actual terrorist incident. Additionally, the HSOC is notified immediately in the case of an actual incident, regardless of whether or not there is a terrorist nexus. In the case of a threat, the local FBI JTTF notifies the NJTTF. Federal department and agency headquarters should notify the NJTTF or FBI SIOC with similar information. Upon receipt of a threat of terrorism, the FBI conducts a formal threat credibility assessment, which may include assistance from select interagency experts. If a threat is deemed credible, the FBI SIOC notifies the HSOC immediately to enable subsequent NRP actions.

#### Dissemination of Warnings and Bulletins

Watches, warnings, and other emergency bulletins are issued by various agencies based on their statutory missions and authorities. For example, the National Weather Service issues weather-related notices to warn the public of impending storms and severe weather.

Watches, warnings, and other emergency bulletins are issued by various agencies based on their statutory missions and authorities.

The HSOC coordinates with the NCTC, TSC, FBI, Department of Health and Human Services (HHS), and similar programs for terrorism-related threat analysis and warning, and disseminates homeland security threat warnings and advisory bulletins. The HSOC performs this task consistent with normal steady-state threat monitoring, assessment, research, and reporting functions. The HSOC follows Executive orders, directives, MOUs/MOAs, and procedures in place between the NCTC, TSC, and DHS/IAIP.

The FBI disseminates terrorism law enforcement bulletins and warnings to ensure that vital information regarding terrorism reaches appropriate officials within the U.S. counterterrorism and law enforcement communities. This information is transmitted via secure teletype. Each message transmitted under this system is an alert, an advisory, or an assessment—an alert if the terrorist threat is credible and specific, an advisory if the threat is credible but general in both timing and target, or an assessment to impart facts and/or threat analysis concerning terrorism. These products are fully coordinated with DHS prior to release.

The FOC, in coordination with the HSOC, facilitates distribution of warnings, alerts, and bulletins to the emergency management community using a variety of communications systems such as:

- **National Warning System (NAWAS):** NAWAS is the primary system for emergency communications from the Federal Government to both State and county warning points.
- **Washington Area Warning System (WAWAS):** Although not directly tied to the NAWAS circuits, WAWAS is a mechanism for providing emergency communications to Washington, DC, area officials in the event of an emergency.
- **National Emergency Alert System (National EAS):** Formerly known as the Emergency Broadcast System, the National EAS is a nationwide network of broadcast stations and cable systems that provide a readily available and reliable means to communicate emergency information to the American people.
- **State and local EAS:** State and local authorities have their own EAS which may be used to broadcast information on major disasters or emergencies.



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### Evolving Threats Identified at the National Level

The ongoing fusion of intelligence at the national level may result in the detection of a potential terrorist threat of a specific and credible nature. Unlike incidents reported from the field, this process results in the initiation of initial incident management actions at the headquarters level and generates a “top-down” response to deter, prevent, and otherwise respond to the terrorist threat.

The HSOC, NCTC, and FBI SIOC coordinate information regarding terrorist threats. When the FBI or DHS/IAIP determines that a credible threat exists, it notifies and coordinates with the HSOC, which immediately notifies the FBI SIOC, if it has not been already informed. The HSOC then notifies the Secretary of Homeland Security, who may elect to activate any or all of the NRP organizational elements, as well as initiate the coordination of interagency policy issues and operational courses of action through the White House, as appropriate. The Secretary may also elect to activate and prepare to deploy various special teams to conduct prevention, preparedness, response, and recovery activities.

### Activation

This section discusses the early-stage efforts to activate and deploy NRP organizational elements and Federal resources, including special teams, emergency facilities, and other response resources.

For actual or potential Incidents of National Significance, the HSOC reports the situation to the Secretary of Homeland Security and/or senior staff as delegated by the Secretary, who then determines the need to activate components of the NRP to conduct further assessment of the situation, initiate interagency coordination, share information with affected jurisdictions and the private sector, and/or initiate

deployment of resources. Concurrently, the Secretary also makes a determination of whether an event meets the criteria established for a potential or actual Incident of National Significance as defined in this plan.

When the Secretary declares an Incident of National Significance, Federal departments and agencies are notified by the HSOC (as operational security considerations permit), and may be called upon to staff the IIMG and NRCC. The affected State(s) and tribes also are notified by the HSOC using appropriate operational security protocols. In the pre-incident mode, such notification may be conducted discreetly, on a need-to-know basis, so as to preserve the operational security and confidentiality of certain law enforcement and investigative operations.

When the Secretary declares an Incident of National Significance, Federal departments and agencies are notified by the HSOC, and may be called upon to staff the IIMG and NRCC.

(Note: NRP resources, such as a PFO, may be designated and activated in the context of a general threat, prior to a formal Incident of National Significance determination by the Secretary of Homeland Security, to facilitate pre-incident interagency and multijurisdictional coordination and threat assessment activities.) For acts of terrorism, information-sharing, deployment of resources, and incident management actions during actual or potential terrorist incidents are coordinated with DOJ.

The NRCC and RRCC deploy, track, and provide incident-related information until the JFO is established.

The next section describes the NRP organizational elements that could be activated and their initial actions.

# DOPLAW HANDBOOK

## Headquarters Organizational Elements

The headquarters organizational elements include the following:

Element	Description
Interagency Incident Management Group	The IIMG may convene at DHS Headquarters when activated for an initial meeting. IIMG members or alternates remain on call to meet at any time during a heightened period of alert or during an incident or on a 24/7 basis as required by the situation at hand. The IIMG may assign liaison officers to the FBI SIOC and/or other EOCs, as required, and may establish communication with State Homeland Security Advisor(s) and/or State Emergency Management Director(s) through the DHS OSLGCP representatives to the IIMG.
National Response Coordination Center	<p>The NRCC begins interagency operations by coordinating initial activation, the deployment of special teams, initiation and monitoring of mission assignments (Stafford Act only) or other interagency requirements (non-Stafford Act), and RRCC(s) activities as required and as permitted by operational security considerations. The NRCC, through the FOC, informs primary agencies of the activation and provides a time to report to the NRCC. Primary agencies may notify and activate support agencies if required.</p> <p>Primary agencies determine the impact of an incident on their own capabilities and identify, mobilize, and deploy resources under the mission assignment process or interagency agreements to support response activities in the affected jurisdiction(s). Formal alert and notification protocols and procedures for activation of ESFs are included as part of the NRCC standard operating procedures, to be published separately.</p>
Federal Emergency Operations Centers	Agencies may activate their headquarters EOCs to provide coordination and direction to their headquarters and regional response elements. Federal EOCs maintain ongoing contact and coordination with the HSOC.
Strategic Information and Operations Center	Upon determination that a terrorist threat is credible or that an act of terrorism has occurred, FBI Headquarters initiates liaison with other Federal agencies to activate their operations centers and provide liaison officers to the SIOC. In addition, FBI Headquarters initiates communications with the SAC of the responsible Field Office, apprising him/her of possible courses of action and discussing possible deployment of the DEST. The FBI SAC establishes initial operational priorities based upon the specific circumstances of the threat or incident. This information is then forwarded to FBI Headquarters to coordinate identification and deployment of appropriate resources. The SIOC will notify the HSOC immediately upon confirmation of a credible threat or terrorist nexus.
Principal Federal Official	The Secretary provides formal notification of the appointment of a PFO to the Governor(s)/mayor(s) of affected State(s)/municipality(ies), Tribal Chief Executive Officers, and Federal departments and agencies. The HSOC notifies other Federal, State, and tribal EOCs of the PFO designation. State EOCs are expected to pass this designation to State and local agencies and EOCs as appropriate. PFOs may be designated on a pre-incident basis according to available threat information, or in response to an incident in progress. If the designation is made based upon a pre-incident threat assessment, formal notification of the PFO designation may be made on a discreet, need-to-know basis to preserve operational security.

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### Regional Elements

Regional resources may be activated to monitor and assess the need for Federal incident management support. The DHS/EPR/FEMA Regional Director deploys a liaison to the State EOC to provide technical assistance including advice on the Stafford Act declaration process and available Federal assistance, and also partially or fully activates the RRCC including, where appropriate, regional representatives of Federal departments and agencies.

The RRCC and NRCC Logistics Sections support the establishment of a JFO and mobilization center(s). The RRCC coordinates Federal support of State requirements until the FCO or FRC assumes those responsibilities. A JIC may be established, as required, to provide a central point for coordinating emergency public information activities.

### Field Elements

The field elements include the following:

Element	Description
Emergency Response Team	<p>The RRCC initially deploys a DHS/EPR/FEMA-led ERT-A, including rapid needs assessment personnel and appropriate ESF representatives, to State operating facilities and incident sites to assess the impact of the situation, collect damage information, gauge immediate Federal support requirements, and make preliminary arrangements to set up Federal field facilities. When regional resources are overextended, or an event poses potentially significant consequences, DHS Headquarters may deploy an ERT-N to coordinate the initial response.</p> <p>The FCO/FRC heads the interagency ERT. The ERT works with the affected State and coordinates Federal support from the JFO. The ERT may establish an IOF to serve as an interim facility until the JFO is established. In a terrorism event, this activity will be coordinated with the JOC. Federal agencies and other appropriate entities provide resources to assist incident management efforts under DHS-issued mission assignments or their own authorities.</p> <p>The ERT-A/ERT-N coordinates damage assessment and selection of locations for field facilities with the State. It also coordinates mission assignments for direct Federal assistance and procurement of goods and services with the Comptroller and RRCC. The ERT-A/ERT-N begins the transition to a tailored Emergency Response Team and initiates establishment of the JOC.</p>
Federal Incident Response Support Team	Based upon the nature of the incident, the FIRST may deploy to the scene to support State operations. The FIRST provides technical assistance to assess the situation, identify critical and unmet needs, provide protective action recommendations, and establish incident support facilities. The FIRST coordinates with the ERT-A and integrates into the JFO when established.
Domestic Emergency Support Team	The DEST may be deployed to provide technical support for management of potential or actual terrorist incidents. Based upon a credible threat assessment, the Attorney General, in consultation with the Secretary of Homeland Security, may request authorization through the White House to deploy the DEST. Upon arrival at the JFO or critical incident location, the DEST may act as a stand-alone advisory team to the FBI SAC providing required technical assistance or recommended operational courses of action.
Other Special Teams	Depending on the nature of the incident, other special teams may be deployed in coordination with other departments and agencies. The NRP annexes include discussion of special teams and resources.
Federal First Responders	Some Federal agencies have statutory authority and responsibility to deploy directly as first responders upon notification of an incident or potential incident (e.g., OSCs responding to oil or hazardous materials incidents). These responders may arrive on-scene before there is a determination as to whether the incident is an Incident of National Significance, but once declared, would operate under the protocols established in the NRP.

## Requests for DHS Assistance

Requests for DHS assistance can come from State Governors requesting aid under the Stafford Act or from Federal agencies with a need for Federal-to-Federal support. Federal departments and agencies supporting the NRP are activated and engaged using either a mission assignment process for events supported by Stafford Act funding, or through interagency agreements or other direct funding sources when implemented using other authorities.

- **Federal Support to States:** DHS/EPR/FEMA processes a Governor's request for Presidential disaster or emergency declarations under the direction provided in the Stafford Act. Governors submit these requests to DHS/EPR/FEMA indicating the extent of damage and the types of Federal assistance required. DHS/EPR/FEMA then forwards the Governor's request to the White House, simultaneously notifying the Secretary of Homeland Security, along with a recommended course of action.

Concurrent with a Presidential declaration of a major disaster or emergency and official appointment of an FCO, DHS/EPR/FEMA designates the types of assistance to be made available and the counties eligible to receive assistance. In large-scale or catastrophic events, the declaration process can be expedited. In certain emergencies involving Federal primary responsibility, the Stafford Act allows the President to provide emergency assistance without a Governor's request. Appendix 5 provides an overview of the request process under the Stafford Act.

In a non-Stafford Act emergency, the President may direct Federal departments and agencies to conduct prevention, preparedness, emergency response, and incident management activities consistent with their authorities and responsibilities on a nonreimbursable basis. Appendix 6 provides an overview of Federal-to-Federal support in non-Stafford Act situations.

- **Federal-to-Federal Support:** For some incidents for which a Stafford Act declaration is not made and a Federal entity is responding to an incident under its own authorities, that entity may require additional assistance from other Federal departments or agencies that is not otherwise readily available to them. In such circumstances, the affected Federal department

or agency may request DHS coordination to obtain that assistance.

Federal agencies participating in the NRP will request and provide Federal-to-Federal support by executing interagency or intra-agency reimbursable agreements (RAs), in accordance with the Economy Act (31 U.S.C. § 1535) or other applicable authorities. Federal agencies providing mutual aid support may request reimbursement from the requesting agency for eligible expenditures. (See Financial Management Support Annex Attachment 3, Memorandum of Understanding: Mutual Aid for Incidents of National Significance (Non-Stafford Act), for additional information.)

DHS will use the BSFs as the mechanism for coordinating required support from other agencies. When such DHS assistance is provided, the incident becomes an Incident of National Significance, and DHS coordinates Federal resources under the authority provided in HSPD-5. In these situations, DHS designates an FRC to perform the resource coordination function (rather than an FCO as occurs under a Stafford Act declaration).

Requests for assistance are submitted to the DHS Executive Secretary for processing and Secretary consideration/approval. Upon approval of the request for assistance, the Secretary issues an operation order to the HSOC. The HSOC, through the NRCC, coordinates the activation of the appropriate ESFs. At this time, the Secretary of Homeland Security also may elect to activate the IIMG to begin monitoring the situation and developing appropriate recommendations and courses of action.

## Pre-Incident Actions

At the national level, the HSOC facilitates interagency information-sharing activities to enable the assessment, prevention, or resolution of a potential incident. Based upon guidance from the HSC/NSC (Principals, Deputies, or FCC), DHS coordinates with appropriate agencies as required during developing situations to utilize agency resources and authorities to prevent an incident, as well as to initiate appropriate preparatory and mitigating measures to reduce vulnerabilities. If warranted, the IIMG may recommend the activation of additional NRP organizational elements to provide

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appropriate resources to enable more robust prevention and/or preparedness activities.

### Prevention

Actions taken to avoid an incident or to intervene to stop an incident from occurring. Prevention involves actions taken to protect lives and property.

Prevention actions related to terrorism threats and incidents include law enforcement activities and protective activities. All Federal law enforcement activities are coordinated by the Attorney General, generally acting through the FBI. Initial prevention efforts include, but are not limited to, actions to:

- Collect, analyze, and apply intelligence and other information;
- Conduct investigations to determine the full nature and source of the threat;
- Implement countermeasures such as surveillance and counterintelligence;
- Conduct security operations, including vulnerability assessments, site security, and infrastructure protection;
- Conduct tactical operations to prevent, interdict, preempt, or disrupt illegal activity;
- Conduct attribution investigations, including an assessment of the potential for future related incidents; and
- Conduct activities to prevent terrorists, terrorist weapons, and associated materials from entering or moving within the United States.

The majority of initial actions in the threat or hazard area are taken by first responders and local government authorities, and include efforts to protect the public and minimize damage to property and the environment, as follows:

- **Public Health and Safety:** Initial safety efforts focus on actions to detect, prevent, or reduce the impact to public health and safety. Such actions can include environmental analysis, plume modeling, evacuations, emergency sheltering, air monitoring, decontamination, emerging infectious disease tracking, emergency broadcasts, etc. These efforts may also include public health education; site and public health surveillance and testing procedures; and immunizations, prophylaxis, and isolation or quarantine for biological threats coordinated by HHS and State and local public health officials. (See the ESF #8 Annex for additional information.)

- **Responder Health and Safety:** The safety and health of responders is also a priority. Actions essential to limit their risks include full integration of deployed health and safety assets and expertise; risk assessments based upon timely and accurate data; and situational awareness that considers responder and recovery worker safety.

A comprehensive location and/or operational response safety and health plan is key to mitigating the hazards faced by responders. These efforts include incident hazard identification and characterization; implementation and monitoring of personal protective equipment selection, use, and decontamination; exposure sampling and analysis; worker health and safety risk analysis; health and safety monitoring; and development/ongoing evolution of the site-specific safety and health plan. (See the Worker Safety and Health Support Annex for additional information.)

- **Property and the Environment:** Responders may also take incident mitigation actions to protect public and private property and the environment. Such actions may include sandbagging in anticipation of a flood, or booming of environmentally sensitive areas in response to a potential oil spill.

### Response Actions

Once an incident occurs, the priorities shift from prevention, preparedness, and incident mitigation to immediate and short-term response activities to preserve life, property, the environment, and the social, economic, and political structure of the community. In the context of a terrorist threat, simultaneous activities are initiated to assess regional and national-level impacts, as well as to assess and take appropriate action to prevent and protect against other potential threats.

#### Response

Activities that address the short-term, direct effects of an incident. These activities include immediate actions to preserve life, environment; meet basic needs; maintain the social, economic structure of the affected area.

Reinforcing the initial response to an incident, some Federal agencies may operate in the ICP as Federal first responders and participate in the Unified Command structure. Once the JFO is established, the JFO Coordination Group sets Federal operational priorities. The JFO provides resources in support of the Unified Command and incident management teams conducting on-scene operations through the State and local EOCs.

Depending upon the scope and magnitude of the incident, the NRCC and/or the RRCCs activate the appropriate ESFs, as needed, to mobilize assets and the deployment of resources to support the incident. The NRCC and/or the RRCCs facilitate the deployment and transportation of the HRT and other teams and specialized capabilities such as, but not limited to, teams under the NDMS, the HHS Secretary's Emergency Response Team, the Epidemic Intelligence Service, HHS behavioral health response teams, the U.S. Public Health Service Commissioned Corps, and Urban Search and Rescue teams. Other response actions include the establishment of the JFO and other field facilities and providing a wide range of support for incident management, public health, and other community needs.

Response actions also include immediate law enforcement, fire, ambulance, and emergency medical service actions; emergency flood fighting; evacuations; transportation system detours; emergency public information; actions taken to minimize additional damage; urban search and rescue; the establishment of facilities for mass care; the provision of public health and medical services, food, ice, water, and other emergency essentials; debris clearance; the emergency restoration of critical infrastructure; control, containment, and removal of environmental contamination; and protection of responder health and safety.

During the response to a terrorist event, law enforcement actions to collect and preserve evidence and to apprehend perpetrators are critical. These actions take place simultaneously with response operations necessary to save lives and protect property,

and are closely coordinated with the law enforcement effort to facilitate the collection of evidence without impacting ongoing life-saving operations.

In the context of a single incident, once immediate response missions and life-saving activities conclude, the emphasis shifts from response to recovery operations and, if applicable, hazard mitigation. The JFO Planning Section develops a demobilization plan for the release of appropriate components.

## Recovery Actions

Recovery involves actions needed to help individuals and communities return to normal when feasible. The JFO is the central coordination point among Federal, State, local, and tribal agencies and voluntary organizations for delivering recovery assistance programs.

### Recovery

The development, coordination, and execution of service- and site-restoration plans and the reconstitution of government operations and services through individual, private-sector, nongovernmental, and public assistance programs.

The JFO Operations Section includes the Human Services Branch, the Infrastructure Support Branch, and the Community Recovery and Mitigation Branch. The Human Services and Infrastructure Support Branches of the JFO Operations Section assess State and local recovery needs at the outset of an incident and develop relevant timeframes for program delivery. These branches ensure Federal agencies that have relevant recovery assistance programs are notified of an incident and share relevant applicant and damage information with all involved agencies as appropriate, ensuring that the privacy of individuals is protected.

A brief summary of these branches is presented next.



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Branch	Description
Human Services Branch	The Human Services Branch coordinates assistance programs to help individuals, families, and businesses meet basic needs and return to self-sufficiency. This branch also coordinates with volunteer organizations and is involved in donations management, and coordinates the need for and location of DRCs with local and tribal governments. Federal, State, local, tribal, voluntary, and nongovernmental organizations staff the DRCs, as needed, with knowledgeable personnel to provide recovery and mitigation program information, advice, counseling, and related technical assistance.
Infrastructure Support Branch	The Infrastructure Support Branch of the JFO coordinates “public assistance programs” authorized by the Stafford Act to aid State and local governments and eligible private nonprofit organizations with the cost of emergency protective services and the repair or replacement of disaster-damaged public facilities and associated environmental restoration.
Community Recovery and Mitigation Branch	The Community Recovery and Mitigation Branch works with the other Operations branches and State and local officials to assess the long-term impacts of an Incident of National Significance, define available resources, and facilitate the development of a course of action to most efficiently apply available resources to restore and revitalize the community as well as reduce the impacts from future disasters.

The above branches coordinate with one another to identify appropriate agency assistance programs to meet applicant needs, synchronizing assistance delivery and encouraging incorporation of hazard mitigation measures where possible. Hazard mitigation measures are identified in concert with congressionally mandated, locally developed plans. Hazard mitigation risk analysis; technical assistance to State, local, and tribal governments, citizens, and business; and grant assistance are included within the mitigation framework. Additionally, these branches work in tandem to track overall progress of the recovery effort, particularly noting potential program deficiencies and problem areas.

Long-term environmental recovery may include cleanup and restoration of public facilities, businesses, and residences; re-establishment of habitats and prevention of subsequent damage to natural resources; protection of cultural or archeological sites; and protection of natural, cultural, and historical resources from intentional damage during other recovery operations.

### Mitigation Actions

Hazard mitigation involves reducing or eliminating long-term risk to people and property from hazards and their side effects. The JFO is the central coordination point among Federal, State, local, and tribal agencies

and NGOs for beginning the process that leads to the delivery of mitigation assistance programs.

#### Mitigation

Activities designed to reduce or eliminate risks to persons or property or to potential effects or consequences. Mitigation measures may be implemented prior to, during, or after an incident.

The JFO’s Community Recovery and Mitigation Branch is responsible for coordinating the delivery of all mitigation programs within the affected area, including hazard mitigation for:

- Grant programs for loss reduction measures (if available);
- Delivery of loss reduction building-science expertise;
- Coordination of Federal flood insurance operations and integration of mitigation with other program efforts;
- Conducting flood recovery mapping to permit expedited and accurate implementation of both recovery and mitigation programs;
- Predictive modeling to protect critical assets;
- Early documentation of losses avoided due to previous hazard mitigation measures; and
- Community education and outreach necessary to foster loss reduction.

The Community Recovery and Mitigation Branch works with the Infrastructure and Human Services Branches and with State, local, and tribal officials to facilitate the development of a long-term recovery strategy for the impacted area(s).

### Demobilization

When a centralized Federal coordination presence is no longer required in the affected area, the JFO Coordination Group implements the demobilization plan to transfer responsibilities and close out the JFO. After the closing of the JFO, long-term recovery program management and monitoring transitions to individual agencies' regional offices and/or headquarters, as appropriate.

### Remedial Actions

DHS formally convenes interagency meetings called "hotwashes" to identify critical issues requiring headquarters-level attention, lessons learned, and best practices associated with the Federal response to Incidents of National Significance. Hotwashes typically are conducted at major transition points over the course of incident management operations, and include State, local, and tribal participation as appropriate.

Identified issues are validated and promptly assigned to appropriate organizations for remediation, in

accordance with DHS/EPR/FEMA's Remedial Action Management Program (RAMP). DHS/EPR/FEMA manages the RAMP and coordinates, monitors, and reports the status of Federal remediation actions for issues arising from Incidents of National Significance.

### After-Action Report

Following an incident, the JFO Coordination Group submits an after-action report to DHS Headquarters detailing operational successes, problems, and key issues affecting incident management. The report includes appropriate feedback from all Federal, State, local, tribal, nongovernmental, and private-sector partners participating in the incident. The Emergency Support Function Leaders Group (ESFLG) and the Regional Interagency Steering Committees (RISCs)—the headquarters-level and regional-level interagency NRP preparedness organizations (described in section VI on page 58)—use information from these reports to update plans and procedures as required.

Each Federal agency involved should keep records of its activity to assist in preparing its own after-action report. The DHS OSLGCP has established and maintains the Lessons Learned Information Sharing system (formerly Ready-Net) as the national repository for reports and lessons learned. The NIMS Integration Center supports and contributes to this national system.

## NRP Operations Under HSAS Threat Conditions

### General

The Homeland Security Advisory System, created by HSPD-3 and administered by DHS/IAIP, is a comprehensive and effective means for disseminating information regarding the risk of terrorist attacks and coordinating appropriate response measures across jurisdictions and with the private sector. The HSAS is composed of two separate elements: threat products and threat condition.

- **Threat products** include warning (advisories) and nonwarning (information bulletins) products designed to inform Federal, State, local, tribal, and nongovernmental entities and private citizens of threat or incident information.

- The **threat condition** provides a guide to assist government and private-sector entities in initiating a set of standardized actions as a result of increased terrorist threat levels within the United States, and to inform the public on updated homeland security requirements. The raising of the threat condition generally is reserved for threats that are credible, corroborated, and imminent. An elevated threat condition can be applied nationally or by region, by industry sector, or to a specific target.

During an increase in threat condition, DHS may notify, activate, and deploy NRP organizational elements in an effort to enhance the Nation's ability to prevent, prepare for, or respond to an attack. The decision to mobilize NRP organizational elements is based on the



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nature and severity of the threat. In response to a heightened nationwide risk of attack, DHS may activate the national-level elements and place certain special teams on standby. For geographic-specific threats, DHS, in consultation with DOJ, may activate regional elements and deploy national coordinating elements and special teams to the affected area.

### Procedures/Guidelines

Procedures/guidelines for threat conditions are described below.

Threat Conditions	Procedures/Guidelines
Green (low), Blue (guarded), Yellow (elevated)	Under Threat Conditions Green through Yellow, the HSOC maintains direct connectivity with the NCTC and the FBI SIOC regarding the terrorist threat and maintains situational awareness through the continued monitoring of reported incidents.
Orange (high)	When threat conditions warrant, DHS activates the IIMG to review the threat information, coordinate interagency activity, and recommend additional precautions needed to prevent, prepare for, or respond to an attack. If the threat is elevated regionally or locally, DHS considers designating a PFO and activating emergency response teams and appropriate RRCC(s) to coordinate with regional, State, and private-sector entities and notify (or activate) regional resources (such as the ERT) as appropriate.
Red (severe)	When threat conditions warrant, DHS fully activates the NRCC, activates the RRCCs in the designated threat locations, implements Continuity of Operations plans, and places other appropriate assets on the highest alert status. If the threat is elevated regionally or locally, the IIMG provides recommendations for the deployment of special teams to the area and establishment of a JFO. In the absence of a JFO, special teams deployed in response to a terrorist threat operate in coordination with the FBI JOC.

## VI. Ongoing Plan Management and Maintenance

### Coordination

The Federal Government uses the “preparedness organization” concept described in the NIMS for the ongoing management and maintenance of the NRP. These organizations typically include all agencies with a role in incident management and provide a forum for coordination of policy, planning, training, equipping, and other preparedness requirements.

#### Federal Headquarters Level

The HSC Domestic Threat Reduction and Incident Management (DTRIM) PCC and the ESFLG are the primary Federal-level organizations for coordinating interagency policy related to the ongoing management and maintenance of the NRP and related activities. In providing sustained management and oversight of the NRP, these organizations will comply with preparedness guidelines and standards as identified in HSPD-5 and HSPD-8.

- **Domestic Threat Reduction and Incident Management Policy Coordination Committee:** The DTRIM PCC serves as the senior interagency policy oversight group for the NRP and related issues, providing an interagency forum for review of NRP-related plans, policy guidance, and issue resolution. (The DTRIM PCC replaces the FRP Catastrophic Disaster Response Group (CDRG) for ongoing management and maintenance of the NRP in these areas.)
- **Emergency Support Function Leaders Group:** The ESFLG serves as the senior interagency planning oversight group for operational issues related to the NRP and its ongoing management and maintenance. The ESFLG is comprised of representatives from each ESF as well as those organizations responsible for maintaining the NRP Support and Incident Annexes. The ESFLG provides a forum for developing supporting plans and procedures, as well as cross-coordination of functions. The ESFLG meets at least quarterly. In addition, coordinators of the ESF,

Support, and Incident Annexes will meet annually, as a minimum, to review and update plans and procedures, incorporate lessons learned and best practices, and ensure functional coordination and continuous improvement of all NRP elements. DHS will develop a charter for the ESFLG further outlining its roles and responsibilities in this area.

- **Other Federal Preparedness Organizations:** Other existing interagency preparedness organizations generally are integrated through the ESF structure. For example, the National Response Team works in coordination with ESF #10 (Oil and Hazardous Materials Response) planning efforts.

#### Federal Regional Level

At the Federal regional level, the RISCs are responsible for multiagency coordination under the NRP on a steady-state basis. The RISCs support the national-level groups by coordinating issues and solutions that are unique to the regions. RISCs also coordinate preparedness efforts with other regional-level preparedness organizations (such as the Regional Response Teams (RRTs) that coordinate regional ESF #10 efforts). At a minimum, the RISC is comprised of representatives from each State in the region and, where appropriate, regional-level representatives from ESF primary and support agencies. RISCs meet at least quarterly and provide an operational-level forum for regional planning, interagency information-sharing, and coordination. Each RISC includes an executive-level committee that meets at least twice yearly to provide executive-level guidance and oversight. DHS will publish a charter for the RISCs further describing their roles and responsibilities.

#### State and Local Levels

At the State and local levels, various preparedness organizations provide multiagency coordination functions.

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### Plan Maintenance

DHS/EPR/FEMA, in close coordination with the DHS Office of the Secretary, is the executive agent for NRP management and maintenance. The NRP will be updated periodically as required to incorporate new Presidential directives, legislative changes, and procedural changes based on lessons learned from exercises and actual events. This section establishes procedures for interim changes and full updates of the NRP.

The NRP will be updated periodically as required to incorporate new Presidential directives, legislative changes, and procedural changes based on lessons learned from exercises and actual events.

- **Types of Changes.** Changes include additions of new or supplementary material and deletions. No proposed change should contradict or override authorities or other plans contained in statute, Executive order, or regulation.
- **Coordination and Approval.** Any department or agency with assigned responsibilities under the NRP may propose a change to the plan. DHS is responsible for coordinating all proposed modifications to the NRP with primary and support agencies and other stakeholders, as required. DHS will coordinate review and approval for proposed modifications through the HSFLG and HSC as required.
- **Notice of Change.** After coordination has been accomplished, including receipt of the necessary signed approval supporting the final change language, DHS will issue an official Notice of Change.

The notice will specify the date, number, subject, purpose, background, and action required, and provide the change language on one or more numbered and dated insert pages that will replace the modified pages in the NRP. Once published, the modifications will be considered part of the NRP for operational purposes pending a formal revision and reissuance of the entire document. Interim changes can be further modified or updated using the above process.
- **Distribution.** DHS will distribute Notices of Change to all participating agencies, DHS Headquarters and regional offices, and State emergency management offices. Notices of Change to other organizations will be provided upon request.
- **Reissuance of the NRP.** Working toward continuous improvement, DHS is responsible for coordinating full reviews and updates of the NRP every 4 years, or more frequently if the Secretary deems necessary. The review and update will consider lessons learned and best practices identified during exercises and responses to actual events, and incorporate new information technologies. DHS will distribute revised NRP documents to the HSC for the purpose of interagency review and concurrence.

### The NIMS Integration Center

In accordance with the NIMS, the NIMS Integration Center is responsible for facilitating the development and adoption of national-level standards, guidelines, and

protocols related to the NIMS. DHS/EPR/FEMA will consult with the NIMS Integration Center in the management and maintenance of the NRP as appropriate.

### The NRP and National Preparedness

The NRP provides a key aspect of Federal department and agency compliance with HSPD-8, National Preparedness. HSPD-8 directs the Secretary of Homeland Security to coordinate efforts to measure and improve national preparedness. For more information on national preparedness, please refer to

the National Preparedness Goal. Preparedness tasks related to the NRP and associated supplements are summarized below:

- DHS develops a national domestic all-hazards preparedness goal, in coordination with other Federal

departments and agencies, and in consultation with State and local governments. The goal establishes a National Preparedness Assessment and Reporting System, which produces an annual status report to the President regarding the Nation's level of preparedness.

- Appropriate Federal departments and agencies undertake actions to support the national preparedness goal, including adoption of quantifiable performance measurements in the areas of training, planning, equipment, and exercises for Federal preparedness. Performance measures are submitted to DHS for the National Preparedness Assessment and Reporting System.
- The annual report to the President includes, but is not limited to, information on the readiness of Federal civil response assets. Appropriate Federal departments and agencies are required to maintain specialized Federal assets, such as teams, stockpiles, and caches, at levels consistent with the national preparedness goal and to make them available for response activities as established in the NRP.
- DHS develops and maintains a Federal response capability inventory, in coordination with other appropriate Federal departments and agencies, that includes the performance parameters of the capability, the timeframe within which the capability can be brought to bear to an incident, and the readiness of such capability to manage domestic incidents. Owners (respective agencies) of Federal response capabilities are responsible for providing DHS with updated information to ensure that the inventory is current.
- DHS, in coordination with other appropriate Federal departments and agencies and in consultation with State and local governments, maintains a comprehensive National Training Program, a National Exercise Program, and a National Lessons Learned Information Sharing System (formerly Ready-Net) to meet the national preparedness goal. These programs and systems use the NIMS and include requirements to support the NRP as appropriate.

## NRP-Supporting Documents and Standards for Other Federal Emergency Plans

The NRP, as the core plan for domestic incident management, provides the structures and processes for coordinating incident management activities for terrorist attacks, natural disasters, and other emergencies that meet the criteria established for Incidents of National Significance. Following the guidance provided in HSPD-5, the NRP incorporates existing Federal emergency and incident management plans (with appropriate modifications and revisions) as integrated components of the NRP, as supplements, or as supporting operational plans.

Accordingly, Federal departments and agencies must incorporate key NRP concepts and procedures for working with NRP organizational elements when developing or updating incident management and emergency response plans. When an agency develops a national interagency plan that involves events within the scope of Incidents of National Significance, these plans are coordinated with DHS to ensure consistency with the NRP, and are incorporated into the NRP, either

by reference or as a whole. DHS/EPR/FEMA will maintain a complete set of all current national interagency plans and provide ready public access to those plans via website or other appropriate means.

Incident management and emergency response plans must include, to the extent authorized by law:

- Principles and terminology of the NIMS;
- Reporting requirements of the NRP;
- Linkages to key NRP organizational elements (such as the IIMG, NRCC, RRCC, JFO, etc.); and
- Procedures for transitioning from localized incidents to Incidents of National Significance.

The broader range of NRP-supporting documents includes strategic, operational, tactical, and incident-specific or hazard-specific contingency plans and procedures. Strategic plans are developed by headquarters-level entities based on long-range goals, objectives, and priorities. Operational-level plans merge the on-scene tactical concerns with overall

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strategic objectives. Tactical plans include detailed, specific actions and descriptions of resources required to manage an actual or potential incident. Contingency plans are based on specific scenarios and planning

assumptions related to a geographic area or the projected impacts of an individual hazard. The following is a brief description of NRP-related documents:

Document	Description
National Incident Management System	The NIMS provides a core set of doctrine, concepts, terminology, and organizational processes to enable effective, efficient, and collaborative incident management at all levels.
National Interagency Plans	<p>National interagency plans are based either on statutory or regulatory authorities, and/or specific contingencies and types of incidents. These plans provide protocols for managing the preponderance of incidents that are likely to occur at all levels of government and that normally can be managed without the need for DHS coordination. These plans can be implemented independently or concurrently with the NRP.</p> <p>When the NRP is activated, these interagency plans are incorporated as supporting and/or operational plans. Examples of national interagency plans that are incorporated into the NRP as supporting and/or operational plans include:</p> <ul style="list-style-type: none"> <li>■ National Oil and Hazardous Substances Pollution Contingency Plan;</li> <li>■ Mass Migration Emergency Plan;</li> <li>■ National Search and Rescue Plan;</li> <li>■ National Infrastructure Protection Plan; and</li> <li>■ National Maritime Security Plan.</li> </ul> <p>For purposes of full incorporation into the NRP, these plans will be referred to as NRP supplements for the specific contingency or mission area that constitutes the main focus of such plans. The comprehensive listing of national interagency plans included as Appendix 4 provides a brief description of each of these plans.</p>
Agency-Specific Plans	Agency-specific plans are created to manage single hazards or contingencies under the purview of the responsible department or agency. An example of an agency-specific plan is the NRC's Incident Response Plan.
Operational Supplements	Operational supplements typically are detailed plans relating to specific incidents or events. Operational supplements routinely are developed to support NSSEs.
Regional Plans	Regional plans typically are operational supplements to national plans and provide region-specific procedures and guidance. Examples of regional plans include regional contingency plans (RCPs) mandated by the NCP to organize oil and hazardous substance contamination response.

Document	Description
State/Local/Tribal Emergency Operations Plans	<p>State/local/tribal emergency operations plans are created to address a variety of hazards. Examples include:</p> <ul style="list-style-type: none"> <li>State emergency operations plans designed to support State emergency management functions.</li> <li>Area contingency plans designed to prevent, prepare for, respond to, and recover from oil and hazardous substance incidents. These plans are developed at the direction of Federal OSCs in consultation with organizations at the State, regional, local, and tribal levels.</li> <li>Local emergency operations plans created at the municipal level to complement State emergency operations plans.</li> </ul>
State/Local/Tribal Multihazard Mitigation Plans	<p>State/local/tribal multihazard mitigation plans are developed by States, territories, tribes, and local communities to provide a framework for understanding vulnerability to and risk from hazards, and identifying the pre-disaster and post-disaster mitigation measures to reduce the risk from those hazards. Multihazard mitigation planning requirements were established by Congress through the Stafford Act, as amended by the Disaster Mitigation Act of 2000.</p>
Private-Sector Plans	<p>Private-sector plans are developed by privately owned companies/corporations. Some planning efforts are mandated by statute (e.g., nuclear power plant operations), while others are developed to ensure business continuity.</p>
Volunteer and Nongovernmental Organization Plans	<p>Volunteer and nongovernmental organization plans are plans created to support local, State, regional, and Federal emergency preparedness, response, and recovery operations. Plans include a continuous process of assessment, evaluation, and preparation to ensure that the necessary authorities, organization, resources, coordination, and operation procedures exist to provide effective delivery of services to disaster clients as well as provide integration into planning efforts at all government levels.</p>
International Plans	<p>International plans between the Federal Government and foreign countries typically deal with natural disasters, mass-casualty incidents, pollution incidents, terrorism, or public health emergencies.</p>
Procedures	<p>Procedures provide operational guidance for use by emergency teams and other personnel involved in conducting or supporting incident management operations. These documents fall into five basic categories:</p> <ul style="list-style-type: none"> <li>Overviews that provide a brief concept summary of an incident management function, team, or capability;</li> <li>Standard operating procedures (SOPs), standard operating guidelines (SOGs), or operations manuals that provide a complete reference document, detailing the procedures for performing a single function (i.e., SOP/SOG) or a number of interdependent functions (i.e., operations manual);</li> <li>Field operations guides (FOGs) or handbooks that are produced as a durable pocket or desk guide, containing essential tactical information needed to perform specific assignments or functions;</li> <li>Point of contact (POC) lists; and</li> <li>Job aids such as checklists or other tools for job performance or job training.</li> </ul>



## Appendix 1

### Glossary of Key Terms

For the purposes of the NRP, the following terms and definitions apply.

**Accountable Property.** Property that: 1) has an acquisition cost that is \$15,000 or more; 2) has a unique, identifiable serial number (e.g., computer or telecommunications equipment); and 3) is considered "sensitive" (i.e., easily pilferable), such as cellular phones, pagers, and laptop computers.

**Agency.** A division of government with a specific function offering a particular kind of assistance. In ICS, agencies are defined either as jurisdictional (having statutory responsibility for incident management) or as assisting or cooperating (providing resources or other assistance).

**Agency Representative.** A person assigned by a primary, assisting, or cooperating Federal, State, local, or tribal government agency or private entity that has been delegated authority to make decisions affecting that agency's or organization's participation in incident management activities following appropriate consultation with the leadership of that agency.

**Area Command (Unified Area Command).** An organization established (1) to oversee the management of multiple incidents that are each being handled by an ICS organization or (2) to oversee the management of large or multiple incidents to which several Incident Management Teams have been assigned. Area Command has the responsibility to set overall strategy and priorities, allocate critical resources according to priorities, ensure that incidents are properly managed, and ensure that objectives are met and strategies followed. Area Command becomes Unified Area Command when incidents are multijurisdictional. Area Command may be established at an EOC facility or at some location other than an ICP.

**Available Resources.** Resources assigned to an incident, checked in, and available for use, normally located in a Staging Area.

**Awareness.** The continual process of collecting, analyzing, and disseminating intelligence, information, and knowledge to allow organizations and individuals to anticipate requirements and to react effectively.

**Casualty.** Any person who is declared dead or is missing, ill, or injured.

**Catastrophic Incident.** Any natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions. A catastrophic event could result in sustained national impacts over a prolonged period of time; almost immediately exceeds resources normally available to State, local, tribal, and private-sector authorities in the impacted area; and significantly interrupts governmental operations and emergency services to such an extent that national security could be threatened. All catastrophic events are Incidents of National Significance.

**Chain of Command.** A series of command, control, executive, or management positions in hierarchical order of authority.

**Civil Transportation Capacity.** The total quantity of privately owned transportation services, equipment, facilities, and systems from all transportation modes nationally or in a prescribed area or region.

**Coastal Zone.** As defined by the NCP, means all U.S. waters subject to tide, U.S. waters of the Great Lakes, specified ports and harbors on inland rivers, waters of the contiguous zone, other water of the high seas subject to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters. The term "coastal zone" delineates an area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in RCPs.

**Command Staff.** In an incident management organization, the Command Staff consists of the Incident Commander and the special staff positions of Public Information Officer, Safety Officer, Liaison Officer, and other positions as required, who report directly to the Incident Commander. They may have an assistant or assistants, as needed.

**Common Operating Picture (COP).** A broad view of the overall situation as reflected by situation reports, aerial photography, and other information or intelligence.

**Community Recovery.** In the context of the NRP and its annexes, the process of assessing the effects of an Incident of National Significance, defining resources, and developing and implementing a course of action to restore and revitalize the socioeconomic and physical structure of a community.

**Consequence Management.** Predominantly an emergency management function and included measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. The requirements of consequence management and crisis management are combined in the NRP. See also **Crisis Management**.

**Contiguous Zone.** The zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and Contiguous Zone, that is contiguous to the territorial sea and that extends 9 miles seaward from the outer limit of the territorial sea.

**Credible Threat.** A potential terrorist threat that, based on a threat assessment, is credible and likely to involve WMD.

**Crisis Management.** Predominantly a law enforcement function and included measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. The requirements of consequence management and crisis management are combined in the NRP. See also **Consequence Management**.

**Critical Infrastructures.** Systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

**Cultural Resources.** Cultural resources include historic and prehistoric structures, archeological sites, cultural landscapes, and museum collections.

**Cyber.** Pertaining to computers and their support systems, such as servers, routers, and switches, that support critical infrastructure.

**Defense Support of Civil Authorities (DSCA).** Refers to DOD support, including Federal military forces, DOD civilians and DOD contractor personnel, and DOD agencies and components, for domestic emergencies and for designated law enforcement and other activities.

**Deputy.** A fully qualified individual who, in the absence of a superior, could be delegated the authority to manage a functional operation or perform a specific task. In some cases, a deputy could act as relief for a superior and therefore must be fully qualified in the position. Deputies can be assigned to the Incident Commander, General Staff, and Branch Directors.

**Disaster.** See **Major Disaster**.

**Disaster Recovery Center (DRC).** A facility established in a centralized location within or near the disaster area at which disaster victims (individuals, families, or businesses) apply for disaster aid.

**District Response Group.** Established in each DHS/USCG District, the District Response Group is primarily responsible for providing the OSC technical assistance, personnel, and equipment during responses typically involving marine zones.

**Emergency.** As defined by the Stafford Act, an emergency is "any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States."

**Emergency Operations Center (EOC).** The physical location at which the coordination of information and resources to support domestic incident management activities normally takes place. An EOC may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOCs may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., Federal, State, regional, county, city, tribal), or by some combination thereof.



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**Emergency Operations Plan (EOP).** The “steady-state” plan maintained by various jurisdictional levels for managing a wide variety of potential hazards.

**Emergency Public Information.** Information that is disseminated primarily in anticipation of an emergency or during an emergency. In addition to providing situational information to the public, it also frequently provides directive actions required to be taken by the general public.

**Emergency Response Provider.** Includes Federal, State, local, and tribal emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities. (See section 2(6), Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135 (2002).) Also known as “emergency responder.”

**Emergency Support Function (ESF).** A grouping of government and certain private-sector capabilities into an organizational structure to provide the support, resources, program implementation, and services that are most likely to be needed to save lives, protect property and the environment, restore essential services and critical infrastructure, and help victims and communities return to normal, when feasible, following domestic incidents. The ESFs serve as the primary operational-level mechanism to provide assistance to State, local, and tribal governments or to Federal departments and agencies conducting missions of primary Federal responsibility.

**Emerging Infectious Diseases.** New or recurring infectious diseases of people, domestic animals, and/or wildlife, including identification, etiology, pathogenesis, zoonotic potential, and ecological impact.

**Environment.** Natural and cultural resources and historic properties as those terms are defined in this glossary and in relevant laws.

**Environmental Response Team.** Established by EPA, the Environmental Response Team includes expertise in biology, chemistry, hydrology, geology, and engineering. The Environmental Response Team provides technical advice and assistance to the OSC for both planning and response to discharges and releases of oil and hazardous substances into the environment.

**Evacuation.** Organized, phased, and supervised withdrawal, dispersal, or removal of civilians from dangerous or potentially dangerous areas, and their reception and care in safe areas.

**Facility Management.** Facility selection and acquisition, building services, information systems, communications, safety and health, and physical security.

**Federal.** Of or pertaining to the Federal Government of the United States of America.

**Federal Coordinating Officer (FCO).** The Federal officer who is appointed to manage Federal resource support activities related to Stafford Act disasters and emergencies. The FCO is responsible for coordinating the timely delivery of Federal disaster assistance resources and programs to the affected State and local governments, individual victims, and the private sector.

**Federal Emergency Communications Coordinator (FECC).** That person, assigned by GSA, who functions as the principal Federal manager for emergency telecommunications requirements in major disasters, emergencies, and extraordinary situations, when requested by the FCO or FRC.

**Federal On-Scene Coordinator (FOSC or OSC).** The Federal official predesignated by the EPA or the USCG to coordinate responses under subpart D of the NCP, or the government official designated to coordinate and direct removal actions under subpart E of the NCP.

**Federal Resource Coordinator (FRC).** The Federal official appointed to manage Federal resource support activities related to non-Stafford Act incidents. The FRC is responsible for coordinating support from other Federal departments and agencies using interagency agreements and MOUs.

**First Responder.** Local and nongovernmental police, fire, and emergency personnel who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as

equipment operators) who provide immediate support services during prevention, response, and recovery operations. First responders may include personnel from Federal, State, local, tribal, or nongovernmental organizations.

**Food and Nutrition Service (FNS) Disaster Task Force.** The Food Security Act of 1985 (Public Law 99-198) requires the Secretary of Agriculture to establish a Disaster Task Force to assist States in implementing and operating various disaster food programs. The FNS Disaster Task Force coordinates the overall FNS response to disasters and emergencies. It operates under the general direction of the Administrator of FNS.

**Hazard.** Something that is potentially dangerous or harmful, often the root cause of an unwanted outcome.

**Hazard Mitigation.** Any cost-effective measure which will reduce the potential for damage to a facility from a disaster event.

**Hazardous Material.** For the purposes of ERF #1, hazardous material is a substance or material, including a hazardous substance, that has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated (see 49 CFR 171.8). For the purposes of ERF #10 and the Oil and Hazardous Materials Incident Annex, the term is intended to mean hazardous substances, pollutants, and contaminants as defined by the NCP.

**Hazardous Substance.** As defined by the NCP, any substance designated pursuant to section 311(b)(2)(A) of the Clean Water Act; any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.) has been suspended by act of Congress); any toxic pollutant listed under section 307(a) of the Clean Water Act; any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. § 7521 et seq.); and any imminently hazardous chemical substance or mixture

with respect to which the EPA Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.).

**Historic Property.** Any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and remains which are related to such district, site, building, structure, or object [16 U.S.C. § 470(w)(5)].

**Incident.** An occurrence or event, natural or human-caused, that requires an emergency response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, wildland and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

**Incident Action Plan.** An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods.

**Incident Command Post (ICP).** The field location at which the primary tactical-level, on-scene incident command functions are performed. The ICP may be collocated with the incident base or other incident facilities and is normally identified by a green rotating or flashing light.

**Incident Command System (ICS).** A standardized on-scene emergency management construct specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating with a common organizational structure, designed to aid in the management of resources during incidents. ICS is used for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies,

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both public and private, or organized field-level incident management operations.

**Incident Commander (IC).** The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site. (See page 10 for discussion on DOD forces.)

**Incident Management Team (IMT).** The Incident Commander and appropriate Command and General Staff personnel assigned to an incident.

**Incident Mitigation.** Actions taken during an incident designed to minimize impacts or contain the damages to property or the environment.

**Incident of National Significance.** Based on criteria established in HSPD-5 (paragraph 4), an actual or potential high-impact event that requires a coordinated and effective response by and appropriate combination of Federal, State, local, tribal, nongovernmental, and/or private-sector entities in order to save lives and minimize damage, and provide the basis for long-term community recovery and mitigation activities.

**Information Officer.** See [Public Information Officer](#).

**Infrastructure.** The manmade physical systems, assets, projects, and structures, publicly and/or privately owned, that are used by or provide benefit to the public. Examples of infrastructure include utilities, bridges, levees, drinking water systems, electrical systems, communications systems, dams, sewage systems, and roads.

**Infrastructure Liaison.** Assigned by DHS/IAIP, the Infrastructure Liaison serves as the principal advisor to the JFO Coordination Group regarding all national- and regional-level critical infrastructure and key resources incident-related issues.

**Initial Actions.** The actions taken by those responders first to arrive at an incident site.

**Initial Response.** Resources initially committed to an incident.

**Initial Response Resources (IRR).** Disaster support commodities that may be pre-staged, in anticipation of a catastrophic event, at a Federal facility close to a disaster area for immediate application through an NRP ESF operation. The initial response resources are provided to victims and all levels of government responders immediately after a disaster occurs. They are designed to augment State and local capabilities. DHS/EPR/FEMA Logistics Division stores and maintains critically needed initial response commodities for victims and responders and pre-positions supplies and equipment when required. The initial response resources include supplies (baby food, baby formula, blankets, cots, diapers, meals ready-to-eat, plastic sheeting, tents, and water) and equipment (emergency generators, industrial ice-makers, mobile kitchen kits, portable potties with service, portable showers, and refrigerated vans).

**In-Kind Donations.** Donations other than cash (usually materials or professional services) for disaster survivors.

**Inland Zone.** As defined in the NCP, the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors on the inland rivers. The term “coastal zone” delineates an area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in RCPs.

**Insular Areas.** Non-State possessions of the United States. The insular areas include Guam, the Commonwealth of the Northern Mariana Islands (CNMI), American Samoa, the U.S. Virgin Islands, and the former World War II Trust Territories now known as the Federated States of Micronesia and the Republic of the Marshall Islands. These last two entities, known as Freely Associated States (FAS), are still connected with the United States through the Compact of Free Association.

**Interagency Modeling and Atmospheric Assessment Center (IMAAC).** An interagency center responsible for production, coordination, and dissemination of consequence predictions for an airborne hazardous material release. The IMAAC generates the single Federal prediction of atmospheric dispersions and their consequences utilizing the best available resources from the Federal Government.

**Joint Field Office (JFO).** A temporary Federal facility established locally to provide a central point for Federal, State, local, and tribal executives with responsibility for incident oversight, direction, and/or assistance to effectively coordinate protection, prevention, preparedness, response, and recovery actions. The JFO will combine the traditional functions of the JOC, the FEMA DFO, and the JIC within a single Federal facility.

**Joint Information Center (JIC).** A facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating agencies should collocate at the JIC.

**Joint Information System (JIS).** Integrates incident information and public affairs into a cohesive organization designed to provide consistent, coordinated, timely information during a crisis or incident operations. The mission of the JIS is to provide a structure and system for developing and delivering coordinated interagency messages; developing, recommending, and executing public information plans and strategies on behalf of the IC; advising the IC concerning public affairs issues that could affect a response effort; and controlling rumors and inaccurate information that could undermine public confidence in the emergency response effort.

**Joint Operations Center (JOC).** The JOC is the focal point for all Federal investigative law enforcement activities during a terrorist or potential terrorist incident or any other significant criminal incident, and is managed by the SFLEO. The JOC becomes a component of the JFO when the NRP is activated.

**Jurisdiction.** A range or sphere of authority. Public agencies have jurisdiction at an incident related to their legal responsibilities and authorities. Jurisdictional authority at an incident can be political or geographical (e.g., city, county, tribal, State, or Federal boundary lines) or functional (e.g., law enforcement, public health).

**Liaison Officer.** A member of the Command Staff responsible for coordinating with representatives from cooperating and assisting agencies.

**Local Government.** A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; an Indian tribe or authorized tribal organization or, in Alaska, a Native Village or Alaska Regional Native Corporation; or a rural community, unincorporated town or village, or other public entity. (As defined in section 2(10) of the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135, et seq. (2002).)

**Long-Range Management Plan.** Used by the FCO and management team to address internal staffing, organization, and team requirements.

**Major Disaster.** As defined by the Stafford Act, any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

**Materiel Management.** Requisitioning and sourcing (requirements processing); acquisition, asset visibility (resource tracking), receipt, storage, and handling; security and accountability; inventory, deployment, issue, and distribution; and recovery, reuse, and disposition.

**Mission Assignment.** The vehicle used by DHS/EPR/FEMA to support Federal operations in a Stafford Act major disaster or emergency declaration. It orders immediate, short-term emergency response assistance when an applicable State or local government is overwhelmed by the event and lacks the capability to perform, or contract for, the necessary work.

**Mitigation.** Activities designed to reduce or eliminate risks to persons or property or to lessen the actual or potential effects or consequences of an incident.



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Mitigation measures may be implemented prior to, during, or after an incident. Mitigation measures are often developed in accordance with lessons learned from prior incidents. Mitigation involves ongoing actions to reduce exposure to, probability of, or potential loss from hazards. Measures may include zoning and building codes, floodplain buyouts, and analysis of hazard-related data to determine where it is safe to build or locate temporary facilities. Mitigation can include efforts to educate governments, businesses, and the public on measures they can take to reduce loss and injury.

**Mobilization.** The process and procedures used by all organizations—Federal, State, local, and tribal—for activating, assembling, and transporting all resources that have been requested to respond to or support an incident.

**Mobilization Center.** An off-site temporary facility at which response personnel and equipment are received from the Point of Arrival and are pre-positioned for deployment to an incident logistics base, to a local Staging Area, or directly to an incident site, as required. A mobilization center also provides temporary support services, such as food and billeting, for response personnel prior to their assignment, release, or reassignment and serves as a place to out-process following demobilization while awaiting transportation.

**Multiagency Command Center (MACC).** An interagency coordination center established by DHS/USSS during NSSEs as a component of the JFO. The MACC serves as the focal point for interagency security planning and coordination, including the coordination of all NSSE-related information from other intra-agency centers (e.g., police command posts, Secret Service security rooms) and other interagency centers (e.g., intelligence operations centers, joint information centers).

**Multiagency Coordination Entity.** Functions within a broader multiagency coordination system. It may establish priorities among incidents and associated resource allocations, deconflict agency policies, and provide strategic guidance and direction to support incident management activities.

**Multiagency Coordination System.** Provides the architecture to support coordination for incident prioritization, critical resource allocation, communications systems integration, and information

coordination. The components of multiagency coordination systems include facilities, equipment, EOCs, specific multiagency coordination entities, personnel, procedures, and communications. The systems assist agencies and organizations to fully integrate the subsystems of NIMS.

**Multijurisdictional Incident.** An incident requiring action from multiple agencies that each have jurisdiction to manage certain aspects of an incident. In ICS, these incidents will be managed under Unified Command.

**Mutual Aid Agreement.** Written agreement between agencies, organizations, and/or jurisdictions that they will assist one another on request by furnishing personnel, equipment, and/or expertise in a specified manner.

**National.** Of a nationwide character, including the Federal, State, local, and tribal aspects of governance and policy.

**National Coordinating Center for Telecommunications.** A joint telecommunications industry–Federal Government operation established to assist in the initiation, coordination, restoration, and reconstitution of NS/EP telecommunications services and facilities.

**National Counterterrorism Center (NCTC).** The NCTC serves as the primary Federal organization for analyzing and integrating all intelligence possessed or acquired by the U.S. Government pertaining to terrorism and counterterrorism, excepting purely domestic counterterrorism information. The NCTC may, consistent with applicable law, receive, retain, and disseminate information from any Federal, State, or local government or other source necessary to fulfill its responsibilities.

**National Disaster Medical System (NDMS).** A coordinated partnership between DHS, HHS, DOD, and the Department of Veterans Affairs established for the purpose of responding to the needs of victims of a public health emergency. NDMS provides medical response assets and the movement of patients to health care facilities where definitive medical care is received when required.

**National Incident Management System (NIMS).** A system mandated by HSPD-5 that provides a consistent, nationwide approach for Federal, State, local, and tribal governments; the private sector; and NGOs to work

effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among Federal, State, local, and tribal capabilities, the NIMS includes a core set of concepts, principles, and terminology. HSPD-5 identifies these as the ICS; multiagency coordination systems; training; identification and management of resources (including systems for classifying types of resources); qualification and certification; and the collection, tracking, and reporting of incident information and incident resources.

**National Infrastructure Coordinating Center (NICC).**

Managed by the DHS Information Analysis and Infrastructure Protection Directorate, the NICC monitors the Nation's critical infrastructure and key resources on an ongoing basis. In the event of an incident, the NICC provides a coordinating vehicle to share information with critical infrastructure and key resources information-sharing entities.

**National Interagency Coordination Center (NICC).**

The organization responsible for coordinating allocation of resources to one or more coordination centers or major fires within the Nation. Located in Boise, ID.

**National Interagency Fire Center (NIFC).** A facility located in Boise, ID, that is jointly operated by several Federal agencies and is dedicated to coordination, logistical support, and improved weather services in support of fire management operations throughout the United States.

**Natural Resources.** Natural resources include land, fish, wildlife, domesticated animals, plants, biota, and water. Water means salt and fresh water, surface and ground water, including water used for drinking, irrigation, aquaculture, and recreational purposes, as well as in its capacity as fish and wildlife habitat, including coral reef ecosystems as defined in 16 U.S.C. 64501. Land means soil, surface and subsurface minerals, and other terrestrial features.

**National Response Center.** A national communications center for activities related to oil and hazardous substance response actions. The National Response Center, located at DHS/USCG Headquarters in Washington, DC, receives and relays notices of oil and hazardous substances releases to the appropriate Federal OSC.

**National Response System.** Pursuant to the NCP, the mechanism for coordinating response actions by all levels of government (40 CFR § 300.21) for oil and hazardous substances spills and releases.

**National Response Team (NRT).** The NRT, comprised of the 16 Federal agencies with major environmental and public health responsibilities, is the primary vehicle for coordinating Federal agency activities under the NCP. The NRT carries out national planning and response coordination and is the head of a highly organized Federal oil and hazardous substance emergency response network. EPA serves as the NRT Chair, and DHS/USCG serves as Vice Chair.

**National Security and Emergency Preparedness (NS/EP) Telecommunications.**

NS/EP telecommunications services are those used to maintain a state of readiness or to respond to and manage any event or crisis (local, national, or international) that causes or could cause injury or harm to the population or damage to or loss of property, or could degrade or threaten the NS/EP posture of the United States.

**National Special Security Event (NSSE).** A designated event that, by virtue of its political, economic, social, or religious significance, may be the target of terrorism or other criminal activity.

**National Strike Force.** The National Strike Force consists of three strike teams established by DHS/USCG on the Pacific, Atlantic, and Gulf coasts. The strike teams can provide advice and technical assistance for oil and hazardous substances removal, communications support, special equipment, and services.

**Nongovernmental Organization (NGO).** A nonprofit entity that is based on interests of its members, individuals, or institutions and that is not created by a government, but may work cooperatively with government. Such organizations serve a public purpose, not a private benefit. Examples of NGOs include faith-based charity organizations and the American Red Cross.

**Nuclear Incident Response Team (NIRT).** Created by the Homeland Security Act to provide DHS with a nuclear/radiological response capability. When activated, the NIRT consists of specialized Federal response teams drawn from DOE and/or EPA. These

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teams may become DHS operational assets providing technical expertise and equipment when activated during a crisis or in response to a nuclear/radiological incident as part of the DHS Federal response.

**On-Scene Coordinator (OSC).** See [Federal On-Scene Coordinator](#).

**Pollutant or Contaminant.** As defined in the NCP, includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, or physical deformations in such organisms or their offspring.

**Preparedness.** The range of deliberate, critical tasks and activities necessary to build, sustain, and improve the operational capability to prevent, protect against, respond to, and recover from domestic incidents. Preparedness is a continuous process involving efforts at all levels of government and between government and private-sector and nongovernmental organizations to identify threats, determine vulnerabilities, and identify required resources.

**Prevention.** Actions taken to avoid an incident or to intervene to stop an incident from occurring. Prevention involves actions taken to protect lives and property. It involves applying intelligence and other information to a range of activities that may include such countermeasures as deterrence operations; heightened inspections; improved surveillance and security operations; investigations to determine the full nature and source of the threat; public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and, as appropriate, specific law enforcement operations aimed at deterring, preempting, interdicting, or disrupting illegal activity and apprehending potential perpetrators and bringing them to justice.

**Principal Federal Official (PFO).** The Federal official designated by the Secretary of Homeland Security to act as his/her representative locally to oversee,

coordinate, and execute the Secretary's incident management responsibilities under HSPD-5 for Incidents of National Significance.

**Private Sector.** Organizations and entities that are not part of any governmental structure. Includes for-profit and not-for-profit organizations, formal and informal structures, commerce and industry, private emergency response organizations, and private voluntary organizations.

**Public Assistance Program.** The program administered by FEMA that provides supplemental Federal disaster grant assistance for debris removal and disposal, emergency protective measures, and the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of certain private nonprofit organizations.

**Public Health.** Protection, safety, improvement, and interconnections of health and disease prevention among people, domestic animals and wildlife.

**Public Information Officer (PIO).** A member of the Command Staff responsible for interfacing with the public and media or with other agencies with incident-related information requirements.

**Public Works.** Work, construction, physical facilities, and services provided by governments for the benefit and use of the public.

**Radiological Emergency Response Teams (RERTs).** Teams provided by EPA's Office of Radiation and Indoor Air to support and respond to incidents or sites containing radiological hazards. These teams provide expertise in radiation monitoring, radionuclide analyses, radiation health physics, and risk assessment. RERTs can provide both mobile and fixed laboratory support during a response.

**Recovery.** The development, coordination, and execution of service- and site-restoration plans for impacted communities and the reconstitution of government operations and services through individual, private-sector, nongovernmental, and public assistance programs that: identify needs and define resources; provide housing and promote restoration; address long-term care and treatment of affected

persons; implement additional measures for community restoration; incorporate mitigation measures and techniques, as feasible; evaluate the incident to identify lessons learned; and develop initiatives to mitigate the effects of future incidents.

**Regional Emergency Transportation Coordinator (RETCO).** A senior-level executive from a DOT operating administration who is predesignated by DOT order to serve as the regional representative of the Secretary of Transportation for emergency transportation preparedness and response, including oversight of ESF #1. Depending upon the nature and extent of the disaster or major incident, the Secretary may designate another official in this capacity.

**Regional Response Teams (RRTs).** Regional counterparts to the National Response Team, the RRTs comprise regional representatives of the Federal agencies on the NRT and representatives of each State within the region. The RRTs serve as planning and preparedness bodies before a response, and provide coordination and advice to the Federal OSC during response actions.

**Resources.** Personnel and major items of equipment, supplies, and facilities available or potentially available for assignment to incident operations and for which status is maintained. Resources are described by kind and type and may be used in operational support or supervisory capacities at an incident or at an EOC.

**Response.** Activities that address the short-term, direct effects of an incident. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of emergency operations plans and of incident mitigation activities designed to limit the loss of life, personal injury, property damage, and other unfavorable outcomes. As indicated by the situation, response activities include: applying intelligence and other information to lessen the effects or consequences of an incident; increased security operations; continuing investigations into the nature and source of the threat; ongoing public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and specific law enforcement operations aimed at preempting, interdicting, or disrupting illegal activity, and apprehending actual perpetrators and bringing them to justice.

**Senior Federal Official (SFO).** An individual representing a Federal department or agency with primary statutory responsibility for incident management. SFOs utilize existing authorities, expertise, and capabilities to aid in management of the incident working in coordination with other members of the JFO Coordination Group.

**Shared Resources (SHARES) High Frequency Radio Program.** SHARES provides a single, interagency emergency message handling system by bringing together existing HF radio resources of Federal, State, and industry organizations when normal communications are destroyed or unavailable for the transmission of NS/EP information.

**Situation Assessment.** The evaluation and interpretation of information gathered from a variety of sources (including weather information and forecasts, computerized models, GIS data mapping, remote sensing sources, ground surveys, etc.) that, when communicated to emergency managers and decisionmakers, can provide a basis for incident management decisionmaking.

**State.** Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States. (As defined in section 2(14) of the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135, et seq. (2002).)

**Strategic.** Strategic elements of incident management are characterized by continuous, long-term, high-level planning by organizations headed by elected or other senior officials. These elements involve the adoption of long-range goals and objectives, the setting of priorities, the establishment of budgets and other fiscal decisions, policy development, and the application of measures of performance or effectiveness.

**Strategic Plan.** A plan that addresses long-term issues such as impact of weather forecasts, time-phased resource requirements, and problems such as permanent housing for displaced disaster victims, environmental pollution, and infrastructure restoration.

**Subject-Matter Expert (SME).** An individual who is a technical expert in a specific area or in performing a specialized job, task, or skill.



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**Supervisor of Salvage and Diving (SUPSALV).** A salvage, search, and recovery operation established by the Department of Navy. SUPSALV has extensive experience to support response activities, including specialized salvage, firefighting, and petroleum, oil, and lubricants offloading. SUPSALV, when available, will provide equipment for training exercises to support national and regional contingency planning.

**Telecommunications.** The transmission, emission, or reception of voice and/or data through any medium by wire, radio, other electrical electromagnetic, or optical means. Telecommunications includes all aspects of transmitting information.

**Telecommunications Service Priority (TSP) Program.** The NS/EP TSP Program is the regulatory, administrative, and operational program authorizing and providing for priority treatment (i.e., provisioning and restoration) of NS/EP telecommunications services. As such, it establishes the framework for NS/EP telecommunications service vendors to provide, restore, or otherwise act on a priority basis to ensure effective NS/EP telecommunications services.

**Terrorism.** Any activity that (1) involves an act that (a) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and (b) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and (2) appears to be intended (a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

**Threat.** An indication of possible violence, harm, or danger.

**Transportation Management.** Transportation prioritizing, ordering, sourcing, and acquisition; time-phasing plans; fleet management; and movement coordination and tracking.

**Tribe.** Any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native Village as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) [43 U.S.C.A. and 1601 et seq.], that is recognized as eligible for the special programs and services provided

by the United States to Indians because of their status as Indians.

**Unaffiliated Volunteer.** An individual who is not formally associated with a recognized voluntary disaster relief organization; also known as a "spontaneous" or "emergent" volunteer.

**Unified Command.** An application of ICS used when there is more than one agency with incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the Unified Command to establish their designated Incident Commanders at a single ICP and to establish a common set of objectives and strategies and a single Incident Action Plan. (See page 10 for discussion on DOD forces.)

**United States.** The term "United States," when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States. (As defined in section 2(16) of the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135, et seq. (2002).)

**Unsolicited Goods.** Donated items offered by and/or sent to the incident area by the public, the private sector, or other source, that have not been requested by government or nonprofit disaster relief coordinators.

**Urban Search and Rescue.** Operational activities that include locating, extricating, and providing on-site medical treatment to victims trapped in collapsed structures.

**Volunteer.** Any individual accepted to perform services by an agency that has authority to accept volunteer services when the individual performs services without promise, expectation, or receipt of compensation for services performed. (See, for example, 16 U.S.C. § 742f(c) and 29 CFR § 553.101.)

**Volunteer and Donations Coordination Center.** Facility from which the Volunteer and Donations Coordination Team operates. It is best situated in or close by the State EOC for coordination purposes. Requirements may include space for a phone bank,

meeting space, and space for a team of specialists to review and process offers.

**Weapon of Mass Destruction (WMD).** As defined in Title 18, U.S.C. § 2332a: (1) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than 4 ounces, or missile having an explosive or incendiary charge of more than one-quarter ounce, or mine or similar device; (2) any weapon that is designed or intended to cause death or serious bodily injury through the release,

dissemination, or impact of toxic or poisonous chemicals or their precursors; (3) any weapon involving a disease organism; or (4) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

**Wireless Priority Service (WPS).** WPS allows authorized NS/EP personnel to gain priority access to the next available wireless radio channel to initiate calls during an emergency when carrier channels may be congested.

## Appendix 2

### List of Acronyms

APHIS	Animal and Plant Health Inspection Service	DRM	Disaster Recovery Manager
CBO	Community-Based Organization	DSCA	Defense Support of Civil Authorities
CDRG	Catastrophic Disaster Response Group	DTRIM	Domestic Threat Reduction and Incident Management
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act	EAS	Emergency Assistance Personnel or Emergency Alert System
CERT	Community Emergency Response Team	EOC	Emergency Operations Center
CFO	Chief Financial Officer	EPA	Environmental Protection Agency
CI/KR	Critical Infrastructure/Key Resources	EPCRA	Emergency Planning and Community Right-to-Know Act
CMC	Crisis Management Coordinator	EPLO	Emergency Preparedness Liaison Officer
CNMI	Commonwealth of the Northern Mariana Islands	EPR	Emergency Preparedness and Response
CONPLAN	U.S. Government Interagency Domestic Terrorism Concept of Operations Plan	ERL	Environmental Research Laboratories
CSG	Counterterrorism Security Group	ERT	Environmental Response Team (EPA)
DCE	Defense Coordinating Element	ERT-A	Emergency Response Team— Advance Element
DCO	Defense Coordinating Officer	ERT-N	National Emergency Response Team
DEST	Domestic Emergency Support Team	ESF	Emergency Support Function
DFO	Disaster Field Office	ESFLG	Emergency Support Function Leaders Group
DHS	Department of Homeland Security	EST	Emergency Support Team
DMAT	Disaster Medical Assistance Team	EAS	Freely Associated States
DMORT	Disaster Mortuary Operational Response Team	FBI	Federal Bureau of Investigation
DOC	Department of Commerce	FCO	Federal Coordinating Officer
DOD	Department of Defense	FEMA	Federal Emergency Management Agency
DOE	Department of Energy	FIRST	Federal Incident Response Support Team
DOI	Department of the Interior	FMC	Federal Mobilization Center
DOJ	Department of Justice	FNS	Food and Nutrition Service
DOL	Department of Labor	FOC	FEHMA Operations Center
DOS	Department of State	FOG	Field Operations Guide
DOT	Department of Transportation	FRC	Federal Resource Coordinator
DPA	Defense Production Act	FRERP	Federal Radiological Emergency Response Plan
DRC	Disaster Recovery Center	FRP	Federal Response Plan

# DOPLAW HANDBOOK

<b>GAR</b>	Governor's Authorized Representative	<b>NASA</b>	National Aeronautics and Space Administration
<b>GIS</b>	Geographical Information System	<b>NAWAS</b>	National Warning System
<b>GSA</b>	General Services Administration	<b>NCP</b>	National Oil and Hazardous Substances Pollution Contingency Plan
<b>HHS</b>	Department of Health and Human Services	<b>NCR</b>	National Capital Region
<b>HQ</b>	Headquarters	<b>NCS</b>	National Communications System
<b>HSAS</b>	Homeland Security Advisory System	<b>NCTC</b>	National Counterterrorism Center
<b>HSC</b>	Homeland Security Council	<b>NDMS</b>	National Disaster Medical System
<b>HSOC</b>	Homeland Security Operations Center	<b>NEP</b>	National Exercise Program
<b>HSPD</b>	Homeland Security Presidential Directive	<b>NGO</b>	Nongovernmental Organization
<b>IAIP</b>	Information Analysis and Infrastructure Protection	<b>NICC</b>	National Infrastructure Coordinating Center
<b>IC</b>	Incident Command	<b>NICC</b>	National Interagency Coordination Center
<b>ICP</b>	Incident Command Post	<b>NIMS</b>	National Incident Management System
<b>ICS</b>	Incident Command System	<b>NIPP</b>	National Infrastructure Protection Plan
<b>IIMG</b>	Interagency Incident Management Group	<b>NIRT</b>	Nuclear Incident Response Team
<b>IMT</b>	Incident Management Team	<b>NJTTF</b>	National Joint Terrorism Task Force
<b>INRP</b>	Initial National Response Plan	<b>NMRT</b>	National Medical Response Team
<b>IOF</b>	Interim Operating Facility	<b>NOAA</b>	National Oceanic and Atmospheric Administration
<b>ISAO</b>	Information-Sharing and Analysis Organization	<b>NRC</b>	Nuclear Regulatory Commission
<b>JFO</b>	Joint Field Office	<b>NRCC</b>	National Response Coordination Center
<b>JIC</b>	Joint Information Center	<b>NRCS</b>	Natural Resources Conservation Service
<b>JIS</b>	Joint Information System	<b>NRP</b>	National Response Plan
<b>JOC</b>	Joint Operations Center	<b>NRT</b>	National Response Team
<b>JTF</b>	Joint Task Force	<b>NSC</b>	National Security Council
<b>JTTF</b>	Joint Terrorism Task Force	<b>NSP</b>	National Search and Rescue Plan
<b>MAC Entity</b>	Multiagency Coordinating Entity	<b>NSSE</b>	National Special Security Event
<b>MACC</b>	Multiagency Command Center	<b>NVOAD</b>	National Voluntary Organizations Active in Disaster
<b>MERS</b>	Mobile Emergency Response Support	<b>NWCG</b>	National Wildland Coordinating Group
<b>MOA</b>	Memorandum of Agreement	<b>OIA</b>	Office of the Assistant Secretary for Information Analysis
<b>MOU</b>	Memorandum of Understanding	<b>OSC</b>	On-Scene Coordinator
<b>NAHERC</b>	National Animal Health Emergency Response Corps		

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<b>OSHA</b>	Occupational Safety and Health Administration	<b>SAR</b>	Search and Rescue
<b>OSLGCP</b>	Office of State and Local Government Coordination and Preparedness	<b>SCC</b>	Secretary's Command Center (HHS)
<b>PCC</b>	Policy Coordination Committee	<b>SCO</b>	State Coordinating Officer
<b>PDA</b>	Preliminary Damage Assessment	<b>SFLBO</b>	Senior Federal Law Enforcement Official
<b>PDD</b>	Presidential Decision Directive	<b>SFO</b>	Senior Federal Official
<b>PFO</b>	Principal Federal Official	<b>SIOC</b>	Strategic Information and Operations Center
<b>POC</b>	Point of Contact	<b>SOG</b>	Standard Operating Guideline
<b>RA</b>	Reimbursable Agreement	<b>SOP</b>	Standard Operating Procedure
<b>RAMP</b>	Remedial Action Management Program	<b>START</b>	Scientific and Technical Advisory and Response Team
<b>RCP</b>	Regional Contingency Plan	<b>TSA</b>	Transportation Security Administration
<b>RCRA</b>	Resource Conservation and Recovery Act	<b>TSC</b>	Terrorist Screening Center
<b>REPLO</b>	Regional Emergency Preparedness Liaison Officer	<b>US&amp;R</b>	Urban Search and Rescue
<b>RFI</b>	Request for Information	<b>USACE</b>	U.S. Army Corps of Engineers
<b>RISC</b>	Regional Interagency Steering Committee	<b>USCG</b>	U.S. Coast Guard
<b>RRCC</b>	Regional Response Coordination Center	<b>USDA</b>	U.S. Department of Agriculture
<b>RRT</b>	Regional Response Team	<b>USSS</b>	U.S. Secret Service
<b>ROC</b>	Regional Operations Center	<b>VMAT</b>	Veterinarian Medical Assistance Team
<b>SAC</b>	Special Agent-in-Charge	<b>WAWAS</b>	Washington Area Warning System
		<b>WMD</b>	Weapons of Mass Destruction

## Appendix 3

### Authorities and References

The principal authorities that guide the structure, development, and implementation of the NRP are statutes, Executive orders, and Presidential directives. Congress has provided the broad statutory authority necessary for the NRP, and the President has issued Executive orders and Presidential directives to supply authority and policy direction to departments and agencies of the Executive Branch. Among the major statutes, orders, and directives relevant to the NRP are those summarized below.

#### A. Statutes and Regulations

1. The **Homeland Security Act of 2002**, Pub. Law 107-296, 116 Stat. 2135 (2002) (codified predominantly at 6 U.S.C. §§ 101-557 and in other scattered sections of the U.S.C.), established the Department of Homeland Security with the mandate and legal authority to protect the American people from the continuing threat of terrorism. In the act, Congress assigned DHS the primary missions to:
  - Prevent terrorist attacks within the United States;
  - Reduce the vulnerability of the United States to terrorism at home;
  - Minimize the damage and assist in the recovery from terrorist attacks that occur; and
  - Act as the focal point regarding natural and manmade crises and emergency planning.

The Homeland Security Act gives the Secretary of Homeland Security full authority and control over the Department and the duties and activities performed by its personnel, and it vests the Secretary with the broad authority necessary to fulfill the Department's statutory mission to protect the American homeland. This statutory authority, combined with the President's direction in HSPD-5, supports the NRP's unified, effective approach to domestic prevention, preparedness, response, and recovery activities.

Responsibilities in the Homeland Security Act of particular relevance to the development and execution of the NRP include the following:

- a. Preparedness of the United States for acts of terrorism. Executed through the DHS OSLGCP, this responsibility includes coordinating preparedness efforts at the Federal level, and

working with State, local, tribal, parish, and private-sector emergency response providers on matters pertaining to combating terrorism.

- b. Response to terrorist attacks, major disasters, and other emergencies. Executed through the Directorate of Emergency Preparedness and Response, this responsibility includes:
  - Consolidating existing Federal emergency response plans into a single, coordinated national response plan;
  - Building a comprehensive national incident management system to respond to such attacks and disasters;
  - Ensuring the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;
  - Providing the Federal Government's response to terrorist attacks, major disasters, and emergencies, including managing such response; and
  - Coordinating Federal response resources in the event of a terrorist attack, major disaster, or emergency.
- c. Coordination of homeland security programs with State and local government personnel, agencies, and authorities and with the private sector. Executed through the DHS OSLGCP and the Private Sector Office, this responsibility includes:
  - Coordinating to ensure adequate planning, training, and exercise activities;
  - Coordinating and consolidating appropriate Federal Government communications and systems of communications; and
  - Distributing or coordinating the distribution of warnings and information.
- d. Risk analysis and risk management. DHS/IAIP has primary authority for threat and event risk analysis and risk management within DHS, although other DHS organizations—such as the U.S. Secret Service, the OSLGCP, and the Border and Transportation Security Directorate—also engage in risk management. DHS/IAIP responsibilities include:

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- Analyzing and integrating information from all available sources to identify, assess, detect, and understand terrorist threats against the United States;
  - Carrying out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure, including risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;
  - Identifying priorities for and recommending protective and support measures for such infrastructure by all concerned;
  - Developing a comprehensive national plan (the National Infrastructure Protection Plan (NIPP)) for securing critical infrastructure and key resources, such as telecommunications and power; and
  - Conducting risk assessments and vulnerability assessments after other agencies have conducted those studies and ranked top items based on those studies.
- e. Preventing the entry of terrorists and the instruments of terrorism into the United States. Executed through the Border and Transportation Security Directorate, this responsibility includes:
- Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States; and
  - Carrying out immigration enforcement functions.
2. The [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#), 93 Pub. L. No. 288, 88 Stat. 143 (1974) (codified as amended at 42 U.S.C. §§ 5121-5206, and scattered sections of 12 U.S.C., 16 U.S.C., 20 U.S.C., 26 U.S.C., 38 U.S.C. (2002)), establishes the programs and processes for the Federal Government to provide disaster and emergency assistance to States, local governments, tribal nations, individuals, and qualified private nonprofit organizations. The provisions of the Stafford Act cover all hazards including natural disasters and terrorist events. Relevant provisions of the Stafford Act include a process for Governors to request Federal disaster and emergency assistance from the President. The President may declare a major disaster or emergency:
- If an event is beyond the combined response capabilities of the State and affected local governments; and
  - If, based on the findings of a joint Federal-State-local PDA, the damages are of sufficient severity and magnitude to warrant assistance under the act. (Note: In a particularly fast-moving or clearly devastating disaster, DHS/EPR/FEMA may defer the PDA process until after the declaration.)
- a. If an emergency involves a subject area for which the Federal Government exercises exclusive or preeminent responsibility and authority, the President may unilaterally direct the provision of emergency assistance under the Stafford Act. The Governor of the affected State will be consulted if practicable.
- b. DHS/EPR/FEMA can pre-deploy personnel and equipment in advance of an imminent Stafford Act declaration to reduce immediate threats to life, property, and public health and safety, and to improve the timeliness of disaster response.
- c. During the immediate aftermath of an incident which may ultimately qualify for assistance under the Stafford Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the DOD for the purpose of performing on public and private lands any emergency work that is made necessary by such incident and that is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practical. Such emergency work may only be carried out for a period not to exceed 10 days.
- d. The Stafford Act directs appointment of an FCO by the President. The FCO is designated by the DHS Under Secretary for Emergency Preparedness and Response to coordinate the delivery of Federal assistance to the affected State, local, and tribal governments and disaster victims.
- e. Federal agencies must avoid duplicating resources and benefits for disaster victims. Disaster victims are responsible for repayment of Federal assistance duplicated by private insurance, or other Federal programs, or when they have been otherwise compensated for their disaster-related losses.



- f. All authorities under the Stafford Act granted to the Secretary of Homeland Security in the Homeland Security Act have been redelegated to the Under Secretary of EPR through Delegation No. 9001.
3. The [Public Health Security and Bioterrorism Preparedness and Response Act of 2002](#), Pub. L. No. 107-188, 116 Stat. 294 (2002) (codified in scattered sections of 7 U.S.C., 18 U.S.C., 21 U.S.C., 29 U.S.C., 38 U.S.C., 42 U.S.C., and 47 U.S.C. (2002)), is designed to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies. Key provisions of the act, 42 U.S.C. § 247d and § 300hh among others, address the development of a national preparedness plan by HHS designed to provide effective assistance to State and local governments in the event of bioterrorism or other public health emergencies; operation of the National Disaster Medical System to mobilize and address public health emergencies; grant programs for the education and training of public health professionals and improving State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies; streamlining and clarifying communicable disease quarantine provisions; enhancing controls on dangerous biological agents and toxins; and protecting the safety and security of food and drug supplies.
  4. The [Defense Production Act of 1950](#), 64 Stat. 798 (1950) (codified as amended by the [Defense Production Act Reauthorization of 2003](#), Pub. L. 108-195, 117 Stat. 2892 (2003) at 50 U.S.C. app. §§ 2061-2170 (2002)), is the primary authority to ensure the timely availability of resources for national defense and civil emergency preparedness and response. Among other things, the DPA authorizes the President to demand that companies accept and give priority to government contracts that the President “deems necessary or appropriate to promote the national defense.” The DPA defines “national defense” to include critical infrastructure protection and restoration, as well as activities authorized by the emergency preparedness sections of the Stafford Act. Consequently, DPA authorities are available for activities and measures undertaken in preparation for, during, or following a natural disaster or accidental or man-caused event. The Department of Commerce has redelegated DPA authority under Executive Order 12919, National Defense Industrial Resource Preparedness, June 7, 1994, as amended, to the Secretary of Homeland Security to place and, upon application, to authorize State and local governments to place priority-rated contracts in support of Federal, State, and local emergency preparedness activities.
  5. The [Economy Act](#), 31 U.S.C. §§ 1535-1536 (2002), authorizes Federal agencies to provide goods or services on a reimbursable basis to other Federal agencies when more specific statutory authority to do so does not exist.
  6. The [Posse Comitatus Act](#), 18 U.S.C. § 1385 (2002), prohibits the use of the Army or the Air Force for law enforcement purposes, except as otherwise authorized by the Constitution or statute. This prohibition applies to Navy and Marine Corps personnel as a matter of DOD policy. The primary prohibition of the Posse Comitatus Act is against direct involvement by active duty military personnel (to include Reservists on active duty and National Guard personnel in Federal service) in traditional law enforcement activities (to include interdiction of vehicle, vessel, aircraft, or other similar activity; directing traffic; search or seizure; an arrest, apprehension, stop and frisk, or similar activity). (Note exception under the [Insurrection Statutes](#).) Exceptions to the Posse Comitatus Act are found in 10 U.S.C. §§ 331-335 (2002) and other statutes.
  7. The [National Emergencies Act](#), 50 U.S.C. §§ 1601-1651 (2003), establishes procedures for Presidential declaration and termination of national emergencies. The act requires the President to identify the specific provision of law under which he or she will act in dealing with a declared national emergency and contains a sunset provision requiring the President to renew a declaration of national emergency to prevent its automatic expiration. The Presidential declaration of a national emergency under the act is a prerequisite to exercising any special or extraordinary powers authorized by statute for use in the event of national emergency.
  8. The [Comprehensive Environmental Response, Compensation, and Liability Act](#), 42 U.S.C. §§ 9601-9675 (2002), and the [Federal Water Pollution Control Act \(Clean Water Act\)](#), 33 U.S.C.



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- §§ 1251-1387 (2002), established broad Federal authority to respond to releases or threats of releases of hazardous substances and pollutants or contaminants that may present an imminent and substantial danger to public health or welfare and to discharges of oil. [The National Oil and Hazardous Substances Pollution Contingency Plan](#), 40 CFR Part 300 (2003), was developed to ensure coordinated and integrated response by departments and agencies of the Federal Government to prevent, minimize, or mitigate a threat to public health or welfare posed by discharges of oil and releases of hazardous substances, pollutants, and contaminants.
9. The [Cooperative Forestry Assistance Act of 1978](#), 16 U.S.C. §§ 2101-2114 (2002), authorizes the Secretary of Agriculture to assist in the prevention and control of rural fires, and to provide prompt assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capabilities of the affected State or rural area.
  10. The [Communications Act of 1934](#), 47 U.S.C. §§ 151-615b (2002), provides the authority to grant special temporary authority on an expedited basis to operate radio frequency devices. It would serve as the basis for obtaining a temporary permit to establish a radio station to be run by a Federal agency and broadcast public service announcements during the immediate aftermath of an emergency or major disaster. 47 U.S.C. § 606 (2002) provides the authority for the NCS to engage in emergency response, restoration, and recovery of the telecommunications infrastructure.
  11. The [Insurrection Act](#), 10 U.S.C. §§ 331-335 (2002). Recognizing that the primary responsibility for protecting life and property and maintaining law and order in the civilian community is vested in State and local governments, the Insurrection Statutes authorize the President to direct the armed forces to enforce the law to suppress insurrections and domestic violence. Military forces may be used to restore order, prevent looting, and engage in other law enforcement activities.
  12. The [Defense Against Weapons of Mass Destruction Act](#), 50 U.S.C. §§ 2301-2368 (2003), is intended to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving WMD. Congress has directed that DOD provide certain expert advice to Federal, State, and local agencies with regard to WMD, to include domestic terrorism rapid response teams, training in emergency response to the use or threat of use of WMD, and a program of testing and improving the response of civil agencies to biological and chemical emergencies.
  13. [Emergencies Involving Chemical or Biological Weapons](#). Pursuant to 10 U.S.C. § 382 (2002), in response to an emergency involving biological or chemical WMD that is beyond the capabilities of civilian authorities to handle, the Attorney General may request DOD assistance directly. Assistance that may be provided includes identifying, monitoring, containing, disabling, and disposing of the weapon. Direct law enforcement assistance—such as conducting an arrest, searching or seizing evidence of criminal violations, or direct participation in the collection of intelligence for law enforcement purposes—is not authorized unless such assistance is necessary for the immediate protection of human life and civilian law enforcement officials are not capable of taking the action, and the action is otherwise authorized.
  14. [Emergencies Involving Nuclear Materials](#). In emergencies involving nuclear materials, 18 U.S.C. § 831(e)(2002) authorizes the Attorney General to request DOD law enforcement assistance—including the authority to arrest and conduct searches, without violating the Posse Comitatus Act—when both the Attorney General and Secretary of Defense agree that an “emergency situation” exists and the Secretary of Defense determines that the requested assistance will not impede military readiness. An emergency situation is defined as a circumstance that poses a serious threat to the United States in which (1) enforcement of the law would be seriously impaired if the assistance were not provided, and (2) civilian law enforcement personnel are not capable of enforcing the law. In addition, the statute authorizes DOD personnel to engage in “such other activity as is incident to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.”
  15. [Volunteer Services](#). There are statutory exceptions to the general statutory prohibition against accepting voluntary services under 31 U.S.C. § 1342 (2002)

that can be used to accept the assistance of volunteer workers. Such services may be accepted in “emergencies involving the safety of human life or the protection of property.” Additionally, provisions of the Stafford Act, 42 U.S.C. §§ 5152(a), 5170a(2) (2002), authorize the President to, with their consent, use the personnel of private disaster relief organizations and to coordinate their activities.

Under the Congressional Charter of 1905, 36 U.S.C. §§ 300101-300111 (2002), the American Red Cross and its chapters are a single national corporation. The Charter mandates that the American Red Cross maintain a system of domestic and international disaster relief. The American Red Cross qualifies as a nonprofit organization under section 501(c)(3) of the Internal Revenue code.

16. The [Public Health Service Act](#), 42 U.S.C. §§ 201 et seq. Among other things, this act provides that the Secretary of HHS may declare a public health emergency under certain circumstances (see 42 U.S.C. § 247d), and that the Secretary is authorized to develop and take such action as may be necessary to implement a plan under which the personnel, equipment, medical supplies, and other resources of the Department may be effectively used to control epidemics of any disease or condition and to meet other health emergencies and problems. (See 42 U.S.C. § 243.) The Public Health Service Act authorizes the Secretary to declare a public health emergency (42 U.S.C. 247d) and to prepare for and respond to public health emergencies (42 U.S.C. 300hh). The Secretary is further empowered to extend temporary assistance to States or localities to meet health emergencies. During an emergency proclaimed by the President, the President has broad authority to direct the services of the Public Health Service (42 U.S.C. § 217). Under that section, the President is authorized to “utilize the [Public Health] Service to such extent and in such manner as shall in his judgment promote the public interest.” Additionally, under 42 U.S.C. § 264, the Secretary is authorized to make and enforce quarantine regulations “necessary to prevent the introduction, transmission, or spread of communicable diseases” from foreign countries into the States or possessions, or from one State or possession to another. The diseases for which a person may be subject to quarantine must be specified by the President through an Executive order.
17. The [Veterans Affairs Emergency Preparedness Act of 2002](#), Pub. L. No. 107-287, 116 Stat. 2024 (2002) (amending and codifying various sections of 38 U.S.C.). 38 U.S.C. § 1785 (2003), if funded, directs the VA and DOD to develop training programs for current health-care personnel and those emergency/medical personnel in training in the containment of nuclear, biological, and chemical attacks and treatment of casualties. It authorizes the Secretary of Veterans Affairs to furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by a disaster or emergency during and immediately following a disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or a disaster or emergency in which the NDMS is activated.
18. The [Atomic Energy Act of 1954](#), 42 U.S.C. §§ 2011-2297 (2003), and the [Energy Reorganization Act of 1974](#), 5 U.S.C. §§ 5313-5316, 42 U.S.C. §§ 5801-5891 (2002), provide the statutory authority for both the DOE and the NRC, and the foundation for NRC regulation of the Nation’s civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment.
19. The [Price-Anderson Amendments Act of 1988](#), Pub. L. No. 100-408, 102 Stat. 1066 (1988) (amending the Atomic Energy Act of 1954 and codified at 42 U.S.C. §§ 2014, 2210, 2273, 2282a (2003)), provides for indemnification of governments and individuals affected by nuclear incidents.
20. [Furnishing of Health-Care Services to Members of the Armed Forces during a War or National Emergency](#), 38 U.S.C. § 8111A (2002). During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Secretary of Veterans Affairs may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Secretary may give a higher priority to the furnishing of care and services to active duty Armed Forces than others in medical facilities for the Department with the exception of veterans with service-connected disabilities.

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21. The [Resource Conservation and Recovery Act of 1976](#), 42 U.S.C. §§ 6901-6986 (2002), which was passed as an amendment of the Solid Waste Disposal Act of 1965, Pub. L. 89-272, 79 Stat. 997 (1965), gave the EPA the authority to control hazardous waste from "cradle to grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of nonhazardous wastes.
22. The [Occupational Safety and Health Act](#), 29 U.S.C. §§ 651-678 (2002), among other things, assures safe and healthful working conditions for working men and women by authorizing enforcement of the standards developed under the act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; and by providing for research, information, education, and training in the field of occupational safety and health.
23. The [Maritime Transportation Security Act](#), Pub. L. No. 107-295, 116 Stat. 2064 (2002) (codified at 46 U.S.C. §§ 70102-70117 and scattered sections of the U.S.C.), requires sectors of the maritime industry to implement measures designed to protect America's ports and waterways from a terrorist attack.
24. [Flood Control and Coastal Emergencies](#), 33 U.S.C. § 701n (2002) (commonly referred to as Public Law 84-99), authorizes the USACE an emergency fund for preparation for emergency response to natural disasters, flood fighting and rescue operations, rehabilitation of flood control and hurricane protection structures, temporary restoration of essential public facilities and services, advance protective measures, and provision of emergency supplies of water. The USACE receives funding for such activities under this authority from the Energy and Water Development Appropriation.
25. The [Oil Pollution Act of 1990](#), Pub. L. No. 101-380, 104 Stat. 484 (1990) (codified as amended at 33 U.S.C. §§ 1203, 1223, 1321, 2701-2761 and various other sections of the U.S.C. (2002)), improves the Nation's ability to prevent and respond to oil spills by establishing provisions that expand the Federal Government's ability and provides the money and personnel necessary to respond to oil spills. The act also created the national Oil Spill Liability Trust Fund.
26. The [Clean Air Act](#), 42 U.S.C. §§ 7401-7671q (2002) and 40 CFR § 80.73 (2003). The EPA may temporarily permit a refiner, importer, or blender to distribute nonconforming gasoline in appropriate extreme or unusual circumstances (e.g., an Act of God) that could not have been avoided. EPA may seek DOE's advice on fuel supply situations when deciding whether to grant a request to distribute nonconforming gasoline.
27. The [Public Utilities Regulatory Policies Act of 1978](#), Pub. L. No. 95-617, 92 Stat. 3117 (1978) (codified at scattered sections of 15 U.S.C., 16 U.S.C., 30 U.S.C., 42 U.S.C., 43 U.S.C. (2002)), and the [Powerplant and Industrial Fuel Use Act of 1978](#), Pub. L. No. 95-620, 92 Stat. 3289 (1978) (codified as amended at 42 U.S.C. §§ 8301-8484 (2002)). The President has authority to prohibit any powerplant or major fuel-burning installation from using natural gas or petroleum as a primary fuel during an emergency.
28. The [Federal Power Act](#), 16 U.S.C. §§ 791a-828c, 824a(c) (2002), 10 CFR § 205.370 (2003). The Secretary of Energy has authority in an emergency to order temporary interconnections of facilities and/or the generation and delivery of electric power.
29. The [Department of Energy Organization Act](#), Pub. L. No. 95-91, 91 Stat. 567 (1977) (codified predominantly at 42 U.S.C. §§ 7101-7385o (2002)), and the [Federal Power Act](#), 16 U.S.C. §§ 791a-828c (2002), 10 CFR §§ 205.350, 205.353 (2003). DOE has authority to obtain current information regarding emergency situations on the electric supply systems in the United States.
30. The [Department of Energy Organization Act](#), Pub. L. No. 95-91, 91 Stat. 567 (1977) (codified predominantly at 42 U.S.C. §§ 7101-7385o (2002)), 10 CFR §§ 205.350, 205.353 (2003), and the [Federal Energy Administration Act of 1974](#), 15 U.S.C. §§ 761-790h (2002). DOE and the National Association of State Energy Officials (NASBO) have agreed that DOE will develop, maintain, and distribute a contact list of State and Federal individuals responsible for energy market assessment and energy emergency responses, and that the States will participate in the effort by providing timely assessments of energy markets to DOE and other States in the event of an energy supply disruption.

31. The [Energy Policy and Conservation Act](#), 42 U.S.C. §§ 6201-6422 (2002), as amended by the [Energy Policy Act of 1992](#), Pub. L. No. 102-486, 106 Stat. 2776 (1992) (as amended and codified in scattered sections of the U.S.C.). The President may, in an emergency, order Federal buildings to close and/or conserve energy.
32. [Transportation of Hazardous Material](#), 49 U.S.C. §§ 5101-5127 (2002). Improves the regulatory and enforcement authority of the Secretary of Transportation to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce.
33. The [Ports and Waterways Safety Act of 1978](#), Pub. L. No. 95-474, 92 Stat. 1471 (1978) (amending Pub. L. No. 92-340 and codified at 33 U.S.C. §§ 1222-1232 and 46 U.S.C. §§ 214, 391a (2002)). The Secretary of Homeland Security has authority to establish vessel traffic systems for ports, harbors, and other navigable waterways, and to control vessel traffic in areas determined to be hazardous (e.g., due to vessel congestion). In such emergency situations, DOE may be asked to advise the U.S. Coast Guard on "priority" vessel movements to expedite delivery of needed energy supplies.
34. The [Energy Policy and Conservation Act](#), 42 U.S.C. §§ 6231-6247 (2002). DOE is authorized to create and maintain a Strategic Petroleum Reserve (SPR) and the President is authorized to order a drawdown of the Reserve in emergency circumstances defined in the act.
35. The [Energy Policy and Conservation Act](#), 42 U.S.C. §§ 6250c (2002). DOE is authorized to create and maintain a Northeast Home Heating Oil Reserve and the President is authorized to order a drawdown of the reserve in emergency circumstances defined in the act.
36. The [Natural Gas Policy Act of 1978](#), 15 U.S.C. §§ 3301-3432 (2002). DOE can order any interstate pipeline or local distribution company served by an interstate pipeline to allocate natural gas in order to assist in meeting the needs of high-priority consumers during a natural gas emergency.
37. The [Powerplant and Industrial Fuel Use Act of 1978](#), 42 U.S.C. §§ 8301-8484 (2002). The President has authority to allocate coal (and require the transportation of coal) for the use of any powerplant or major fuel-burning installation during an energy emergency.
38. The [Low Income Home Energy Assistance Act of 1981](#), 42 U.S.C. §§ 8621-8629 (2002). HHS has discretionary funds available for distribution under the Low Income Home Energy Assistance Program (LIHEAP), according to the criteria that relate to the type of emergency that precipitates their need. DOE may advise HHS on the fuel supply situation for such emergency funding.
39. The [Small Business Act](#), 15 U.S.C. §§ 631-651e (2002). The mission of the Small Business Administration is to maintain and strengthen the Nation's economy by aiding, counseling, assisting, and protecting the interests of small businesses and by helping families and businesses recover from incidents such as major disasters, emergencies, and catastrophes.
40. The [Immigration Emergency Fund \(IEF\)](#) was created by section 404(b)(1) of the Immigration and Nationality Act. The IEF can be drawn upon to increase INS's enforcement activities, and to reimburse States and localities in providing assistance as requested by the Secretary of the DHS in meeting an immigration emergency declared by the President.
41. The [Animal Health Protection Act of 2002](#), 7 U.S.C. 8310, consolidates all of the animal quarantine and related laws and replaces them with one flexible statutory framework. This act allows APHIS Veterinary Services to act swiftly and decisively to protect U.S. animal health from a foreign pest or disease.
42. [28 CFR § 0.85](#) designates the FBI as the agency with primary responsibility for investigating all crimes for which it has primary or concurrent jurisdiction and which involve terrorist activities or acts in preparation of terrorist activities within the statutory jurisdiction of the United States. This would include the collection, coordination, analysis, management, and dissemination of intelligence and criminal information as appropriate.



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### B. Executive Orders

1. [Executive Order 12148](#), 44 Fed. Reg. 43239 (1979), as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003), designates DHS as the primary agency for coordination of Federal disaster relief, emergency assistance, and emergency preparedness. The order also delegates the President's relief and assistance functions under the Stafford Act to the Secretary of Homeland Security, with the exception of the declaration of a major disaster or emergency.
2. [Executive Order 12656](#), 53 Fed. Reg. 47491 (1988), Assignment of Emergency Preparedness Responsibilities, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003), assigns lead and support responsibilities to each of the Federal agencies for national security emergency preparedness. The amendment designates DHS as the principal agency for coordinating programs and plans among all Federal departments and agencies.
3. [Executive Order 13354](#), 69 Fed. Reg. 53589 (2004), National Counterterrorism Center, establishes policy to enhance the interchange of terrorism information among agencies and creates the National Counterterrorism Center to serve as the primary Federal organization in the U.S. Government for analyzing and integrating all intelligence information posed by the United States pertaining to terrorism and counterterrorism.
4. [Executive Order 13356](#), 69 Fed. Reg. 53599 (2004), Strengthening the Sharing of Terrorism Information to Protect Americans, requires the Director of Central Intelligence, in consultation with the Attorney General and the other intelligence agency heads, to develop common standards for the sharing of terrorism information by agencies within the Intelligence Community with 1) other agencies within the Intelligence Community, 2) other agencies having counterterrorism functions, and 3) through or in coordination with the Department of Homeland Security, appropriate authorities of State and local governments.
5. [Executive Order 12580](#), 52 Fed. Reg. 2923 (1987), Superfund Implementation, as amended by numerous Executive orders, delegates to a number of Federal departments and agencies the authority and responsibility to implement certain provisions of CERCLA. The policy and procedures for implementing these provisions are spelled out in the NCP and are overseen by the NRT.
6. [Executive Order 12382](#), 47 Fed. Reg. 40531 (1982), as amended by numerous Executive orders, President's National Security Telecommunications Advisory Committee (NSTAC). This order provides the President with technical information and advice on national security telecommunications policy. Up to 30 members from the telecommunications and information technology industries may hold seats on the NSTAC.
7. [Executive Order 12472](#), 49 Fed. Reg. 13471 (1984), Assignment of National Security and Emergency Preparedness Telecommunications Functions, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). This order consolidated several directives covering NSEP telecommunications into a comprehensive document explaining the assignment of responsibilities to Federal agencies for coordinating the planning and provision of NSEP telecommunications. The fundamental NSEP objective is to ensure that the Federal Government has telecommunications services that will function under all conditions, including emergency situations.
8. [Executive Order 12742](#), 56 Fed. Reg. 1079 (1991), National Security Industrial Responsiveness, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). This order states that the United States must have the capability to rapidly mobilize its resources in the interest of national security. Therefore, to achieve prompt delivery of articles, products, and materials to meet national security requirements, the Government may place orders and require priority performance of these orders.
9. [Executive Order 13284](#), 68 Fed. Reg. 4075 (2003), Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security. This order amended previous Executive orders in order to make provisions for the establishment of DHS.
10. [Executive Order 13286](#), 68 Fed. Reg. 10619 (2003), Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security. This order reflects the transfer of certain functions

to, and other responsibilities vested in, the Secretary of Homeland Security, as well as the transfer of certain agencies and agency components to DHS, and the delegation of appropriate responsibilities to the Secretary of Homeland Security.

11. **Executive Order 12333**, 46 Fed. Reg. 59941 (1981), United States Intelligence Activities, designates DOE as part of the Intelligence Community. It further defines counterintelligence as information gathered and activities conducted to protect against espionage, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities. This order specifically excludes personnel, physical, document, or communications security programs from the definition of counterintelligence.
12. **Executive Order 12919**, 59 Fed. Reg. 29625 (1994), National Defense Industrial Resources Preparedness, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). This order delegates authorities and addresses national defense industrial resource policies and programs under the Defense Production Act of 1950, as amended, except for the amendments to Title III of the act in the Energy Security Act of 1980 and telecommunication authorities under Exec. Order 12472, 49 Fed. Reg. 13471 (1984).
13. **Executive Order 12777**, 56 Fed. Reg. 54757 (1991), Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as amended, and the Oil Pollution Act of 1990, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). Implemented section 311 of the FWPCA as amended by OPA 90.
14. **Executive Order 13295**, 68 Fed. Reg. 17255 (2003), Revised List of Quarantinable Communicable Diseases. Specifies certain communicable diseases for regulations providing for the apprehension, detention, or conditional release of individuals to prevent the introduction, transmission, or spread of suspected communicable diseases.
15. **Executive Order 12196**, 45 Fed. Reg. 12769 (1980), Occupational Safety and Health Programs for Federal Employees. This order sets the OSHA program guidelines for all agencies in the Executive

Branch except military personnel and uniquely military equipment, systems, and operations.

### C. Presidential Directives

1. **Presidential Decision Directive 39**: U.S. Policy on Counterterrorism, June 21, 1995, establishes policy to reduce the Nation's vulnerability to terrorism, deter and respond to terrorism, and strengthen capabilities to detect, prevent, defeat, and manage the consequences of terrorist use of WMD; and assigns agency responsibilities.
2. **Presidential Decision Directive 62**: Combating Terrorism, May 22, 1998, reinforces the missions of Federal departments and agencies charged with roles in defeating terrorism.
3. **Homeland Security Presidential Directive-1**: Organization and Operation of the Homeland Security Council, Oct. 29, 2001. This directive establishes policies for the creation of the HSC, which shall ensure the coordination of all homeland security-related activities among executive departments and agencies and promote the effective development and implementation of all homeland security policies.
4. **Homeland Security Presidential Directive-2**: Combating Terrorism Through Immigration Policies, Oct. 29, 2001. This directive mandates that, by November 1, 2001, the Attorney General shall create the Foreign Terrorist Tracking Task Force, with assistance from the Secretary of State, the Director of Central Intelligence, and other officers of the Government, as appropriate. The Task Force shall ensure that, to the maximum extent permitted by law, Federal agencies coordinate programs to accomplish the following: 1) deny entry into the United States of aliens associated with, suspected of being engaged in, or supporting terrorist activity; and 2) locate, detain, prosecute, or deport any such aliens already present in the United States.
5. **Homeland Security Presidential Directive-3**: Homeland Security Advisory System, Mar. 11, 2002. This directive establishes policy for the creation of a Homeland Security Advisory System, which shall provide a comprehensive and effective means to

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disseminate information regarding the risk of terrorist acts to Federal, State, and local authorities and to the American people. Such a system would provide warnings in the form of a set of graduated "Threat Conditions" that would increase as the risk of the threat increases. At each Threat Condition, Federal departments and agencies would implement a corresponding set of "Protective Measures" to further reduce vulnerability or increase response capability during a period of heightened alert.

6. **Homeland Security Presidential Directive-4:** National Strategy to Combat Weapons of Mass Destruction, Dec. 2002. Sets forth the National Strategy to Combat Weapons of Mass Destruction based on three principal pillars: (1) Counterproliferation to Combat WMD Use, (2) Strengthened Nonproliferation to Combat WMD Proliferation, and (3) Consequence Management to Respond to WMD Use. The three pillars of the U.S. national strategy to combat WMD are seamless elements of a comprehensive approach. Serving to integrate the pillars are four cross-cutting enabling functions that need to be pursued on a priority basis: intelligence collection and analysis on WMD, delivery systems, and related technologies; research and development to improve our ability to address evolving threats; bilateral and multilateral cooperation; and targeted strategies against hostile states and terrorists.
7. **Homeland Security Presidential Directive-5:** Management of Domestic Incidents, February 28, 2003, is intended to enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system. In HSPD-5 the President designates the Secretary of Homeland Security as the PFO for domestic incident management and empowers the Secretary to coordinate Federal resources used in response to or recovery from terrorist attacks, major disasters, or other emergencies in specific cases. The directive assigns specific responsibilities to the Attorney General, Secretary of Defense, Secretary of State, and the Assistants to the President for Homeland Security and National Security Affairs, and directs the heads of all Federal departments and agencies to provide their "full and prompt cooperation, resources, and support," as appropriate and consistent with their own responsibilities for protecting national security, to the Secretary of Homeland Security, Attorney General, Secretary of Defense, and Secretary of State in the exercise of leadership responsibilities and missions assigned in HSPD-5. The directive also notes that it does not alter, or impede the ability to carry out, the authorities of Federal departments and agencies to perform their responsibilities under law.
8. **Homeland Security Presidential Directive-6:** Integration and Use of Screening Information, Sept. 16, 2003. In order to protect against terrorism, this directive establishes the national policy to: (1) develop, integrate, and maintain thorough, accurate, and current information about individuals known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism (Terrorist Information); and (2) use that information as appropriate and to the full extent permitted by law to support (a) Federal, State, local, territorial, tribal, foreign-government, and private-sector screening processes, and (b) diplomatic, military, intelligence, law enforcement, immigration, visa, and protective processes.
9. **Homeland Security Presidential Directive-7:** Critical Infrastructure Identification, Prioritization, and Protection, Dec. 17, 2003. This directive establishes a national policy for Federal departments and agencies to identify and prioritize U.S. critical infrastructure and key resources and to protect them from terrorist attacks.
10. **Homeland Security Presidential Directive-8:** National Preparedness, Dec. 17, 2003. This directive establishes policies to strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a national domestic all-hazards preparedness goal, establishing mechanisms for improved delivery of Federal preparedness assistance to State and local governments, and outlining actions to strengthen preparedness capabilities of Federal, State, and local entities.
11. **Homeland Security Presidential Directive-9:** Defense of United States Agriculture and Food, Jan. 30, 2004. This directive establishes a national policy to defend the agriculture and food system

against terrorist attacks, major disasters, and other emergencies.

12. **Homeland Security Presidential Directive-10:** Biodefense for the 21st Century, April 28, 2004. This directive provides a comprehensive framework for the Nation's biodefense and, among other things, delineates the roles and responsibilities of Federal agencies and departments in continuing their important work in this area.

13. **National Security Directive 42:** National Policy for the Security of National Security Telecommunications and Information Systems, July 5, 1990. This directive establishes initial objectives of policies, and an organizational structure to guide the conduct of activities to secure national security systems from exploitation; establishes a mechanism for policy development and dissemination; and assigns responsibilities for implementation.



## Appendix 4

### Compendium of National/International Interagency Plans

Plan	Description
Canada-United States Joint Inland Pollution Contingency Plan	Maintained by EPA and the Government of Canada, the Canada-United States Joint Inland Pollution Contingency Plan establishes a cooperative strategy for preparing for and responding to accidental and unauthorized releases of hazardous substances along the shared inland border. The plan is applicable to situations where a release causes or could cause damage to the environment along the border and poses a threat to public health, property, or welfare. The plan also may be activated when only one country is affected by an incident, but requires assistance from the other country. The plan is supported by five regional annexes.
Canada-United States Joint Marine Contingency Plan	Maintained by DHS/USCG and the Government of Canada, the Canada-United States Joint Marine Contingency Plan (JCP) provides for a coordinated system for planning, preparedness, and responding to harmful substance incidents in the contiguous waters of Canada and the United States. This plan is supported by five geographic annexes. The annexes supplement the JCP and provide the basic information necessary to execute an efficient and effective response in the contiguous waters.
Department of Defense Civil Disturbance Plan	Maintained by DOD, this plan provides policy and responsibilities governing the planning and response by DOD components for military assistance to Federal, State, and local government (including government of U.S. territories) and their law enforcement agencies for civil disturbances.
Federal Family Assistance Plan for Aviation Disasters	Maintained by the National Transportation Safety Board, the purpose of this plan is to coordinate Federal assistance to victims and family members after aviation disasters. The plan pertains to any domestic or foreign commercial aviation crash that occurs within the United States or its territories, possessions, and territorial seas.
Health and Medical Services Support Plan for the Federal Response to Acts of C/B Terrorism	Maintained by HHS, this plan provides a coordinated Federal response for urgent public health and medical care needs resulting from chemical or biological terrorist threats or acts in the United States. This plan serves as a supporting document to ESF #8 - Public Health and Medical Services.
Joint Contingency Plan Between the United Mexican States and the United States of America Regarding Pollution of the Marine Environment by Discharges of Hydrocarbons or Other Hazardous Substances	Maintained by DHS/USCG and the Government of Mexico, the MEXUS Plan establishes guidelines for coordinating bilateral responses to pollution incidents that occur in, or threaten, coastal waters or areas of the border zones between Mexico and the United States that could affect or threaten the marine environment of both parties. The MEXUS Plan outlines the joint response system and identifies agencies from both Mexico and the United States that will provide varying levels of support during a pollution incident.
Joint Contingency Plan of the United States of America and the Russian Federation on Combating Pollution in the Bering and Chukchi Seas	Maintained by DHS/USCG and the Russian Federation, this plan and its operational appendixes provide for coordinated and combined responses to pollution incidents in the Bering and Chukchi Seas and augments pertinent national, State, republic, regional, and local plans of the two Nations. This plan was updated and signed in March 2001.

Plan	Description
National Emergency Response to a Highly Contagious Animal Disease	Maintained by USDA/APHIS, this plan provides the procedures and structures to detect, control, and eradicate a highly contagious disease as quickly as possible to return the United States to a contamination-free status. The plan coordinates actions by Federal, State, and local officials in response to a suspected or actual foreign animal disease/emerging disease incident. Highly contagious diseases are those diseases rapidly spreading from animal to animal as well as herd to herd. Transmission can occur via direct and indirect modes; has above normal morbidity/mortality per unit time; and could be based on species or production.
National Oil and Hazardous Substances Pollution Contingency Plan	Maintained by the EPA in coordination with the NRT, the NCP provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants. To achieve this objective, the NCP establishes the NRT, RRTs, and local Area Committees to coordinate planning and preparedness efforts. Federal CSCs coordinate response activities at the incident site. The NCP applies to oil discharges into or on the navigable waters of the United States (including adjoining shorelines and into the exclusive economic zone) and to releases into the environment of hazardous substances, and pollutants or contaminants that may present an imminent and substantial danger to public health or welfare.
National Plan for Telecommunications Support in Non-Wartime Emergencies	Maintained by the Office of Science and Technology Policy, the National Plan for Telecommunications Support in Non-Wartime Emergencies provides procedures for planning and using national telecommunications assets and resources in support of non-wartime emergencies, including those covered by the Disaster Relief Act of 1974, in Presidentially declared emergencies and major disasters, extraordinary situations, and other emergencies.
National Search and Rescue Plan	The National Search and Rescue Plan (NSP) is maintained by the National Search and Rescue Commission. The NSP provides an overall plan for the interagency coordination of civil search and rescue (SAR) operations to help the United States satisfy its humanitarian, national, and international SAR-related obligations. The plan assigns coordination and response responsibilities to DHS/USCG for aeronautical and maritime SAR within oceanic SAR regions for which the United States has primary responsibility. This plan covers maritime, aeronautical, and land civil SAR operations; delivery of survivors to a place of safety; and the saving of property when it can be done in conjunction with the saving of lives. The NSP is solely intended to provide internal guidance to all signatory Federal agencies. The plan is not intended to conflict with SAR responsibilities in international instruments to which the United States is or may become a party.
U.S. Department of Health and Human Services Concept of Operations Plan (CONOPS) for Public Health and Medical Emergencies	Maintained by HHS, this plan establishes a framework for the management of public health and medical emergencies and events that require assistance from HHS. This plan covers all events and activities (e.g., preparedness, response, recovery, etc.) deemed by the Secretary of HHS, or his/her designee, to require a coordinated Departmental response. HHS has primary responsibility for public health and medical emergency planning, preparations, response, and recovery in which one or more of the following apply: local, State, or tribal resources are insufficient to address all of the public health needs; the resources of State, local, or tribal public health and/or medical authorities are overwhelmed and HHS assistance has been requested by the appropriate health authorities; or a Federal department or agency acting under its own authority has requested the assistance of HHS. Public health and medical emergencies addressed by this plan include those resulting from natural and man-made disasters, terrorist threats, infectious disease outbreaks and pandemics, and any other circumstance that creates an actual or potential public health or medical emergency where Federal assistance may be necessary.

## Appendix 5

### Overview of Initial Federal Involvement Under the Stafford Act

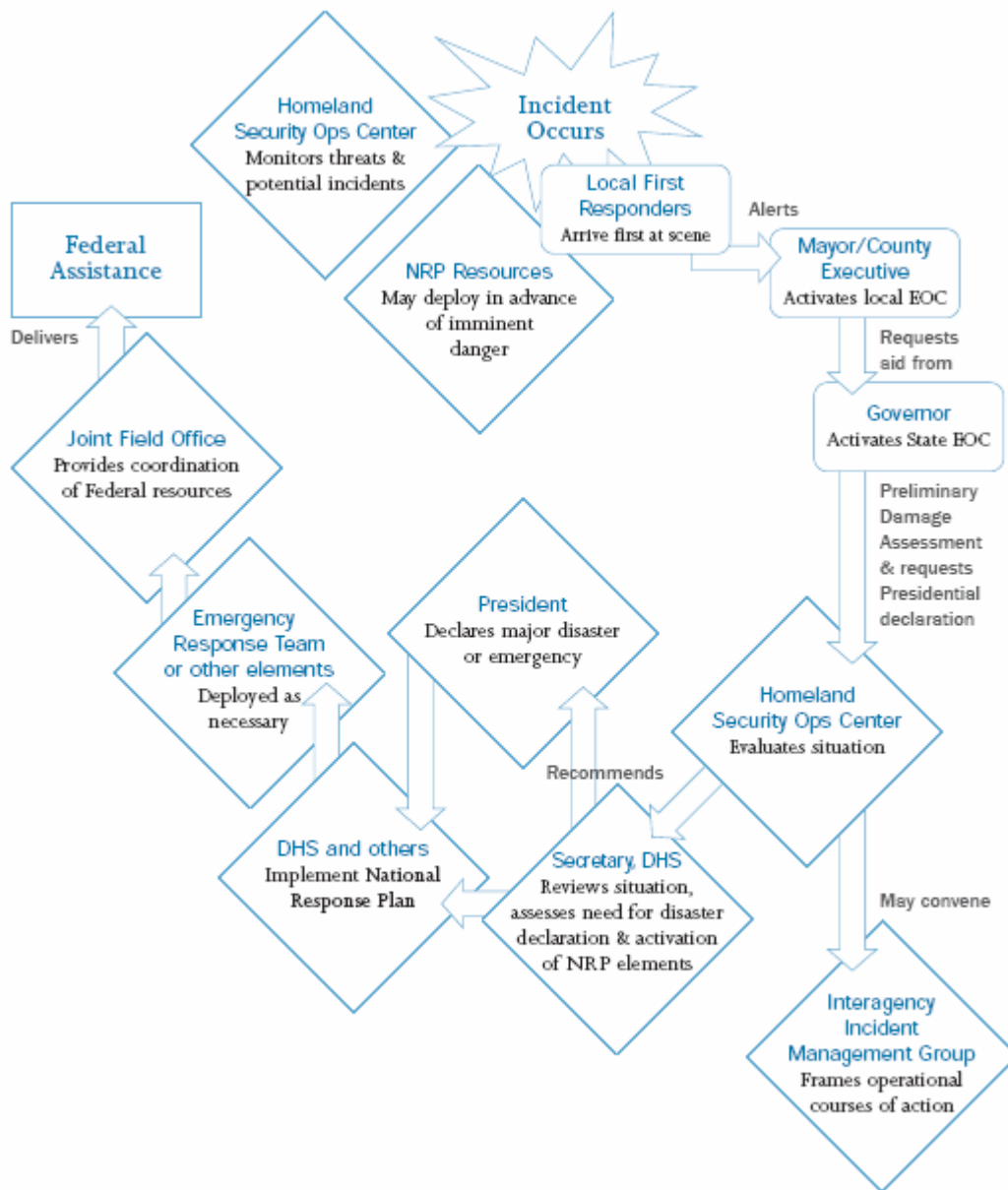
This overview illustrates actions Federal agencies likely will take to assist State and local governments that are overwhelmed by a major disaster or emergency. Key operational components that could be activated include the Interagency Incident Management Group (IIMG), National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), Emergency Response Team—Advance Element (ERT-A), National Emergency Response Team (ERT-N), Joint Field Office (JFO), and Disaster Recovery Center (DRC).

1. The Department of Homeland Security Homeland Security Operations Center (DHS HSOC) continually monitors potential major disasters and emergencies. When advance warning is possible, DHS may deploy and may request other Federal agencies to deploy liaison officers and personnel to a State Emergency Operations Center (EOC) to assess the emerging situation. An RRCC may be activated, fully or partially. Facilities, such as mobilization centers, may be established to accommodate personnel, equipment, and supplies.
2. Immediately after an incident, local jurisdictions respond using available resources and notify State response elements. As information emerges, they also assess the situation and the need for State assistance. The State reviews the situation, mobilizes State resources, and informs the DHS/EPR/FEMA Regional Office of actions taken. The Governor activates the State emergency operations plan, proclaims or declares a state of emergency, and requests a State/DHS joint Preliminary Damage Assessment (PDA) to determine if sufficient damage has occurred to justify a request for a Presidential declaration of a major disaster or emergency. Based upon the results of the PDA, the Governor may request a Presidential declaration and defines the kind of Federal assistance needed. At this point, an initial assessment is also conducted of losses avoided based on previous mitigation efforts.
3. After the major disaster or emergency declaration, an RRCC, staffed by regional personnel, coordinates initial regional and field activities such as deployment of an ERT-A. The ERT-A assesses the impact of the event, gauges immediate State needs, and makes preliminary arrangements to set up operational field facilities. (If regional resources appear to be overwhelmed or if the event has potentially significant consequences, DHS may deploy an ERT-N.)
4. Depending on the scope and impact of the event, the NRCC, comprised of Emergency Support Function (ESF) representatives and DHS/EPR/FEMA support staff, carries out initial activation and mission assignment operations and supports the RRCC from DHS/EPR/FEMA.
5. A Federal Coordinating Officer (FCO), appointed by the Secretary of Homeland Security on behalf of the President, coordinates Federal support activities. The FCO works with the State Coordinating Officer (SCO) to identify requirements. A Principal Federal Official (PFO) also may be designated as the Secretary's representative to coordinate overall Federal interagency incident management efforts.
6. The ERT works with the affected State and conducts field operations from the JFO. ESF primary agencies assess the situation and identify requirements and help States respond effectively. Federal agencies provide resources under DHS/EPR/FEMA mission assignment or their own authority.
7. The IIMG convenes when needed to provide strategic-level coordination and frame courses of action regarding various operational and policy issues. The HSOC supports the IIMG and coordinates with the JFO.
8. Teleregistration activates a toll-free telephone number individuals can call to apply for disaster assistance. A toll-free disaster helpline is established to answer common questions. One or more DRCs may be opened where individuals can obtain information about disaster assistance, advice, and counsel. Individual applicants are processed at the DHS/EPR/FEMA National Processing Center. Inspectors verify losses and provide documentation used to determine the types of disaster assistance to be granted to individuals and families.

9. As immediate response priorities are met, recovery activities begin. Federal and State agencies assisting with recovery and mitigation activities convene to discuss State needs.
10. Public Assistance Applicant Briefings are conducted for local government officials and certain private nonprofit organizations to inform them of available assistance and how to apply. Applicants must first file a Request for Public Assistance. Eligible applicants will be notified and will define each project on a Project Worksheet, which details the scope of damage and a cost estimate for repair to a pre-disaster condition. The Project Worksheet is used as the basis for obligating funds to the State for eligible projects.
11. Throughout response and recovery, mitigation staff at the JFO examine ways to maximize mitigation measures in accordance with State hazard mitigation administrative plans. Grounded in the local risk, and with State priorities and mitigation plans in place, DHS/EPR/FEMA and State officials contact local officials to identify potential projects and suggest which ones should be included in an early implementation strategy. The strategy focuses on viable opportunities to provide funds, technical assistance, and staff support to incorporate mitigation into the overall community recovery, to include the repair and replacement of damaged or destroyed housing and infrastructure.
12. As the need for full-time interagency coordination at the JFO ceases, the ERT plans for selective release of Federal resources, demobilization, and closeout. Federal agencies then work directly with their grantees from their regional or HQ offices to administer and monitor individual recovery programs, support, and technical services.

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FIGURE 11. Overview of initial Federal involvement under the Stafford Act





## Appendix 6

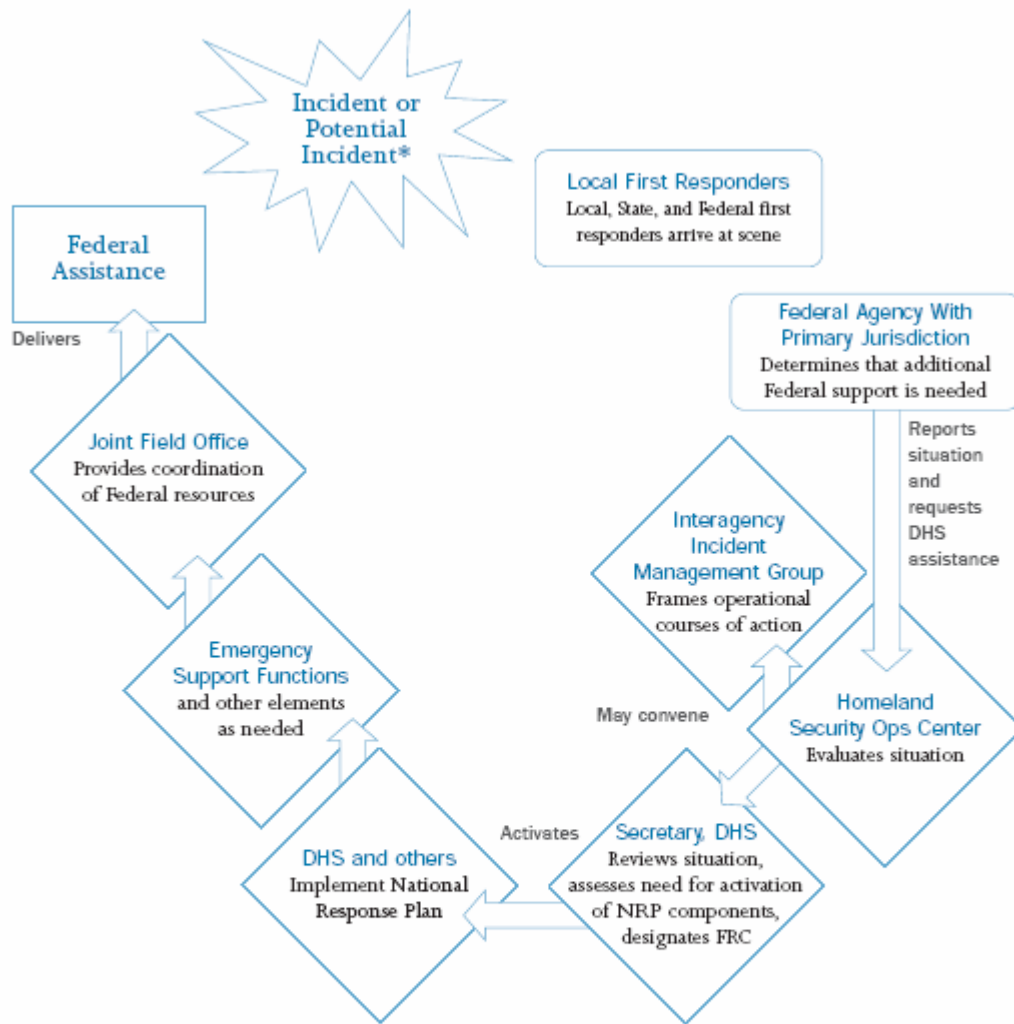
### Overview of Federal-to-Federal Support in Non-Stafford Act Situations

This overview illustrates actions DHS and Federal agencies likely take to support a Federal department or agency that has requested DHS assistance to appropriately handle an incident under their jurisdiction. Key operational components that could be activated include the Interagency Incident Management Group (IIMG), National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), and Joint Field Office (JFO).

1. Federal departments and agencies routinely manage the response to incidents that do not rise to the level of an Incident of National Significance. When a Federal entity with primary responsibility and statutory authority for handling an incident requires assistance beyond its normal operations (for an incident that is not determined to be an Incident of National Significance), that agency may request DHS coordination of Federal multiagency assistance to support incident management efforts. DHS coordinates assistance using the multiagency coordination structures in the National Response Plan (NRP). Generally, the requesting agency provides funding for the incident in accordance with provisions of the Economy Act, unless other statutory authorities exist.
2. To initiate Federal-to-Federal support, requests for assistance are submitted to the DHS Executive Secretary (via the Homeland Security Operations Center (HSOC)) for consideration and approval. Requests should include a summary of the situation, types and amount of resources needed, financial information, and any other appropriate information.
3. Upon approval of the request, the Secretary of Homeland Security issues an operations order to the HSOC. The HSOC, through the NRCC, coordinates the activation of the appropriate Emergency Support Functions (ESFs). Additionally, the Secretary of Homeland Security designates a Federal Resource Coordinator (FRC) to serve as the Secretary's representative in the field to manage Federal resource support. A Principal Federal Official (PFO) also may be designated as the Secretary's representative to coordinate overall Federal interagency incident management efforts.
4. The requesting agency designates a Senior Federal Official (SFO) to work in coordination with the FRC to identify support requirements.
5. The requesting agency also provides Comptrollers to the NRCC, RRCC, and JFO, as appropriate, to oversee financial management activities.
6. An RRCC may be activated, fully or partially, to facilitate the deployment of resources until a JFO is established. Facilities, such as mobilization centers, may be established to accommodate personnel, equipment, and supplies.
7. Federal agencies provide resources under interagency reimbursable agreements (RAs) or their own authority.
8. Once established, the JFO serves as the focal point for coordinating Federal assistance to the requesting agency and incident command structures on-scene.
9. As needed, the IIMG convenes to provide strategic-level coordination and frame courses of action regarding various operational and policy issues.
10. As the need for full-time interagency coordination at the JFO ceases, the JFO Coordination Group plans for selective release of Federal resources, demobilization, and closeout.

## APPENDIX 5: NATIONAL PLAN FOR CONSEQUENCE MANAGEMENT

FIGURE 12. Overview of Federal-to-Federal support in non-Stafford Act situations



\* Incident not otherwise determined to be an Incident of National Significance





## APPENDIX 6: DoD RESPONSE FOR CONSEQUENCE MANAGEMENT

### APPENDIX 6 DoD RESPONSE FOR CONSEQUENCE MANAGEMENT

#### APPENDIX 6-1: UNIFIED COMMAND PLAN 02

*See* CLAMO document database at [www.jagcnet.army.mil/clamo](http://www.jagcnet.army.mil/clamo)

#### APPENDIX 6-2: CJCS CONPLAN 0500-98, MILITARY ASSISTANCE TO DOMESTIC CONSEQUENCE MANAGEMENT OPERATIONS IN RESPONSE TO A CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, OR HIGH-YIELD EXPLOSIVE SITUATION (U)

*See* CLAMO document database at [www.jagcnet.army.mil/clamo](http://www.jagcnet.army.mil/clamo)

#### APPENDIX 6-3: DEPARTMENT OF DEFENSE DIRECTIVE 3025.1, MILITARY SUPPORT TO CIVIL AUTHORITIES

*See* Appendix 5-15

#### APPENDIX 6-4: DEPARTMENT OF DEFENSE DIRECTIVE 3025.15, MILITARY ASSISTANCE TO CIVILIAN AUTHORITIES

*See* Appendix 4-9

#### APPENDIX 6-5: CJCSI 3110.16, MILITARY CAPABILITIES, ASSETS AND UNITS FOR CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH YIELD EXPLOSIVE CONSEQUENCE MANAGEMENT OPERATIONS

[http://www.dtic.mil/cjcs\\_directives/cdata/unlimit/3214\\_01.pdf](http://www.dtic.mil/cjcs_directives/cdata/unlimit/3214_01.pdf)

#### APPENDIX 6-6: JOINT PUBLICATION 3-26, JOINT DOCTRINE FOR HOMELAND SECURITY (FINAL COORDINATION DRAFT, 26 MAR 04)

[http://www.dtic.mil/doctrine/jel/ddrraafftt\\_pubs/3\\_26fc.pdf](http://www.dtic.mil/doctrine/jel/ddrraafftt_pubs/3_26fc.pdf)

**Caution: Draft Publications do not represent official joint doctrine and cannot be used as an authoritative source**



**APPENDIX 7**  
**MILITARY SUPPORT TO SPECIAL EVENTS**

**APPENDIX 7-1: 10 U.S.C. § 2012 - SUPPORT AND SERVICES FOR ELIGIBLE ORGANIZATIONS AND ACTIVITIES OUTSIDE THE DEPARTMENT OF DEFENSE**

**Sec. 2012. - Support and services for eligible organizations and activities outside Department of Defense**

**(a) Authority To Provide Services and Support. -**

Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may in accordance with this section authorize units or individual members of the armed forces under that Secretary's jurisdiction to provide support and services to non-Department of Defense organizations and activities specified in subsection (e), but only if -

- (1) such assistance is authorized by a provision of law (other than this section); or
- (2) the provision of such assistance is incidental to military training.

**(b) Scope of Covered Activities Subject to Section. -**

This section does not -

- (1) apply to the provision by the Secretary concerned, under regulations prescribed by the Secretary of Defense, of customary community relations and public affairs activities conducted in accordance with Department of Defense policy; or
- (2) prohibit the Secretary concerned from encouraging members of the armed forces under the Secretary's jurisdiction to provide volunteer support for community relations activities under regulations prescribed by the Secretary of Defense.

**(c) Requirement for Specific Request. -**

Assistance under subsection (a) may only be provided if -

- (1) the assistance is requested by a responsible official of the organization to which the assistance is to be provided; and
- (2) the assistance is not reasonably available from a commercial entity or (if so available) the official submitting the request for assistance certifies that the commercial entity that would otherwise provide such services has agreed to the provision of such services by the armed forces.

**(d) Relationship to Military Training. -**

- (1) Assistance under subsection (a) may only be provided if the following requirements are met:

(A) The provision of such assistance -

## DOPLAW HANDBOOK

(i) in the case of assistance by a unit, will accomplish valid unit training requirements; and

(ii) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member.

(B) The provision of such assistance will not adversely affect the quality of training or otherwise interfere with the ability of a member or unit of the armed forces to perform the military functions of the member or unit.

(C) The provision of such assistance will not result in a significant increase in the cost of the training.

(2) Subparagraph (A)(i) of paragraph (1) does not apply in a case in which the assistance to be provided consists primarily of military manpower and the total amount of such assistance in the case of a particular project does not exceed 100 man-hours.

### (e) Eligible Entities. -

The following organizations and activities are eligible for assistance under this section:

(1) Any Federal, regional, State, or local governmental entity.

(2) Youth and charitable organizations specified in section 508 of title 32.

(3) Any other entity as may be approved by the Secretary of Defense on a case-by-case basis.

### (f) Regulations. -

The Secretary of Defense shall prescribe regulations governing the provision of assistance under this section. The regulations shall include the following:

(1) Rules governing the types of assistance that may be provided.

(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance -

(A) meets a valid need; and

(B) does not duplicate other available public services.

(4) Procedures to ensure that Department of Defense resources are not applied exclusively to the program receiving the assistance.

### (g) Treatment of Member's Participation in Provision of Support or Services. -

(1) The Secretary of a military department may not require or request a member of the armed forces to submit for consideration by a selection board (including a promotion board, command selection board, or any other kind of selection board) evidence of the member's participation in the provision of support and services to non-Department of Defense organizations and activities under this

## APPENDIX 7: SPECIAL EVENTS

section or the member's involvement in, or support of, other community relations and public affairs activities of the armed forces.

(2) Paragraph (1) does not prevent a selection board from considering material submitted voluntarily by a member of the armed forces which provides evidence of the participation of that member or another member in activities described in that paragraph.

### (h) Advisory Councils. -

(1) The Secretary of Defense shall encourage the establishment of advisory councils at regional, State, and local levels, as appropriate, in order to obtain recommendations and guidance concerning assistance under this section from persons who are knowledgeable about regional, State, and local conditions and needs.

(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

### (i) Construction of Provision. -

Nothing in this section shall be construed as authorizing -

(1) the use of the armed forces for civilian law enforcement purposes or for response to natural or manmade disasters; or

(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.

### (j) Oversight and Cost Accounting. -

The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with this section. The program shall include measures to accomplish the following:

(1) Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

(2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.

(3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).

(4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.

(5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved

Source: <http://www4.law.cornell.edu/uscode/10/2012.html>

### **APPENDIX 7-2: 10 U.S.C. § 2554 - PROVISION OF SUPPORT FOR CERTAIN SPORTING EVENTS**

#### **Sec. 2554. - Equipment and other services: Boy Scout Jamborees**

(a) The Secretary of Defense is hereby authorized, under such regulations as he may prescribe, to lend to the Boy Scouts of America, for the use and accommodation of Scouts, Scouters, and officials who attend any national or world Boy Scout Jamboree, such cots, blankets, commissary equipment, flags, refrigerators, and other equipment and without reimbursement, furnish services and expendable medical supplies, as may be necessary or useful to the extent that items are in stock and items or services are available.

(b) Such equipment is authorized to be delivered at such time prior to the holding of any national or world Boy Scout Jamboree, and to be returned at such time after the close of any such jamboree, as may be agreed upon by the Secretary of Defense and the Boy Scouts of America. No expense shall be incurred by the United States Government for the delivery, return, rehabilitation, or replacement of such equipment.

(c) The Secretary of Defense, before delivering such property, shall take from the Boy Scouts of America, good and sufficient bond for the safe return of such property in good order and condition, and the whole without expense to the United States.

(d) The Secretary of Defense is hereby authorized under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for

(1) those Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America at any national or world Boy Scout Jamboree, and

(2) the equipment and property of such Boy Scouts, Scouters, and officials and the property loaned to the Boy Scouts of America, by the Secretary of Defense pursuant to this section to the extent that such transportation will not interfere with the requirements of military operations.

(e) Before furnishing any transportation under subsection (d), the Secretary of Defense shall take from the Boy Scouts of America, a good and sufficient bond for the reimbursement to the United States by the Boy Scouts of America, of the actual costs of transportation furnished under this section.

(f) Amounts paid to the United States to reimburse it for expenses incurred under subsection (b) and for the actual costs of transportation furnished under subsection (d) shall be credited to the current applicable appropriations or funds to which such expenses and costs were charged and shall be available for the same purposes as such appropriations or funds.

## APPENDIX 7: SPECIAL EVENTS

(g) In the case of a Boy Scout Jamboree held on a military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support authorized under subsections (a) and (d).

(h) Other departments of the Federal Government are authorized, under such regulations as may be prescribed by the Secretary thereof, to provide to the Boy Scouts of America, equipment and other services, under the same conditions and restrictions prescribed in the preceding subsections for the Secretary of Defense

Source: <http://www4.law.cornell.edu/uscode/10/2554.html>

### APPENDIX 7-3: PDD 62 - PROTECTION AGAINST UNCONVENTIONAL THREATS TO THE HOMELAND AND AMERICANS OVERSEAS

*See Appendix 5-8*

### APPENDIX 7-4: DODD 1100.20 - SUPPORT AND SERVICES FOR ELIGIBLE ORGANIZATIONS AND ACTIVITIES OUTSIDE THE DEPARTMENT OF DEFENSE

#### Department of Defense DIRECTIVE

NUMBER 1100.4

August 20, 1954

Certified Current as of November 21, 2003

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SUBJECT: Guidance for Manpower Programs

References:(a) DoD Directive 1100.2, "Preparation, Evaluation and Administration of Manpower Programs," August 20, 1953

#### 1. PURPOSE

1.1. In accordance with reference (a), the Assistant Secretary of Defense (Manpower and Personnel) will issue each fiscal year guidance to be used by the Services in the preparation and administration of their manpower programs and will review such programs, military and civilian. This guidance will include the strengths to be used for programming and such detailed information, policies, and instructions as are pertinent to the fiscal year program under development.

1.2. The purpose of this Directive is to prescribe the continuing general manpower policies upon guidance such guidance shall be based.

#### 2. OBJECTIVE

Accomplish approved national military objectives with a minimum of manpower so organized and employed as to provide maximum effectiveness and combat power. To this end, each Service shall seek optimum personnel utilization, maintain a high level of personnel performance and morale, and accomplish missions with a minimum number of personnel.

#### 3. MANPOWER REQUIREMENTS

# DOPLAW HANDBOOK

3.1. Each Service shall undertake only such programs as are actually essential, and shall program manpower requirements at the minimum necessary to achieve specific vital objectives.

3.2. Each Service shall program within the strengths confirmed by the Secretary of Defense with first priority assigned to major combat forces. Major combat units will be manned in accordance with Joint Chiefs of Staff guidance as approved by the Secretary of Defense. Remaining forces will be manned, within approved total strengths, adequately to support combat forces.

3.3. In areas which require military personnel only, manpower requirements shall be based upon applicable manning documents, with authorized strengths held to a minimum consistent with assigned tasks and missions. Civilian requirements will be determined on the basis of planning and workload factors with strengths maintained at the minimum necessary to accomplish the required tasks. In areas which require both military and civilian personnel, manpower requirements shall be determined as a total.

3.4. The highest practicable proportion of Operating Forces to total forces will be maintained. Within the Operating Forces emphasis will be placed on reducing support-type positions.

## 4. PERSONNEL UTILIZATION

4.1. Management improvement programs will be pursued with a view toward correlating job requirements and personnel qualifications, preventing non-essential or marginal employment, and maintaining the grade requirement of each space consistent with the responsibility thereof.

4.2. Civilian personnel will be used in positions which do not require military incumbents for reasons of law, training, security, discipline, rotation, or combat readiness, which do not require a military background for successful performance of the duties involved, and which do not entail unusual hours not normally associated or compatible with civilian employment.

4.3. Maximum stability of personnel assignment and minimum rotation or turnover will be maintained to the extent consistent with requirements of training readiness, and morale. Voluntary enlistment and reenlistment will be emphasized and encouraged, in order to increase the level of training, experience, and combat readiness of our forces, and minimize involuntary induction.

4.4. Optimum performance, standards and discipline will be sought at all levels. To this end, command authority will be maintained commensurate with responsibility. Officer and noncommissioned officer responsibility and prestige will be safe-guarded by avoidance of over-centralization, over-supervision, or over-management.

4.5. No policy including fiscal policy will be established without full evaluation of its effect on morale and effectiveness of personnel. Manning levels of staffs, headquarters, attache posts, and similar assignments will be maintained at lowest practicable levels.

4.6. Travel time and costs will be maintained at lowest levels consistent with other requirements. The number of personnel in non-available status will be held as low as feasible. Specifically, time awaiting transportation, assignment, or trial will be minimized.

4.7. Indigenous personnel will be utilized to the maximum extent practicable consistent with security and the necessity of maintaining a high state of readiness.

4.8. Necessary steps will be taken to avoid all types of dual staffing of positions.

## 5. FACILITIES AND MATERIEL



## APPENDIX 7: SPECIAL EVENTS

In planning the establishment, activation, transfer, deployment or redeployment of units, consideration will be given to availability of facilities, present or planned, for housing, training and support. The phasing of personnel, facilities, equipment, and materiel will be coordinated.

### 6. TRAINING

6.1. Training programs will be based on the planned force structure, numbers of personnel presently qualified in each category, and the estimated gains and losses in each occupational category. Training time, costs, and overhead will be maintained as low as is consistent with training requirements. Large fluctuations in training loads will be avoided insofar as feasible.

6.2. In connection with the continuous review of standards and requirements for various types of specialties, emphasis will be given to training needs in critical specialties requiring extended training periods. Stress will be placed on utilizing to best advantage the quality of manpower actually available, particularly mentally qualified and motivated personnel with the required standards for training in special categories. Periods of productive service must be established which will give adequate return for cost of training.

6.3. Training in formal or technical schools will be utilized only to the extent to which training requirements exist which cannot be adequately or profitably met by on-the-job training. Formal training should be followed as soon as feasible by on-the-job application of learned skills.

6.4. Advanced training for short-term or non-career personnel and post-graduate instruction for officers will be limited to areas meeting definite needs of the Services.

6.5. Training facilities should be utilized at maximum practicable efficiency. The length of each course should be minimized to that required to accomplish the primary missions. The input of students should be phased to avoid peak loads, and overall load stabilized so as to permit minimum feasible overhead.

### 7. RESERVE FORCES

7.1. The Reserve components programs will be prepared in accordance with existing laws, on the basis of mobilization requirement, and the feasibility of meeting these requirements in the year programmed.

7.2. Personnel having a remaining Ready Reserve service obligation on release from active duty shall be informed immediately prior to such release of their duty, as prescribed by the Universal Military Training and Service Act, as amended, to participate in an accredited training program in the Ready Reserve. Such personnel shall, if qualified, and if a mobilization requirement exists in an available unit, be transferred upon their release from active duty to such unit of the Ready Reserve of the appropriate Reserve component for the remainder of their Ready Reserve service obligation unless sooner released because of availability of replacements.

7.3. Personnel participation in Reserve training program in a drill pay status will be limited to those personnel for whom mobilization requirements exist and who have been determined to be available upon mobilization.

7.4. Every effort will be made to reduce the turnover of personnel in Reserve units and to bring enlisted-officer ratios, and pay grade distribution within each into balance with requirements.

7.5. Emphasis will be placed on improving the training given the Reservists both as to quality and level of instruction and by improved administration within units.

/S/  
Secretary of Defense

**APPENDIX 7-5: DODD 2000.15 - SUPPORT TO SPECIAL EVENTS**

**Department of Defense  
DIRECTIVE**

NUMBER 2000.15

November 21, 1994

**Certified Current as of December 8, 2003**

USD(P&R)

SUBJECT: Support to Special Events

References:

- (a) Assistant Secretary of Defense Memorandum, "DoD Defense Support to International Special Events," August 12, 1993 (hereby canceled)
- (b) Deputy Secretary of Defense Memorandum, "DoD Support to International Sporting Events," February 20, 1990 (hereby canceled)
- (c) Deputy Secretary of Defense Memorandum, "DoD Support to the 1990 Goodwill Games," October 24, 1988 (hereby canceled)
- (d) Secretary of Defense Memorandum, "DoD Support to International Sporting Events Held in the United States," July 11, 1988 (hereby canceled)
- (e) through (h), see enclosure 1

**1. PURPOSE**

This Directive:

- 1.1. Supersedes references (a) through (g).

1.2. Establishes policy and assigns responsibilities for managing DoD support to international and national special events.

**2. APPLICABILITY**

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Defense Agencies (hereafter referred to collectively as "the DoD Components"). The term "Military Departments," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps (including their National Guard and Reserve components).

**3. DEFINITIONS**

3.1. Special Event. A planned program of athletic competition and related activities involving participants from the United States and/or other nations. Historic examples of such events are the Olympic Games, the Pan American Games, the World University Games, and the International Special Olympics. The Secretary of Defense may also designate non-athletic international or national events to receive support in accordance with this Directive. Historic examples of such non-athletic special events include Summits, World's Fairs, and the Universal Postal Union Congress.

3.2. Support. Support may include equipment, personnel, technical or managerial advice, or guidance. Support may be funded on a reimbursable basis or by specific appropriation.

## APPENDIX 7: SPECIAL EVENTS

### 4. POLICY

It is DoD policy that:

4.1. DoD resources may be used to provide support for international and national special events as authorized by law.

4.2. The Department of Defense may support such events with personnel and equipment, barring interference with primary DoD mission accomplishment, and in accordance with applicable laws and regulations.

4.3. Security-related support for the event shall have precedence over logistics assistance; however, logistics assistance may be provided if deemed appropriate and necessary, contingent on authorizing statutes and local community capabilities.

4.4. Support may either be on a reimbursable basis in accordance with DoD 7000.14-R, Volume 2, (reference (h)), or with appropriations specifically provided. The Department of Defense shall be considered the supplier of last resort.

4.5. Such support shall be provided in the most efficient manner. The central coordination and management function is deemed necessary and is assigned to the Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The DoD Components shall neither offer nor provide direct support to public and private organizations involved in sponsoring events covered by this Directive.

### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness shall manage all DoD support and activities for international and national special events and shall, in accordance with law and regulations, do the following:

5.1.1. Represent the Department of Defense with other Federal Agencies, State and local governments, and private organizers in planning and managing DoD support to international special events.

5.1.2. Develop policies, plans, and procedures for the delivery of DoD support to special events.

5.1.3. Manage the delivery of DoD personnel and equipment assets to special event organizers, State and local governments, and other bodies authorized to receive DoD support.

5.1.4. Manage the expenditure of appropriated funds or acquire reimbursement as directed by applicable laws and regulations.

5.1.5. Obtain materials, services, facilities, and equipment to be used for special event support activities through contracting or established supply channels operated by the Department of Defense or other Federal Agencies.

5.1.6. Establish and operate a system for delivering DoD assets to authorized recipients and for recovering loaned assets at the conclusion of the event.

5.1.7. Maintain a system for the management, storage, and maintenance of DoD equipment for use in special events, and maintain internal controls to ensure the security and accountability of DoD assets at all times.

5.1.8. Ensure the agency authorized to accept DoD assets provides a surety bond or other suitable insurance protection to cover the cost of lost, stolen, or damaged DoD property.

## DOPLAW HANDBOOK

5.1.9. Establish and maintain effective liaison with the DoD Components for the timely exchange of information about special event projects.

5.1.10. Provide support to other events as directed by the Secretary of Defense.

5.2. The Heads of the DoD Components shall designate a Special Events Coordinator. The Coordinator shall notify the USD(P&R) of the designation within 90 days. The Coordinator shall be responsible for providing timely information and technical support to USD(P&R), to include ensuring that equipment and personnel resources are made available when requested by USD(P&R), within the constraints of operational requirements and the impact on readiness.

5.3. The Secretaries of the Military Departments shall assign Military Service personnel to USD(P&R) to support international special events. These assignments may be on a short-term basis for specific events, within the constraints of operational requirements and the impact on readiness.

### 6. EFFECTIVE DATE

This Directive is effective immediately.

/S/

John M. Deutch

Deputy Secretary of Defense

Enclosures - 1

E1. References, continued

#### E1. ENCLOSURE 1 REFERENCES, continued

- (e) Deputy Secretary of Defense Memorandum, "DoD Support to the 1988 Winter and Summer Olympic Games," July 25, 1986 (hereby canceled)
- (f) Secretary of Defense Memorandum, "DoD Support to the 1987 Pan American Games," February 24, 1986 (hereby canceled)
- (g) Secretary of Defense Memorandum, "1984 Los Angeles Summer Olympic Games," September 27, 1982 (hereby canceled)
- (h) DoD 7000.14-R, "Department of Defense Financial Management Regulation," Volume 2A & 2B, "Budget Formulation and Presentation," June 1993

## APPENDIX 7-6: IRT POLICY



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
MANPOWER AND RESERVE AFFAIRS  
111 ARMY PENTAGON  
WASHINGTON DC 20310-0111

March 28, 2000

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Innovative Readiness Training (IRT)

I am forwarding for your implementation the Army's policy and procedures for IRT projects (Civil Military Programs), outlined at the enclosure, as described in the DoD Directive 1100.20, Support and Services for Eligible Organizations and Activities Outside the Department of Defense, dated January 30, 1997. Please ensure subordinate units or staff elements that plan, manage or execute IRT projects receive and adhere to this guidance.

The Army point of contact for this policy is Lieutenant Colonel John Sone, at (703) 692-4125, DSN 222-4125, or e-mail at John.Sone@HQDA.Army.mil.

Patrick T. Henry  
Assistant Secretary of the Army  
(Manpower and Reserve Affairs)

Enclosure

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**HQDA POLICY FOR INNOVATIVE READINESS TRAINING**

**POLICY.** IRT projects can create excellent partnerships between the requesting community organizations and the military. This training mission alternative for meeting mobilization readiness requirements can enhance morale and contribute to military recruiting and retention.

However, the primary goal of IRT is to accomplish military readiness training. Benefits to the community must be incidental. Therefore, units of the Army may be used to assist eligible organizations and activities in addressing community and civic needs of the United States, its territories and possessions and the Commonwealth of Puerto Rico when such assistance is incidental to military training and is authorized by law. Commanders must ensure that IRT does not result in task over-training.

Support and services provided shall protect military readiness, avoid competition with the private sector, and be coordinated with other Services and Army components to avoid duplication. Assistance may be provided if requested by an official of an eligible organization as specified by Section 508, Title 32, United States Code, the assistance is not available from a commercial entity, the support accomplishes mission essential training requirements that prepare Army units for operations in support of the National Military Strategy, the support provided is related to an individual soldier's military occupational specialty (MOS), and the support does not result in an increase in the cost of training. IRT projects will be planned events that are incorporated into future unit training plans and budgets and should not increase the cost of unit training.

The requirement that unit assistance accomplish a mission essential training requirement does not apply where the assistance to be provided consists primarily of military manpower and the total amount of assistance does not exceed 100 man hours. In these instances, most manpower requests will be met by volunteers, and any assistance other than manpower will be extremely limited. Army vehicles may be used, but only to provide transportation of personnel to and from the work site. The use of Army aircraft is prohibited.

**GUIDANCE.** Commanders exercising approval authority must ensure that IRT requests comply with the guidance provided in Section 2012, Title 10, United States Code, DOD Directive 1100.20, and the following DOD implementing guidance memoranda: subject: Policy Memorandum for Department of Defense (DoD) Innovative Readiness Training (DoDD 1100.20), dated August 21, 1998 (Tab A); and subject: Support and Services for Eligible Organizations Outside the Department of Defense, dated July 13, 1999 (Tab B).

**IRT REQUESTS THAT REQUIRE APPROVAL BY OASD (RA).** IRT projects requests that: (1) seek additional funding from OSD; and/or (2) seek support or services for any non-governmental organization (Federal, regional, state or local) which are not youth/charitable organizations specified in 32 USC 508, or (3) seek to reallocate IRT funds to another IRT project require OASD (RA) approval. MACOMs will revalidate annually all ongoing IRT requests that require approval by OASD (RA) to ensure compliance with Office of the Assistant Secretary of Defense for Reserve Affairs (OASD/RA) policy and guidance. Major Army Commands (MACOMs) will do this by submitting the approved IRT request with any changes that may have occurred during the fiscal year, through this office to OASD (RA). Additionally, MACOMs will forward requests for Civil Military Programs received directly from requestors for proposals which lack a military unit sponsor.

**APPROVAL AUTHORITY OF ARMY FUNDED IRT PROJECTS NOT REQUIRING OASD (RA) APPROVAL.** The authority to approve IRT projects submitted by qualifying non-DOD entities under Section 2012, Title 10, United States Code, and DOD Directive 1100.20 (i.e., Federal, regional, state, or local governmental entities, or youth/charitable organizations specified in 32 USC 508), is delegated to commanders of Major Commands (MACOMs). To streamline the approval process, the Army National Guard and Office, Chief Army Reserve will be considered MACOMs for approval and reporting of Reserve Components IRT projects. Approval authority may be further delegated to commanders of major subordinate commands, but may not be delegated further.

**PROCESSING OF IRT PROJECT REQUESTS THAT ARE ARMY FUNDED AND DO NOT REQUIRE OASD (RA) APPROVAL.** All IRT projects must be requested in writing, reviewed for full compliance with appropriate guidance, and approved in advance of initiation by the approval authority. Tab A contains the forms required to request IRT project approval. IRT packages require review and endorsement by the Staff Judge Advocate/Legal Officer; U. S. Property and Fiscal Officer or Federal Budget Officer; and Plans, Operations and Training officials. Additional endorsements may be required, when applicable, from medical, nursing, or dental officials; adjutant general of the project state; or inter-governmental agencies. Each packet must also include a cost analysis of the proposed project identifying the total program cost for each project, including costs that are borne by the military departments from their own accounts and those costs borne by defense wide accounts. The requesting commander must certify that the project will not increase the cost of the training above the amount the event would cost if it were conducted independent of an IRT project. All IRT submission packets must be approved by a general officer.

OASD(RA) requires that all IRT projects be tracked. Therefore, MACOMs will maintain a tracking log for all IRT approved at the MACOM or lower level, by fiscal

year. MACOMs will provide a copy of this log to OASA(M&RA) electronically upon request.

**AFTER ACTION REPORTS/OTHER REQUIRED REPORTS.** An After Action Report (AAR) must be completed for every IRT project. Forward all AARs through the chain of command and this office to OASD (RA) within 60 days of the project's completion. Follow the format in paragraph G of the OASD (RA) guidelines (Tab A). The mailing address for this office is: The Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), ATTN: SAMR-RAMRT, 111 Army Pentagon, Washington, DC 20310-0111. Additionally, the Army National Guard and Office, Chief Army Reserve will provide IRT approvals and AARs to Forces Command (FORSCOM), U. S. Army Pacific (USARPAC), or U. S. Army Special Operations Command (USASOC) as appropriate. In keeping with their training readiness oversight responsibilities as force providers and to ensure the Army is meeting the intent of Congress and the Department of Defense, FORSCOM, USARPAC, and USASOC will report to this office by September 30th each year an evaluation of the value of the training received by Army units and individuals conducting IRT projects. This office will use those reports to provide feedback, guidance, and policy.

**ARMY FUNDED IRT PROJECTS CROSSING MULTIPLE YEARS THAT DO NOT REQUIRE OASD (RA) APPROVAL.** Multiple IRT project requests may be packaged as a single IRT project and receive one approval when the request is from single organization and the support that will be provided comes from a single approval authority.

**ARMY FUNDED MULTIPLE IRT PROJECTS THAT DO NOT REQUIRE OASD (RA) APPROVAL.** A single approval is required for multiple IRT projects from a requesting organization that uses the same unit of the same training requirement. The units will submit an AAR after completion of each project. The requesting authority will revalidate the project before the beginning of each new fiscal year, and specifically address any changes to (1) eligibility of the requesting organization, (2) environmental considerations, and (3) statements of non-competition.

**ARMY FUNDED LONG-TERM ASSOCIATION WITH QUALIFYING NON-DOD AGENCIES.** Units may execute a memorandum of understanding (MOU) with qualified non-DOD Agencies for an extend period of time provided that (1) the MOU includes as an enclosure the "Request for Approval to Conduct the Following Civil-Military FYXX Training," (2) the unit submits an AAR after the completion of each project, and (3) the requesting unit revalidates the project before the beginning of each new fiscal year addressing eligibility of requesting organizations, environmental considerations and statements of non-competition.

Enclosures





ASSISTANT SECRETARY OF DEFENSE  
1500 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1500

19 JUL 1999


MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE NAVY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(MANPOWER, RESERVE AFFAIRS, INSTALLATIONS &  
ENVIRONMENT)

SUBJECT: Policy Memorandum for Department of Defense (DoD) Innovative Readiness  
Training (DoDD 1100.20, "Support and Services for Eligible Organizations Outside  
the Department of Defense.")

This policy memorandum supplements the August 21, 1998, policy memorandum (same  
subject) and specifically outlines several Department procedural guidelines for the Innovative  
Readiness Training (IRT) program (attached). Please ensure that this memorandum has the  
broadest possible dissemination prior to this year's August 31 deadline for the submission of  
project proposals for fiscal year 2000.

In addition, I would like to recognize the efforts of the Air Force team for the timely  
publication of AF Instruction 36-2250 (Civil-Military Innovative Readiness Training, March 1,  
1999) – a job well done! DoDD 1100.20 (January 10, 1997) requires the military departments to  
promulgate guidance consistent with this directive.

As you are aware, the Innovative Readiness Training program provides valuable training  
for your commands, and your support of the program ensures continued success. If you have any  
questions, please contact my program manager, Col Diana Fleek at (703) 693-8618 (DSN 223),  
Fax (703) 697-6072, or email: dfleek@osd.pentagon.mil.

  
Charles L. Cragin  
Acting

Attachment:  
As stated

cc:  
Mr. Smyser, DoD General Counsel

Tab B



## DEPARTMENT OF DEFENSE INNOVATIVE READINESS TRAINING (IRT) POLICY MEMORANDUM

### Eligible Entities (10 U.S.C. 2012(e)(3))

- Before ASD/RA designates any organization eligible to receive support and services, a service or component must submit a complete IRT package and OSD General Counsel must find the proposal without legal objection.

- Packages must include the organization's bylaws and evidence of the organization's non-profit tax status. Tax documents that are more than 10 years old must have a re-certification letter.

- ASD/RA designation letters will specify the fiscal year for which the project is approved and project name(s).

- ASD/RA may request that the Inspector General designate the IRT program as "high risk", vulnerable to fraud, waste and abuse. Such a request may result in an investigation or audit of the program.

### IRT Operations & Maintenance (O&M) Funding Expenditures

- IRT O&M funds are authorized for expendable readiness training items only. They may include, but are not limited to: fuel; equipment lease; travel; training supplies; and incidental costs to support the training not normally provided for a deployment.

- IRT O&M funds are not authorized for the payment of civilian manpower contracts (i.e., contracting a civilian labor force to perform duties related to readiness training activities).

### IRT O&M Funded Equipment and Related Item Accountability

- IRT project managers are solely responsible for establishing life-cycle equipment management, maintaining property books, and making the final disposition of all equipment and related items after completion of the project.

- Project managers should establish procedures that allow surplus items to be recycled through other IRT program offices for continued use within the IRT program.

- Project managers will submit equipment listings to OASD/RA upon request.

## APPENDIX 7: SPECIAL EVENTS

### **Submission of Packages Requesting IRT Funding**

- IRT program managers shall submit project packages that request IRT funds for the next fiscal year to arrive at OASD/RA no later than 31 February each year, beginning with FY01 submissions.

-- The service or component chief must endorse these packages annually, stating that there is no significant increase in training costs associated with the conduct of the projects.

-- Lead agents for multi-service projects (e.g., Task Force Grizzly, REEF-EX, Operation Alaskan Road) must ensure that participating units submit requests through their chain of command prior to authorizing those units to train.

--- All units participating in multi-service projects (see above examples) will follow these guidelines even if they are not requesting additional funding from OASD/RA.

### **Submission of Packages Requesting Authorization Without Additional Funding**

- IRT program managers may submit projects that do not request additional funding beyond that already approved from OASD/RA through their chain of command anytime throughout the year.

-- These project submissions must have flag or general officer signature but do not require the service or component chief endorsement cover letter.

- All project submissions must include service or component contributions in O&M and P&A amounts until units submit specific after action reports.



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1500

21 AUG 1998

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE NAVY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(MANPOWER, RESERVE AFFAIRS, INSTALLATIONS &  
ENVIRONMENT)

SUBJECT: Policy Memorandum for Department of Defense (DoD) Innovative Readiness  
Training (DoDD 1100.20, "Support and Services for Eligible Organizations Outside  
the Department of Defense.")

This policy memorandum outlines the Department Guidelines for the Innovative  
Readiness (IRT) Program for FY 99 and beyond. As you are well aware, this program offers  
invaluable opportunities for our military units and individuals to conduct readiness training that  
enhances relationships with local civilian communities and offers real-world training situations.

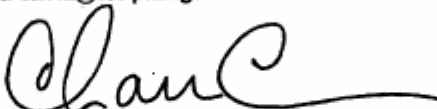
The March 12, 1998 Government Accounting Office (GAO) report titled, "Civil Military  
Programs: Stronger Oversight of the Innovative Readiness Training Program Needed for Better  
Compliance" (GAO Code 703219/OSD Case 1534) made the following recommendations to the  
Department IRT program: stronger adherence to oversight procedures already in place is needed;  
modifications to those procedures are necessary, and more specific guidance on determining  
training cost should be established.

In accordance with the implementing language for IRT (Title 10 U. S. Code, Section  
2012, "Support and Services for Eligible Organizations and Activities Outside Department of  
Defense"), the provision of assistance will not result in a significant increase in the cost of the  
training. Therefore, each Service and Component will account for total project costs of every  
IRT project, in After Action Reports submitted through command channels to OASD/RA. In  
addition, each Service and Component is responsible for determining if participation in an IRT  
project will significantly increase the cost of that training.

The attached DoD Directive, guidelines, project submission form, and  
Service/Component Cover letter establish the policy for ensuring that your IRT program is in  
concert with the GAO recommendations.

## APPENDIX 7: SPECIAL EVENTS

The Innovative Readiness Training Program provides valuable training opportunities for your commands. Your continued support of the program will ensure its success. If you have any questions, please contact me or my program manager, Col Diana Fleek at (703) 693-8618 (DSN 223), Fax (703) 697-6072, or email: [dfleek@osd.pentagon.mil](mailto:dfleek@osd.pentagon.mil).

A handwritten signature in black ink, appearing to read 'Chanc', with a long horizontal flourish extending to the right.

Charles L. Cragin  
Acting

Attachments:

As stated

cc:

Mr. Smyser, DoD General Counsel

## **SUBJECT: Innovative Readiness Training (IRT) Program Guidelines from the Office of the Assistant Secretary of Defense for Reserve Affairs**

### **General**

These guidelines apply to any IRT project conducted under the authority of Section 2012 of Title 10, U.S. Code and DoD Directive 1100.20, dated January 30, 1997. A General/Flag Officer level signature is required on all project submissions. Each State and Organization have unique and specific legal requirements, therefore a legal review must be accomplished for each project to ensure that these legal requirements are satisfied. DoD and military leadership must ensure that they afford only the best support and services to the civilians they serve.

**A. PROGRAM TITLE:** Civil-Military Innovative Readiness Training (IRT). This program is a partnership between requesting community organizations and the military, therefore resource support is a "shared" responsibility. Individual IRT Projects provide commanders another option to meet their mobilization readiness requirements, enhancing morale and contributing to military recruiting and retention. As in overseas deployments, these projects should be incorporated into future unit training plans and budgets.

**B. FUNCTIONAL AREAS:** Engineering, Medical/Healthcare/Human Services, Transportation

**C. AUTHORITY:** Department of Defense Directive 1100.20, "Support and Services for Eligible Organizations and Activities Outside the Department of Defense," January 30, 1997.

**D. TERM AND CONDITIONS:** Approval to execute these projects is based on the following terms:

**All IRT project submissions shall: [Note the following 9 factors cover both guidelines (1-4) and requirements (5-9)]**

1. Consist of activities **essential** to the accomplishment of military readiness training and offer **incidental** benefits to the community in which the training activities occur.
2. Provide support and services that: (a) in the case of assistance by a unit, will accomplish valid unit training requirements; and, (b) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member and fall within the member's scope of duties.
3. Be conducted in a Federally-funded training status under Title 10 or Title 32, U.S.C. **NOTE:** The Federal Tort Claims Act applies to personnel operating within the scope of his or her duty for approved IRT projects for members in Title 10 or Title 32 status.
4. Not endorse, or favor any non-governmental entity (whether profit or non-profit), commercial venture, religion, sect, religious or sectarian group, or quasi-religious or ideological movement.
5. Identify a military officer responsible for conducting each project who will be responsible for:
  - (a) Obtaining all required documents for package submission, and
  - (b) Coordinating with other Service/Component POCs participating in the project (to include gathering final project costs for After Action Reports).
6. Include certification of non-competition with other available public and private sector service organizations.
7. Include review and endorsement by the military:
  - (a) Staff Judge Advocate/Legal Officer

## APPENDIX 7: SPECIAL EVENTS

(b) United States Property and Fiscal Officer (USPFO) or Federal Budget Officer responsible for obligating and disbursing federal funding to verify that:

[1] supplies and equipment items are on the GSA schedule or local purchase and that the prices are fair and reasonable

[2] estimated cost for each project is delineated by Operation and Maintenance (O&M) and Pay and Allowances (P&A) for each Service or Component participating

[3] fiscal accountability be in accordance with current comptroller directives

(c) Plans, Operations and/or Training officials

(d) Medical, Nursing, or Dental officials (if applicable) for regulation compliance

(e) Adjutant General of the project state(s)

(f) Inter-governmental agencies (if applicable)

8. Include (if applicable):

(a) Appropriate Environmental Protection Documentation

(b) Coordination with the Army Corps of Engineers

(c) Land Use Agreements

9. Identify emergency evacuation of civilians (if applicable) by other than military vehicles, except in the event of a life threatening emergency or other exigent circumstance as authorized by Military Service Regulation.

**All Medical IRT project submissions shall:**

1. Identify the Federal, regional, state, or local governmental Civilian Health Organization (CHO) governing entity that agrees to all medical/healthcare procedures and activities performed by military personnel. The CHO shall conform to all applicable federal, state, and local laws that regulate healthcare delivery within the state or territory, and all state practice acts specific to the participating healthcare professionals. Military personnel shall follow the military regulations specific to the healthcare professionals participating, however, if there is a difference between the state practice acts and military regulations, the strictest application shall apply to the military healthcare personnel participating.

**The CHO Lead is to provide an on-site supervisor for each exercise.**

(a) The CHO shall certify that these projects:

[1] Accommodate an identified **underserved healthcare need** that is not being met by current public or private sector assistance.

**(The CHO shall provide a description of the criteria they use to identify the medically underserved community and the specific services they require.)**

[2] Are provided in a manner that does not compete with private sector medical/dental/healthcare assistance in the underserved area.

# DOPLAW HANDBOOK

(b) The CHO verifies and documents the responsible agent (whether military or civilian) ensuring compliance for each operational site for the following:

[1] Medical waste handling and disposal

[2] Clinical Laboratory Improvement Act (CLIA)

[3] Credentialing/Privileging of Military Health Care Providers to include Basic Life Support and, if applicable, Advance Trauma/Cardiac requirement - The strictest requirement applies [4] Emergency evacuation of a "real Life incident"

[5] Follow-up care of patients for continuity of care

[6] Handling of patients' records for continuity of care and privacy act issues

2. Be conducted when all participating military personnel:

(a) In direct contact with the patient population, use universal body substance isolation precautions as developed by the Center for Disease Control and Occupational Safety and Health.

(b) Have completed required immunizations (to include the Hepatitis B series) IAW their service regulations.

(c) Have a current negative Human Immunodeficiency Virus (HIV) test IAW their service regulations.

**E. PROGRAM MANAGEMENT:** The DoD program sponsor is the Office of the Assistant Secretary of Defense for Reserve Affairs, responsible for policy and guidance oversight.

1. OASD/RA will not approve incomplete package submissions.

2. Organizations may not conduct projects without OASD/RA approval.

3. OASD/RA will provide Memorandums of Agreement (MOAs) to organizations at the beginning of each FY after overall project approvals.

## **F. FUNDING AND COST ACCOUNTING:**

1. OASD/RA may allocate supplemental funds to Service and Component Fiscal Points of Contact (POCs).

2. Project Lead Agents are responsible for **identifying all funds and Fiscal POCs** to receive the funding.

**(NOTE: Services and Components cannot transfer the OASD/RA programmed MILPERS funding from one Service/Component to another, therefore OASD/RA must be able to program to the correct source at the start of the fiscal year)**

3. Project Lead Agents are responsible for reporting **total project cost** to OASD/RA, using **After Action Reports (AARs)** as described, below.

4. Services and Components are responsible for identifying a procedure that determines whether conducting the IRT project causes a "significant increase in the cost of training " (DoDD1100.20, para D4b(3)).



## APPENDIX 7: SPECIAL EVENTS

### **G. AFTER ACTION REPORTS FOR OASD/RA**

1. Forward to OASD/RA no later than 60 days after project completion.
2. Participating units shall forward their AAR information to project Lead Agents no later than 30 days after project completion.
3. Use the following format for mandatory information:
  - (a) Identify project name with location(s) and date(s).
  - (b) Identify the number of military participants in each grade category by Service/Component and Unit. For example:

Grade Category	Service/Component	Number of Participants	Unit(s)
Enlisted	AFRC	20	Red Horse
Officer	MARFORRES	2	4 <sup>th</sup> FSSG

- (c) Identify the type of service(s) with numerical data. For example:

Type of Service	Numerical Data
Water Transportation, LCM-8	# of hours logged
Airlift by Aircraft	# of hours logged
Dental	# of patients

- (d) Identify all fiscal obligations (O&M and P&A) used to support the entire project. Delineate OASD/RA funding obligations from Service/Component funding obligations.
  - (e) Include any media/public affairs activities and community, state, or congressional involvement.
  - (f) Include any other relevant information.

### **H. DOWNLOAD FILES:**

- [FY99 Guidelines](#)
- [Sample Chief Cover Letter](#)
- [Service IRT Request Form](#)

### **I. POINT OF CONTACT:**

The OASD/RA POC for IRT is Colonel Fleek at:  
(703) 693-8618  
DSN 223-8618



**APPENDIX 8**  
**MISCELLANEOUS SUPPORT OPERATIONS**

**APPENDIX 8-1: 10 U.S.C § 2012 - SUPPORT AND SERVICES FOR ELIGIBLE ORGANIZATIONS AND ACTIVITIES OUTSIDE DOD**

*See Appendix 7-1*

**APPENDIX 8-2: 32 U.S.C § 508 - ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS**

Sec. 508. - Assistance for certain youth and charitable organizations

**(a) Authority To Provide Services. –**

Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which -

- (1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;
- (2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;
- (3) National Guard personnel will enhance their military skills as a result of providing such services; and
- (4) the provision of the services will not result in a significant increase in the cost of the training.

**(b) Authorized Services. –**

The services authorized to be provided under subsection (a) are as follows:

- (1) Ground transportation.
- (2) Air transportation in support of Special Olympics.
- (3) Administrative support services.
- (4) Technical training services.

## DOPLAW HANDBOOK

(5) Emergency medical assistance and services.

(6) Communications services.

(c) Other Authorized Assistance. –

Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

(d) Eligible Organizations. –

The organizations eligible to receive services under this section are as follows:

(1) The Boy Scouts of America.

(2) The Girl Scouts of America.

(3) The Boys Clubs of America.

(4) The Girls Clubs of America.

(5) The Young Men's Christian Association.

(6) The Young Women's Christian Association.

(7) The Civil Air Patrol.

(8) The United States Olympic Committee.

(9) The Special Olympics.

(10) The Campfire Boys.

(11) The Campfire Girls.

(12) The 4-H Club.

(13) The Police Athletic League.

(14) Any other youth or charitable organization designated by the Secretary of Defense

### **APPENDIX 8-3: PDD-63, CRITICAL INFRASTRUCTURE PROTECTION**

*See Appendix 5-8*

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

### **APPENDIX 8-4: EO 12241 - NATIONAL CONTINGENCY PLAN (NCP)**

*See Appendix 5-1*

### **APPENDIX 8-5: EO 12580 - SUPERFUND IMPLEMENTATION**

*See Appendix 5-3*

### **APPENDIX 8-6: EO 12656 - ASSIGNMENT OF EMERGENCY PREPAREDNESS RESPONSIBILITIES**

*See Appendix 4-11*

### **APPENDIX 8-7: EO 12657 - FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE IN EMERGENCY PREPAREDNESS PLANNING AT COMMERCIAL NUCLEAR POWER PLANTS**

*See Appendix 5-4*

### **APPENDIX 8-8: DODD 3020.26 - CONTINUITY OF OPERATIONS (COOP) POLICY AND PLANNING**

#### **Department of Defense DIRECTIVE**

NUMBER 3020.26  
May 26, 1995

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USD(P)

SUBJECT: Continuity of Operations (COOP) Policy and Planning

#### References:

- (a) DoD Directive 3020.26, "Continuity of Operations Policies and Planning," October 24, 1985 (hereby canceled)
- (b) Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," November 18, 1988
- (c) Executive Order 12787, "The Order of Succession of Officers to Act as Secretary of Defense," December 31, 1991

#### 1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update responsibilities to ensure effective performance of critical DoD missions and continuation of mission-essential functions during emergencies.

# DOPLAW HANDBOOK

## 2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, and the Defense Agencies (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, also refers to the Coast Guard when it is operating as a Military Service in the Navy.

## 3. DEFINITIONS

3.1. Continuity of Government (COG). The continuity of mission-essential functions of all Federal Departments and Agencies during any national security emergency through a system that:

3.1.1. Provides for succession to office and emergency delegation of authority, in accordance with applicable law; and

3.1.2. Establishes emergency operating capabilities that include safekeeping of key people and essential resources, facilities, and records.

3.2. Continuity of Operations (COOP). The capability of a DoD Component to continue mission-essential functions without unacceptable interruption. COOP planning includes preparatory measures, response actions, and restoration activities planned or taken to ensure continuation of these functions to maintain military effectiveness, readiness, and survivability.

3.3. Mission-Essential Functions. Those continuing functions that must be performed to achieve the DoD's critical missions. Those comprise, but are not limited to, the following:

3.3.1. Command and control of assets.

3.3.2. The receipt, assessment, analysis, processing, display, and dissemination of information necessary to perform critical missions and support decision making.

3.3.3. Other operations that must be performed to achieve mission success.

3.4. National Security Emergency. Any occurrence including, but not limited to, natural disaster, military attack, technological failures, civil unrest, or other disruptive condition that seriously degrades or threatens the national security of the United States.

## 4. POLICY

It is DoD policy that:

4.1. The DoD Components shall plan for and take actions to ensure that mission-essential functions shall continue effectively and without interruption by establishing COOP plans that:

4.1.1. Enhance DoD COG planning.

4.1.2. Anticipate any national security emergency with flexible and responsive plans.

4.1.3. Are executable when there is little or no warning.

4.1.4. Anticipate hostile action directed against DoD activities anywhere in the world. That includes surprise attacks by any means prior to relocation or protective measures taking place. Protective plans shall be executed when sufficient warning of destructive actions exists.

4.2. The DoD Components shall prioritize mission-essential functions and identify those that can be deferred during a national security emergency until time and resources permit restoration. The DoD

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

Components shall consider the impact on other DoD Components when identifying functions that can be deferred.

4.3. COOP shall be addressed in three basic phases, as follows:

4.3.1. Pre-event actions provide protective efforts to ensure continuity and plans to restore deferred functions.

4.3.2. Trans-event actions are taken during the causative event. Priority shall be given to maintenance of functions, military operations and logistical support thereof, maintenance and restoration of law and order, military support to civil authorities, and damage and residual resource assessment.

4.3.3. Post-event actions shall focus on full restoration of military operations, communications and transportation, and less essential functions. Headquarters staffs, capabilities, and functions shall be reconstituted as resources permit.

4.4. COOP plans and programs shall identify critical requirements and procurement needs. DoD Component management and Command, Control, Communications, and Intelligence functions that support the National Military Command System and the Unified Combatant Commands require capabilities that are as robust as those of the forces and leadership structure they support.

4.5. COOP plans shall specify emergency and alternate staffs as necessary during the implementation of COOP plans such that:

4.5.1. The emergency coordinating staff (ECS) is minimal and able to execute those tasks necessary to transition or relocate operations from a primary to an emergency relocation site (ERS).

4.5.2. The alternate command staff (ACS) may be assigned permanently or on rotation to an Alternate Headquarters (AH). The purpose of the ACS is to do the following:

4.5.2.1. Maintain the alternate command capability.

4.5.2.2. Support the primary command center as directed until devolution of command to the AH or an ERS occurs.

4.5.2.3. Manage transition to full operations at the AH when the primary command center is not available and perform designated functions as required.

4.5.3. Successors and alternates shall be designated to replace command authorities. The conditions of replacement and responsibilities and authorities to be delegated to successors shall be shown in each DoD Component's Plan.

4.5.4. Instructions for emergency staffs shall include the staff assignments, emergency duty stations, notification procedures, and other actions to be taken in emergencies.

4.6. Alternate Headquarters and Emergency Relocation Sites

4.6.1. The DoD Components shall designate AHs or ERSs at each command level down to the lowest level necessary to meet the intent of this Directive. An AH or ERS may be shared with other organizations if the operations of both can be effectively executed simultaneously.

4.6.2. Centralized coordination and documentation in the selection of an ERS is required to prevent potential interference with or compromise of sensitive locations or operations. The DoD Components shall designate a single point of contact (POC) for ERS coordination. Following the

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identification and coordination of candidate ERSs, the surveying, selection, and acquisition of an ERS for fixed and mobile headquarters is the responsibility of the DoD Component.

4.7. The DoD Components shall maintain current all necessary files, documents, computer software, and databases required to carryout COOP plans for immediate use by emergency staffs. Plans shall include instructions for establishing database content, manner of preservation, and transportation.

4.8. In the event of a national security emergency, systems of alerts, notifications, reporting, and responses that occur in civil governments and agencies nearly parallel those that occur in the DoD Components. DoD Component plans and preparedness measures shall recognize, endeavor to assist, and take advantage of any such parallel processes as provided for by the USD(P).

4.9. The DoD Components shall issue detailed security classification guidance as follows:

4.9.1. Information that may be generally unclassified includes the following:

4.9.1.1. General duties of individuals, personal planning, advance financial arrangements, and other administrative matters that must be known by those involved in COOP planning unless classified due to other security requirements.

4.9.1.2. General information on the overall COOP planning program, existence of DoD Component alternate plans and arrangements, means to protect vital records, and plans for periodic testing to determine operational readiness.

4.9.1.3. Matters about executive guidance, such as the procedures for designating successors and delegating authority.

4.9.1.4. The use of the titles including the National Military Command Center, National Military Command Center-Site R, Federal Emergency Management Agency Special Facility, and the National Airborne Operations Center.

4.9.2. Information that shall be considered for security classification includes the following:

4.9.2.1. How and by whom people shall be alerted and individual alerting responsibilities.

4.9.2.2. Listing and location of indispensable records.

4.9.2.3. Planning assumptions on the nature of the threat and weapons effects.

4.9.2.4. Priorities for devolution of command to and between an AH or ERS.

4.9.2.5. Transportation and relocation instructions including security measures to be used to protect AH or ERS facilities and people while traveling to and occupying facilities.

4.9.2.6. Special communications preparations.

4.9.2.7. Overall strength and composition of people within AH and ERS facilities.

4.9.2.8. Primary and alternate command center operating details.

## 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy, shall:



## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

5.1.1. Ensure that succession to office in the Department of Defense is implemented per E.O. 12787 (reference (c)), as modified by law.

5.1.2. Oversee the DoD COOP program development and provide guidance.

5.1.3. Prepare the COOP plan for the OSD.

5.1.4. Receive, review, and maintain current editions of all COOP plans and notify the DoD Components of plans that are not in compliance or are in potential conflict with other plans.

5.1.5. Identify means that may enable the DoD Components to take advantage of parallel processes in non-DoD organizations and disseminate that information, as needed.

5.1.6. Coordinate and oversee ERS selection and issue detailed instructions, as needed.

5.1.7. Act as POC for non-DoD COOP and related policies and programs.

5.1.8. Direct and assess periodic tests of DoD COOP plans and programs.

5.1.9. Verify DoD compliance with E.O. 12656 (reference b).

5.2. The Assistant to the Secretary of Defense for Public Affairs shall issue public affairs guidance on DoD-level COOP policies, planning, and implementation actions, and respond to any media or public queries about DoD COOP.

5.3. The Heads of the DoD Components shall:

5.3.1. Prepare, implement, and exercise COOP plans required by this Directive and shall provide a copy of the plan to the Chairman of the Joint Chiefs of Staff; the USD(P), and each other DoD Component or Federal Department or Agency affected per reference (b).

5.3.2. Ensure that COOP plans are updated, tested, and validated at least every 2 years.

5.3.3. Ensure, as follows, that emergency staff members are:

5.3.3.1. Cleared for access to classified materials and designated sites.

5.3.3.2. Available through alert notification and recall procedures.

5.3.3.3. Briefed on all aspects of relocating to and operating at designated sites.

5.3.3.4. Exercised in emergency relocation at least every 2 years.

5.3.4. Coordinate all external transportation requirements with the U.S. Commander in Chief, Transportation Command (USCINCTrans).

5.4. The Secretaries of the Military Departments, besides those actions required under paragraph 5.3., above, shall coordinate the development of and provide staff support for execution of OSD and Chairman of the Joint Chiefs of Staff COOP plans herein required.

5.5. The Secretary of the Air Force, besides those actions required under paragraphs 5.3. and 5.4., above, shall develop and maintain plans necessary for emergency evacuation for the National Capital Region and, with any needed assistance of the other Military Departments and the Defense Agencies,

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ensure that such plans and procedures provide for orderly, phased evacuation of key people and resources during national security emergencies.

5.6. The Chairman of the Joint Chiefs of Staff, besides those actions required under paragraph 5.3., above, shall provide planning guidance to and coordination with the Commanders of the Unified Combatant Commands, the Military Services, and the Defense Agencies.

5.7. The Commanders of the Unified Combatant Commands, besides those actions required under paragraph 5.3., above, shall ensure that:

5.7.1. Where that command possesses nuclear weapons, a capability exists to implement emergency action DoD Directives through the trans-event and post-event periods.

5.7.2. Non-nuclear commands shall be capable of providing essential support required by nuclear-capable commands during the trans-event and post-event periods.

## 6. EFFECTIVE DATE

This Directive is effective immediately.

/s/  
William J. Perry  
Secretary of Defense

## **APPENDIX 8-9: DODD 3020.36 - ASSIGNMENT OF NATIONAL SECURITY EMERGENCY PREPAREDNESS (NSEP) RESPONSIBILITIES TO DOD COMPONENTS**

### **Department of Defense DIRECTIVE**

NUMBER 3020.36  
November 2, 1988

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**Incorporating Change 1, March 12, 1993**  
USD(P)

SUBJECT: Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components

References: (a) DoD Directive S-3020.36, "Assignment of Emergency Preparedness Responsibilities to Department of Defense Components (U)," August 28, 1973 (hereby canceled)  
(b) [DoD Directive 5100.1](#), "Functions of the Department of Defense and Its Major Components," September 25, 1987  
(c) Executive Order 11490, "Assigning Emergency Preparedness Functions to Federal Departments and Agencies," October 28, 1969, as amended  
(d) National Security Decision Directive (NSDD) 47, "Emergency Mobilization Preparedness," July 22, 1982  
(e) through (jj), see enclosure 1

## 1. REISSUANCE AND PURPOSE

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

This Directive:

1.1. Reissues reference (a).

1.2. Updates policies and assigns responsibilities for developing emergency preparedness measures to enhance DoD readiness posture.

### 2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense (OSD), the Military Departments and their field activities (including their National Guard and Reserve components), the Coast Guard (by agreement with the Department of Transportation (DoT)), the Joint Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as the "DoD Components"). Guidance to the Unified and Specified Commands shall be provided by the Joint Staff.

2.2. The national security and domestic emergency preparedness functions of the various DoD Components, including those under reference (b), that complement the civil readiness planning responsibilities of the civil Departments and Agencies. Together, these measures provide the basic foundation for an overall national preparedness posture and are fundamental to the ability of a viable Government to survive. The Department of Defense, along with the other Departments and Agencies of the Federal Government, is charged by references (c) and (d), and NSDD 188 (reference (e)) with the duty of ensuring that the United States has an emergency preparedness capability to respond decisively and effectively to any major national emergency, with defense of the United States as first priority.

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

4.1. Mobilization plans shall be designed for timely implementation in response to a full range of warning indications from early and ambiguous to short and tactical warnings.

4.2. Each DoD Component shall share the general responsibilities for emergency preparedness, mobilization planning, and crisis management in ensuring the continuity of Government in any national security or domestic emergency situation, as directed in DoD Directive 3020.26 (reference (f)). Each DoD Component shall plan for survival, recovery, and reconstitution of its essential functions, including the timely relocation and protection of successors, each of whom should be supported by an austere emergency staff and essential communications. Each DoD Component should identify alternate headquarters, emergency relocation sites, or other permanent facilities to use during emergency preparedness situations. In an evolving crisis, each DoD Component should be capable of the following:

4.2.1. Surviving and reconstituting the control organization for the DoD Component.

4.2.2. Reorganizing and redirecting resources.

4.2.3. Coordinating with appropriate Agencies.

4.2.4. Implementing decisions and Directives.

4.2.5. Reestablishing command and control.

4.2.6. Ensuring the performance of essential functions.

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4.3. Additionally, each DoD Component with essential functions, whether specified in this Directive or not, shall develop appropriate plans and shall take such actions as may be needed to ensure that it shall be able to perform essential functions and to continue as a viable part of the Department of Defense during emergencies. Each DoD Component shall prepare for all national security and domestic emergencies in coordination with appropriate Federal, State, and local governments; other DoD Components; and elements of the private sector, particularly in the emergency preparedness for mobilization. Specific responsibilities for emergency preparedness are in section 5., below.

## 5. RESPONSIBILITIES

5.1. The Department of Defense Components shall:

5.1.1. Develop and execute national defense plans and shall:

5.1.1.1. Plan for transitioning from peacetime to wartime activities.

5.1.1.2. Include in plans all graduations of mobilization.

5.2. The DoD Components shall be prepared to implement their emergency preparedness plans. These plans may be implemented only if the authority for implementation is provided by law enacted by the Congress, an order or Directive issued by the President, or an order or Directive issued by the Secretary of Defense.

5.3. The Head of each DoD Component is hereby authorized to redelegate the functions assigned by this Directive and to authorize successive redelegations, as considered appropriate. Nothing in this Directive shall alter any existing assignment of functions to any DoD Component made by statute, Executive order, Presidential Directive, DoD Directive, or other orders or directives.

5.4. The Under Secretary of Defense (Policy) (USD(P)), in addition to implementing the responsibilities assigned by DoD Directive 5111.1 (reference (g)), shall:

5.4.1. Provide oversight and policy direction on NSEP and crisis management programs within the Department of Defense, including reviewing and integrating plans, policies, and programs regarding:

5.4.1.1. Threat assessment.

5.4.1.2. Mobilization.

5.4.1.3. Determination of the political and military implications of a crisis.

5.4.1.4. Recommended military objectives.

5.4.1.5. Continuity of operations and continuity of Government.

5.4.1.6. Use of military resources in support of civil authorities.

5.4.1.7. Succession to the OSD.

5.4.2. Provide policy guidance on key asset protection, land defense of the Continental United States (CONUS), and military support to civil defense (MSCD). (See DoD Directives 3025.10, 3025.12, 5030.45, and 5160.54 (references (h) through (k)).)

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

5.4.3. Prepare appropriate departmental documents to support national emergency plans, including continuity of operations plans, graduated mobilization response (GMR), and DoD portions of other Federal Agency plans.

5.4.4. Support the Secretary of Defense in his oversight role of the U.S. Civil Defense Program.

5.4.5. Represent the Department of Defense in mobilization matters involving the National Security Council (NSC) and Federal Emergency Management Agency (FEMA). Act as the lead office for other interdepartmental coordination of this matter.

5.4.6. Coordinate the development and updating of the DoD Emergency Authorities Retrieval and Analysis System (DEARAS).

5.4.7. Provide policy guidance on national preparedness, security, GMR actions, civil defense, and other DoD programs of FEMA and State and local governments.

5.4.8. Act as the central point of interagency coordination on emergency preparedness functions and actions for the Department of Defense.

5.4.9. Direct activities of the Crisis Management System (CMS), established by this Directive, to expedite coordination within the Department of Defense and between the Department of Defense and other Federal Departments and Agencies, and to provide a single OSD focus for crisis information during national security or domestic emergencies or crises. (See enclosure 3.)

5.4.10. Advise and assist the FEMA in developing and reviewing plans and programs for:

5.4.10.1. Physical security of industries, services, and other activities.

5.4.10.2. Use of industry and natural resources.

5.4.10.3. Stabilization of the economy.

5.4.10.4. Conversion of the economy to crisis requirements essential to national security.

5.4.11. Provide emergency preparedness planning guidance and direction to ensure a high state of readiness is maintained by each DoD Component. This responsibility includes the scheduling of appropriate levels of training and testing of emergency plans.

5.4.12. Provide direction for conducting national security exercises, including JCS-sponsored, interagency, and other exercises, games, and simulations, including management of remedial action projects within the OSD.

5.4.13. Approve for the Secretary of Defense the transfer of emergency preparedness functions between DoD Components with the consent of the Heads of the respective DoD Components, or recommend that functions be transferred between DoD Components or between Federal Departments and Agencies.

5.4.14. Represent the Secretary of Defense as the DoD member of the Senior Interagency Group for NSEP under NSDD 188 (reference (e)).

5.4.15. Chair the Mobilization Steering Group established by DoD Directive 5111.2 (reference (l)), and coordinate the development of an OSD mobilization, development, and sustainment decision-support sub-system, including information requirements determination and sources of information

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to ensure that the Department of Defense can respond decisively and effectively to any major U.S. emergency.

5.4.16. Provide policy direction for DoD security assistance matters, monitor Military Assistance Advisory Groups (MAAGs) and other entities involved in security assistance, and negotiate and monitor security agreements with foreign governments.

5.4.17. Provide counterintelligence, foreign disclosure, and security policy guidance and support.

5.4.18. In consultation with the Under Secretary of Defense (Acquisition) (USD(A)), assist FEMA and other concerned Departments and Agencies in developing emergency preparedness measures involving international trade, domestic production, and foreign exchange issues.

5.4.19. Through the OSD- and JCS-sponsored exercise programs, test and verify the effectiveness of mobilization and crisis management plans, programs, and procedures.

5.4.20. Develop and coordinate with the Department of State (DoS), as necessary, policies and initiative with foreign countries relating to basing rights; overflight and landing rights; ports, port facilities, and transportation usage; host-nation support agreement; and other commitments required to allow rapid mobilization and deployment.

5.5. The Under Secretary of Defense (Acquisition) (USD(A)), in addition to implementing the responsibilities assigned by the Secretary of Defense Memorandum (reference (m)), shall:

5.5.1. Provide general oversight and policy direction on all aspects of industrial surge and mobilization and preparations for augmenting the Department of Defense's telecommunications and logistical support capabilities in mobilization situations with resources from other Federal Departments and Agencies, the domestic civil sector, and allied and/or friendly foreign nations.

5.5.2. Provide policy guidance for the development of acquisition strategies to support surge and graduated mobilization of industry, analysis of production base capabilities to support operations plans, correlation of military procurement and domestic production, review of military material requirements, and augmentation of telecommunications and logistic support capabilities.

5.5.3. Represent the Secretary of Defense on appropriate international and interagency groups and advisory bodies on matters of U.S. concern related to its assigned functions.

5.6. The Director of Defense Research and Engineering (DDR&E) shall:

5.6.1. Supervise or conduct research in areas directly concerned with implementing emergency preparedness responsibilities.

5.6.2. Designate representatives for necessary ad hoc or task force groups to advise on technical matters on emergency preparedness to include review, consolidation, and prioritization of research and development programs in crises.

5.6.3. Provide advice and assistance to other DoD Components in planning for research involving each DoD Component's specific area of interest.

5.6.4. Represent the Department of Defense on interagency groups or advisory bodies to advise on scientific and technological considerations involved in areas of national concern. This excludes telecommunications bodies and groups for which the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD(C3I)) is responsible, and technology for special operations forces.

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5.6.5. Provide guidance for augmenting DoD scientific and technical capabilities in a crisis.

5.7. The Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)), in addition to carrying out the responsibilities assigned by DoD Directive 5128.1 (reference (n)), shall:

5.7.1. Develop policies, procedures, and systems for the emergency application of priorities and allocations of materials, services, and resources. Administer priorities and allocation authorities delegated to the Department of Defense.

5.7.2. Prepare plans to claim or acquire supporting materials, equipment, supplies, and services needed to carry out essential DoD functions.

5.7.3. Ensure that the Military Departments and the Defense Agencies develop plans for salvage, decontamination, rehabilitation, and construction of facilities, as well as the continuing operation of essential facilities.

5.7.4. Act as the National Defense Stockpile Manager for stockpiling of strategic and critical materials and developing a national system of durable goods production priorities.

5.7.5. In coordination with the USD(P) and the Department of Energy (DoE), advise and assist FEMA in developing a system for the international allocation of petroleum materials and petroleum products among the United States, allies, and favored nations in a crisis.

5.7.6. Advise and assist the DoE and other concerned Agencies in developing production and distribution control plans for use in energy crises and emergencies.

5.7.7. In coordination with industry, develop plans and programs for procuring and producing selected military equipment and supplies needed to increase readiness and sustainability of existing and expanded forces.

5.7.8. Recommend measures for overcoming potential deficiencies in production capacity to produce selected military supplies and equipment.

5.7.9. Develop candidate projects to expand domestic production capacities.

5.7.10. Provide policy guidance and oversight on the use of strategic and critical materials in production of military weapon system and associated industrial processes.

5.7.11. Provide policy guidance to DoD Components and other Federal Departments and Agencies for emergency preparedness measures associated with maintenance of an adequate mobilization production base for military supplies and equipment.

5.7.12. In consultation with the U.S. Attorney General, the Federal Trade Commission (FTC), industry, labor, finance, and other interests, develop plans and programs for voluntary agreements with industry as outlined in Pub. L. 81-774 (reference (o)).

5.7.13. Provide the Department of Commerce (DoC) with the Department of Defense's machine tool trigger order (MTTO) requirements to support surge and mobilize requirements.

5.7.14. In coordination with the Office of the USD(P) and other appropriate DoD Components, identify facilities important to the national defense for protection under the Key Assets Protection Program (KAPP).

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5.7.15. Furnish military transportation requirements to the DoT and arrange for orderly transfer or use of Federal and civil transportation resources by the Department of Defense during mobilization and national emergencies.

5.7.16. Ensure that the Military Departments and Defense Agencies develop standby legislation to exempt the DoD defense industries from environmental statutes during emergencies, and develop plans and emergency funding procedures to meet additional pollution reduction and/or abatement facility requirements.

5.7.17. In coordination with the USD(P), develop guidelines for support to allied and friendly forces.

5.7.18. In coordination with the USD(P) staff, the DoD Components, and the DoS, develop policies and procedures for wartime host-nation support of U.S. Forces.

5.7.19. In coordination with the Department of Justice (DoJ), ensure that Military Departments and DoD Agencies have plans for DoD and DoJ presentation of eminent domain proceedings if requisition and condemnation actions should be denied.

5.8. The Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD(C3I)), in addition to implementing the functions assigned by DoD Directive 5137.1 (reference (p)) and DoD Directive 5100.41 (reference (q)), shall:

5.8.1. Assist the Director, Office of Science and Technology Policy (OSTP), in the exercise of war powers of the President under Section 706 of the Communication Act of 1934 (reference (r)).

5.8.2. As a member of the Joint Telecommunication Resources Board (JTRB), assist the Director, OSTP, in the exercise of his or her non-wartime emergency functions on the provision, management, or allocation of Federal telecommunications resources.

5.8.3. Assist the Secretary of Defense, when acting as the Executive Agent for the National Communication System (NCS), and provide staff oversight of the activities of the Manager, NCS, that are outlined in E.O. 12472 (reference (s)).

5.8.4. Develop plans for use of existing communications facilities and determine military requirements for additional commercial services and facilities that might be needed during a crisis.

5.8.5. In coordination with the Federal Communication Commission (FCC) and the OSTP, develop plans and programs for the emergency control of all devices capable of emitting electromagnetic radiation.

5.8.6. In coordination with the DoT and the FCC, develop plans for the emergency control of civil and military air traffic and of associated navigation, position fixing, and identification systems.

5.8.7. Provide policy guidance and support for intelligence activities within the Department of Defense, including guidance for intelligence preparedness planning and programming for survivability of intelligence capabilities.

5.8.8. Represent the Secretary of Defense in staff supervision of national intelligence collection assets of the Department of Defense.

5.8.9. Develop the means for assessing the capabilities of surviving intelligence collection, processing, analysis, and dissemination capabilities for the Secretary of Defense.



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5.8.10. Provide policy guidance on acquisition of intelligence information by non-intelligence elements of the Department of Defense.

5.8.11. Represent the Secretary of Defense on interagency groups or advisory boards dealing with intelligence preparedness problems.

5.8.12. Delegate representatives, as necessary, to support ad hoc or task force groups handling intelligence matters for emergency preparedness.

5.8.13. Represent the Secretary of Defense as the DoD member on interagency groups or advisory bodies to advise on scientific and technological considerations involved in low-intensity conflicts and for special operations forces.

5.9. The Assistant Secretary of Defense (Comptroller) (ASD(C)), in addition to implementing the functions assigned by DoD Directive 5118.3 (reference (t)), shall:

5.9.1. In coordination with the Assistant Secretary of Defense, Program Analysis and Evaluation (ASD(PA&E)), establish procedures for developing crisis budgets.

5.9.2. Develop plans and procedures for providing financial and credit assistance to the private sector that may be called on to provide emergency assistance to the Department of Defense.

5.9.3. Develop, as appropriate, pre-cleared wartime fiscal and property procedures for expeditious release during a crisis or wartime.

5.10. The Assistant Secretary of Defense (International Security Affairs) (ASD(ISA)), in addition to carrying out other assigned functions, including those in DoD Directive 5111.1 (reference (g)), shall:

5.10.1. Provide advice, recommend policies, formulate programs, develop plans, and issue guidance to the DoD Components on political-military activities related to international affairs, excluding the North Atlantic Treaty Organization (NATO), other European nations, and the Union of Soviet Socialist Republics (U.S.S.R.).

5.10.2. Oversee DoD activities related to laws of the sea.

5.10.3. Formulate policies and provide guidance on plans for general purpose forces, non-European and non-NATO regional security requirements, and related budget considerations.

5.11. The Assistant Secretary of Defense (International Security Policy) (ASD(ISP)), in addition to implementing other assigned functions, including those in DoD Directive 5111.1 (reference (g)), shall:

5.11.1. Provide advice and counsel on nuclear matters.

5.11.2. Provide advice, recommend policies, formulate programs, develop plans, and issue guidance to the DoD Components on political-military activities related to international affairs or crises involving NATO, other European nations, and the U.S.S.R.

5.11.3. Oversee arms control activities in the Department of Defense.

5.11.4. Formulate policies and provide guidance on plans for nuclear forces, general purpose forces, NATO, European security requirements, and related budget considerations.

5.12. The Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)), in addition to implementing the functions assigned by DoD Directive 5125.1 (reference (u)), shall:

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5.12.1. Support Reserve component mobilization and shall assist in implementing policy on management and use of Selected Reserves and policies on individual manpower, including military retirees.

5.12.2. Monitor organization and DoD Agency programs requiring Reserve component support for national emergency preparedness and other essential functions.

5.12.3. Assist in reconstituting Reserve component forces, as required.

5.13. The Assistant Secretary of Defense (Legislative Affairs) (ASD(LA)), in addition to implementing the functions assigned by DoD Directive 5142.1 (reference (v)), shall:

5.13.1. Assist the DoD Components in preparing and justifying standby and emergency legislation.

5.13.2. Plan for increased peacetime and crisis coordination with Congress to assist with the GMR program, incremental budget packages, and legislative initiatives to support graduated mobilization in response to an emerging crisis.

5.13.3. Assist in developing plans for informing Congress of the identification and designation of Ready Reserve units and individual Reservists selected for mobilization.

5.14. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), in addition to implementing the functions assigned by DoD Directive 5124.2 (reference (w)), shall:

5.14.1. In coordination with the ASD(PA) and the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), develop policies and programs for use by the National Defense Executive Reserve (NDER) within the Department of Defense.

5.14.2. In coordination with the Military Departments, the ASD(P&L), the Selective Service System (SSS), the National Science Foundation (NSF), the DoC, the Department of Labor (DoL), the Department of Education, and the Department of Health and Human Services (DEDHHS) maintain a continuing surveillance over the U.S. manpower and educational needs. This is necessary in order to identify particular occupations, skills, or graduate study that in the national interest would qualify a Reservist, inductee, or applicant for deferment from military duty.

5.14.3. Advise and assist FEMA in developing overall manpower policies to be used during an emergency, including providing information on the planned size and composition of the Armed Forces.

5.14.4. Develop systems, including the National Accession Planning and Execution System, and plans that shall ensure that sufficient military, DoD civilian, and contractor manpower is available to guarantee the nation's ability to mobilize, deploy, and sustain military operations consistent with national defense priorities, industrial capabilities, and legal guidelines.

5.14.5. Prepare and update the DoD Master Mobilization *Guide* that provides graduated mobilization policies and responsibilities, as well as a description of the mobilization process.

5.14.6. Develop systems and plans to ensure that DoD human resources are available in the requisite numbers and skills to support and sustain the Armed Forces in a national emergency or crisis.

5.14.7. Advise and assist the DoS and the DHHS in planning for the protection and evacuation of dependents, civilian employees, other U.S. citizens, and designated aliens abroad.

5.15. The Assistant Secretary of Defense (Health Affairs) (ASD(HA)), in addition to implementing the functions assigned by DoD Directive 5136.1 (reference (x)), shall:

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5.15.1. Develop systems and plans to ensure that sufficient medical personnel, supplies, equipment, and facilities shall be available and shall be ready to deploy for meeting essential military healthcare needs in an emergency.

5.15.2. Activate and ensure coordination, as appropriate, the two primary medical backup systems for the Department of Defense:

5.15.2.1. The Veterans' Administration and/or the Department of Defense Contingency System.

5.15.2.2. The National Disaster Medical System.

5.16. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)), in addition to implementing those functions assigned by DoD Directive 5122.5 (reference (y)), shall provide for public dissemination of essential information and shall plan for pre-recordings to provide continuity of program service over the Emergency Broadcast System during crises.

5.17. The General Counsel, Department of Defense (GC, DoD), in addition to executing the functions assigned by DoD Directive 5145.1 (reference (z)) and in response to requests from the DoD Components seeking specific measures of legal relief considered essential to the performance of the DoD Components' responsibilities under this Directive, shall do the following:

5.17.1. Review the adequacy of legal authorities.

5.17.2. Draft packages for current legislative initiatives.

5.17.3. Draft standby packages for legislative initiatives that could be taken by the DoD Components in response to a future emerging national emergency.

5.18. The Assistant Secretary of Defense (Program Analysis and Evaluation) (ASD(PA&E)), in accordance with responsibilities assigned by DoD Directive 5141.1 (reference (aa)), shall:

5.18.1. Develop procedures to assess mobilization requirements, plans, and programs as part of the overall Planning, Programming, and Budgeting System (PPBS).

5.18.2. Develop procedures to review changes to the DoD program during mobilization and crisis in his or her capacity as Executive Secretary to the Defense Resources Board (DRB) (Programming Phase) under DRB Memo 84-16 (reference (bb)).

5.19. The Assistant to the Secretary of Defense (Atomic Energy) (ATSD(AE)), in addition to carrying out the responsibilities assigned by DoD Directive 5148.2 (reference (cc)), shall:

5.19.1. Formulate policy and provide planning advice and assistance on nuclear and chemical development and operational program matters including:

5.19.1.1. Strategies for weapon development, fabrication, and deployment.

5.19.1.2. Safety, security, and survivability consideration.

5.19.1.3. In coordination with the USD(P) and the Military Departments, physical security of DoD nuclear and chemical facilities.

5.19.2. Interact with the DoE and the FEMA to obtain advice and support on these matters.

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5.19.3. Assist Federal, State, and local officials in protecting the public health and safety from nuclear and chemical hazards.

5.19.4. Coordinate with the ASD(PA) on the release of public information in this area.

5.20. The Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict) (ASD(SO/LIC)), in addition to carrying out the responsibilities assigned by DoD Directive 5138.3 (reference (dd)), shall oversee special operations activities within the Department of Defense.

5.21. The Inspector General, Department of Defense (IG, DoD), in addition to the responsibilities assigned by DoD Directive 5106.1 (reference (ee)), shall:

5.21.1. Review OSD staff and Defense Agency compliance with assigned emergency preparedness responsibilities and functions, as a feature of ongoing inspections.

5.21.2. Review OSD staff and Defense Agency planned emergency actions to isolate initiatives having significant potential for fraud, waste, and mismanagement and recommend safeguards consistent with constraints imposed by emergency conditions.

5.21.3. Monitor mobilization and logistics exercises, and implementation of post-exercise corrective measures.

5.21.4. Establish and maintain crisis management planning and coordination liaison with the DoD Components.

5.21.5. Review, in conjunction with the OSD staff and the Defense Agencies, accomplishment of objectives in various areas such as:

5.21.5.1. Major base development and programs.

5.21.5.2. Manpower acquisition and distribution.

5.21.5.3. Critical supply issues and replenishment programs.

5.21.5.4. Industrial base expansion incentives programs.

5.21.5.5. Expanded contract administration surge.

5.21.5.6. Fiscal management and audit support for host-nation agreements.

5.22. The Joint Chiefs of Staff (JCS), in addition to carrying out the missions and functions assigned by DoD Directive 5100.1 (reference (b)) and DoD Directive 5158.1 (reference (ff)), shall:

5.22.1. Provide time-phased materiel requirements for scenarios identified for GMR option development.

5.22.2. Participate in evaluating and resolving resource clemency and allocation through the Joint Materiel Priorities and Allocation Board and the Joint Transportation Board.

5.22.3. Develop and operate joint damage assessment and recovery systems for military forces and installations, as well as key civilian industrial facilities supporting the Department of Defense.

5.22.4. Maintain a capability, both at national and field levels, to estimate the effects of an enemy attack on military and civilian support resources, and assist FEMA and other Agencies in verifying and updating estimates of remaining resources.

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

5.22.5. Plan and conduct a comprehensive national security exercise program on behalf of the Secretary of Defense. This program should include field training and command post exercises in a coordinated schedule of JCS-sponsored, -directed, and -coordinated exercises responsive to USD(P) guidance, including the Defense Guidance.

5.22.6. Manage the Joint Deployment System (JDS), the Joint Operation Planning System (JOPS), and the follow-on Joint Operation Planning and Execution System (JOPES) for the Department of Defense.

5.23. The Military Departments, in addition to carrying out the functions assigned by DoD Directive 5100.1 (reference (b)), shall:

5.23.1. Support and participate in the emergency preparedness activities.

5.23.2. Support Joint Staff deliberate and time-sensitive military requirements for selected end-items and supporting personnel, materiel, services, and facilities needed to respond to crises, and develop graduated mobilization programs.

5.23.3. Develop and furnish the OASD(P&L) industrial base capability assessments and investment strategies to support GMR options.

5.24. The Secretary of the Army, in addition to carrying out the emergency preparedness missions assigned in reference (b), shall:

5.24.1. Prepare to relinquish peacetime missions associated with military support to the civil sector to the Commander in Chief, Forces Command (CINCFOR), as directed by the JCS upon decision of the National Command Authorities (NCA) in crisis, mobilization, or war.

5.24.2. Develop overall plans for the management, control, allocation, and use of the water and water resources of the nation consistent with the planning efforts of those Federal Departments and Agencies having specific statutory or delegated water responsibilities. Coordinate emergency water resource planning at the regional, State, and local levels through the Federal Departments and Agencies concerned with each area of planning. Under this section, "water" means all usable waters from all sources within U.S. jurisdiction that can be managed, controlled, and allocated to meet emergency requirements.

5.24.3. Develop plans and maintain river control operations for the prevention or control of floods caused by natural phenomena or overt or covert attack affecting those bodies of water and water resources under the jurisdiction of the Secretary of the Army.

5.24.4. Develop plans for emergency assistance to public water supply utilities working through Agencies having primary responsibility and with State and local governments.

5.24.5. With respect to all inland waterways, canals, harbors, and navigation channels within the United States and its possessions and territories, develop emergency plans and procedures for:

5.24.5.1. Improving, restoring, rehabilitating, operating, and maintaining components of federally authorized river and harbor projects.

5.24.5.2. Locating and removing obstructions to navigation.

5.24.5.3. Dredging to clear and straighten navigation channels. This is accomplished in consultation with the DoJ, the Coast Guard, the Department of Interior (DoI), and other affected Federal Agencies. In matters affecting the Tennessee River and its tributaries, emergency plans and procedures are developed in cooperation with the Tennessee Valley Authority (TVA).

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5.24.6. As Executive Agent for the Department of Defense and in coordination with the DoS, DHHS, and appropriate DoD Components, develop plans for noncombatant evacuation operations, repatriation, CONUS reception, and onward movement.

5.25. The Director, Defense Mapping Agency (DMA), in addition to carrying out the functions assigned by DoD Directive 5105.40 (reference (gg)), shall:

5.25.1. Advise and assist the FEMA and other Federal Departments and Agencies in determining and fulfilling mapping, charting, and geodesy requirements related to emergency preparedness.

5.25.2. Advise and assist the DoC, the DoI, and other Federal Departments and Agencies in the development of mapping, charting, and geodesy production plans for use in crises and domestic emergencies.

5.26. The Director, Defense Communications Agency (DCA), in addition to carrying out the functions assigned by E.O. 12472 and DoD Directive 5105.19 (references (s) and (hh)), shall:

5.26.1. Act as Manager of the NCS and carry out the functions assigned to the Manager, NCS, by reference (s).

5.26.2. Advise and assist the FEMA and other Federal Departments and Agencies in the development of information system architectures, telecommunications requirements, and communications support plans necessary to satisfy requirements for all peacetime circumstances including domestic emergencies.

5.26.3. Advise and assist the ASD(C3I) in the functioning of the NCS in his or her role as the NCS Manager in accordance with reference (s). 5.26.4. Provide those personnel and equipment required by reference (s) and NSDD 47 (reference (d)) and internal requirements to Federal services, Agencies, and Departments.

5.26.5. Provide operational direction and management control of the current Defense Communications System (DCS), which includes the planning, system engineering, and project management of the evolving DCS.

5.26.6. Ensure the ability of the DCS to be responsive at all levels of conflict, exercising operational direction and management control through the National Communications System and/or Defense Communication Agency Operations Center (NCS/DCAOC), DCA Europe, and DCA Pacific.

5.27. The Director, Defense Logistics Agency (DLA), in addition to carrying out the functions assigned by DoD Directive 5105.22 (reference (jj)), shall:

5.27.1. Support and participate in emergency preparedness activities.

5.27.2. Develop and furnish to the OASD(P&L) industrial base capability assessments and investment strategies to support GMR options.

5.27.3. Incorporate GMR into the Program Objectives Memorandum (POM) development cycle.

5.27.4. Stockpile and manage strategic and critical materials in the national defense stockpile.

## 6. EFFECTIVE DATE

This Directive is effective immediately.

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

/S/  
William H. Taft, IV  
Deputy Secretary of Defense

Enclosures - 3

- E1. References, continued
- E2. Definitions
- E3. The OSD CMS

### E1. ENCLOSURE 1 REFERENCES, continued

- (e) National Security Decision Directive (NSDD) 188, "Government Coordination for National Security Emergency Preparedness," September 16, 1985
- (f) [DoD Directive 3020.26](#), "Continuity of Operations Policies and Planning," October 24, 1985
- (g) [DoD Directive 5111.1](#), "Under Secretary of Defense for Policy," September 27, 1985
- (h) DoD Directive 3025.10, "Military Support of Civil Defense," July 22, 1981
- (i) [DoD Directive 3025.12](#), "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (j) DoD Directive 5030.45, "DoD Representation on Federal Emergency Management Agency (FEMA) Regional Preparedness Committees and Regional Field Boards," November 29, 1983
- (k) [DoD Directive 5160.54](#), "DoD Key Assets Protection Program (KAPP)," December 5, 1986
- (l) DoD Directive 5111.2, "Department of Defense Mobilization and Deployment Study Group," April 2, 1979
- (m) Secretary of Defense Memorandum on the Responsibilities for the Under Secretary of Defense (Acquisition), September 30, 1986
- (n) DoD Directive 5128.1, "Assistant Secretary of Defense (Acquisition and Logistics)," November 19, 1985
- (o) Public Law 81-774, "Defense Production Act of 1950," September 8, 1950
- (p) [DoD Directive 5137.1](#), "Assistant Secretary of Defense (Command, Control, Communications, and Intelligence)," April 2, 1985
- (q) [DoD Directive 5100.41](#), "Executive Agent Responsibilities for the National Communications System (NCS)," July 23, 1979
- (r) "Communication Act of 1934," June 19, 1934, as amended
- (s) Executive Order 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984
- (t) [DoD Directive 5118.3](#), "Assistant Secretary of Defense (Comptroller)," July 11, 1972
- (u) [DoD Directive 5125.1](#), "Assistant Secretary of Defense (Reserve Affairs)," January 12, 1984
- (v) [DoD Directive 5142.1](#), "Assistant Secretary of Defense (Legislative Affairs)," July 2, 1982
- (w) [DoD Directive 5124.2](#), "Assistant Secretary of Defense (Force Management and Personnel)," July 5, 1985
- (x) [DoD Directive 5136.1](#), "Assistant Secretary of Defense (Health Affairs)," October 5, 1984
- (y) [DoD Directive 5122.5](#), "Assistant Secretary of Defense (Public Affairs)," June 15, 1982
- (z) [DoD Directive 5145.1](#), "General Counsel of the Department of Defense," January 7, 1959
- (aa) [DoD Directive 5141.1](#), "Assistant Secretary of Defense (Program Analysis and Evaluation)," September 22, 1982
- (bb) DRB Memorandum 84-16, "Memorandum for Members of the Defense Resources Board (DRB)," May 25, 1984
- (cc) DoD Directive 5148.2, "Assistant to the Secretary of Defense (Atomic Energy)," February 4, 1986
- (dd) DoD Directive 5138.3, "Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict)," January 4, 1988
- (ee) [DoD Directive 5106.1](#), "Inspector General of the Department of Defense," March 14, 1983

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- (ff) [DoD Directive 5158.1](#), "Organization of the Joint Chiefs of Staff and Relationships with the Office of the Secretary of Defense," May 1, 1985
- (gg) DoD Directive 5105.40, "Defense Mapping Agency," April 23, 1986
- (hh) [DoD Directive 5105.19](#), "Director, Defense Communications (DCA)," August 10, 1978
- (ii) Joint Chiefs of Staff Pub. 1, "Department of Defense Dictionary of Military and Associated Terms," June 1, 1987
- (jj) [DoD Directive 5105.22](#), "Defense Logistics Agency," August 15, 1986

## E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Alternate Headquarters. An existing facility currently manned and capable of assigning essential emergency functions if the primary headquarters cannot operate or relocate.

E2.1.2. Civil Defense. All those activities and measures designed or undertaken to:

E2.1.2.1. Minimize the effects upon the civilian population caused, or that would be caused, by an attack upon the United States.

E2.1.2.2. Deal with the immediate emergency conditions that an attack would create.

E2.1.2.3. Make emergency repairs or restore vital utilities and facilities destroyed or damaged by an attack.

E2.1.3. Control Organization. An organizational entity that is formed to continue operations and determine what portions of the total organization must be reconstituted first.

E2.1.4. Crippling. The degree of destruction, disruption, and loss of life which, while not decisive, would raise serious questions as to the ability of the United States to recover and regain its former status.

E2.1.5. Crisis Coordination Group (CCG). The CCG, which is a part of the CMS, consists of DoD Component members and civil Departments and Agencies who gather in the Crisis Coordination Center during a crisis for disseminating and coordinating timely information on key issues.

E2.1.6. Crisis Management System (CMS). The CMS is a standby system that is activated by the USD(P), or authorized representative, during a crisis. The CMS facilitates the staffing process, and ensures that OSD senior staff officials are provided the mechanisms and procedures essential to enable them to perform their emergency management responsibilities. (See enclosure 3.)

E2.1.7. Essential Emergency Functions. Those functions of the Federal Government that are necessary for performing the operations of the Government in wartime and that are indispensable to the conduct of assigned missions.

E2.1.8. Executive Document. Any document requiring Presidential approval.

E2.1.9. Graduated Mobilization Response (GMR). (See definition E2.1.11., below.) The process by which the United States responds to early ambiguous or explicit warning of an emerging national security emergency, including preplanned incremental steps to react flexibly to a wide range of national security threats, and provide timely preparedness measures in the areas of force readiness, industrial base preparedness, operational requirements, and combat sustainability.

E2.1.10. Legislative Document. Any document requiring congressional enactment or adoption.

E2.1.11. Mobilization



## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

E2.1.11.1. The act of assembling and organizing national resources to support national objectives in time of war or other emergencies.

E2.1.11.2. The process by which the Armed Forces, or part of them, are brought to a state of readiness for war or other national emergency. This includes activating all or part of the Reserve components as well as assembling and organizing personnel, supplies, and materiel. (See JCS Pub. 1 and DoD Directive 3020.26 (references (ii) and (f)).)

E2.1.12. National Emergency. A condition declared by the President or Congress by powers previously vested in them that authorize certain emergency actions to be undertaken in the national interest.

### E3. ENCLOSURE 3 THE OSD CMS

#### E3.1. GENERAL

E3.1.1. The OSD CMS is a standby system to be activated at the call of the USD(P). The CMS enables the OSD to accomplish its essential emergency functions effectively in times of major national security crises, focusing primarily on those crisis management activities in which OSD principals below the level of the Secretary and the Deputy Secretary of Defense play the major roles. The CMS permits:

E3.1.1.1. The rapid coordination of multiple actions.

E3.1.1.2. The dissemination to OSD principals of all information essential to informed decision making.

E3.1.1.3. The resolution of issues at the lowest appropriate levels.

E3.1.1.4. The surfacing of coordinated recommendations to the Secretary of Defense for a decision or recommendation to higher authority. Additionally, the CMS provides a central focus for the Secretary of Defense and other OSD and DoD principals to determine the status of crisis-related activities for which the OSD is responsible.

E3.1.2. Activation of the CMS does not alter existing lines of authority or responsibility within the Department of Defense. Senior OSD executives, the JCS, the Joint Staff, the Unified and Specified Commanders, and the Military Departments retain authority for their area of responsibility (to implement decisions and actions). The CMS facilitates the staffing process and ensures that the OSD senior staff officials are provided the information, mechanisms, and procedures essential to the discharge of their emergency management responsibilities.

#### E3.2. ORGANIZATION.

The basic CMS elements are as follows:

E3.2.1. A Crisis Management Council chaired by the Secretary of Defense.

E3.2.2. Several functionally oriented boards and committees chaired at the USD or the ASD, and the DUSD or the DASD levels, respectively.

E3.2.3. A Program Review Group (PRG) to support deliberations on planning, program, and budget issues.

E3.2.4. A CCG to provide a central point of contact, information, and coordination within the OSD for crisis matters.

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## E3.3. FUNCTIONING

E3.3.1. The CMS boards and committees and the PRG meet at the call of their chairpersons to exchange information; deliberate on major crisis issues; and provide advice, coordination, and recommendations to their chairpersons. At meetings of the Crisis Management Council, OSD principals shall ensure that any dissenting views they may hold are presented to the Secretary of Defense. Similarly, the Secretary of Defense shall ask the Secretaries of the Military Departments to attend when Service interests are involved in the issues to be considered. The Secretaries of the Military Departments, the Service Chiefs, and the OSD principals shall continue to have direct and full access to the Secretary of Defense. The JCS shall advise the Secretary on matters within their statutory responsibilities, as they do now.

E3.3.2. The CMS boards and committees have no intrinsic authority. They are designed to assist their chairpersons in the discharge of the responsibilities of those chairpersons. It is expected that the chairpersons and the executive secretaries shall convene only those members required to address the specific issues at hand. This may be less than, or more than, the nominal membership established for the board or committee. Although there may be a logical flow of functional issues from committees to boards, committees do not report to, nor are they supervised by, specific boards. The normal staff relationships among the OSD principals who chair the boards and committees continue to function in the crisis.

E3.3.3. The PRG is the same group that supports the DRB during non-crisis activities. When functioning as part of the CMS, the PRG shall work directly for the Crisis Management Council.

E3.3.4. After activation of the CMS, crisis-related staff activities requiring broad OSD attention shall be monitored by the CMS CCG. The CCG is comprised of representatives from the OSD Components and liaison officers from the Joint Staff, the Military Departments, appropriate DoD Agencies, and other Federal Departments and Agencies, depending on the nature of the crisis. The CCG provides timely dissemination of crisis information to appropriate offices; facilitates coordination within the OSD and between the OSD and other DoD Components and the civil sector of the Government; and maintains and briefs the status of crisis-related activities within the OSD. The CCG convenes in the OSD Crisis Coordination Center, Pentagon, Room 3C912.

E3.3.5. The CCG representatives function essentially in coordination and information exchanging roles. There shall be issues arising that are within the authority of a CCG representative to resolve. The CCG staff representatives shall draw on their parent offices for support, guidance, and information, as required.

E3.3.6. The OSD CMS is a dynamic system. The principal OSD CMS test and evaluation vehicle is the national security exercise program. Enhancements and adjustments are made both during and following each major exercise. In an actual national security emergency, the CMS equally shall be flexible in adjusting to the specifics of the crisis at hand. Recommendations for adjustments, improvements, or changes should be addressed to the Director, OSD Crisis Coordination Center, Office of the Deputy Under Secretary of Defense (Policy), Room 3C912, Pentagon, Washington, DC 20301-2000.

## **APPENDIX 8-10: FM 100-19, DOMESTIC SUPPORT OPERATIONS, DEPARTMENT OF DEFENSE CIVIL DISTURBANCE PLAN (GARDEN PLOT) JULY 1993**

No longer available at official publication sites. Can be found at:

[http://www.webpal.org/webpal/a\\_reconstruction/immediate/martial\\_law/fm100\\_19.pdf](http://www.webpal.org/webpal/a_reconstruction/immediate/martial_law/fm100_19.pdf)

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

### **APPENDIX 8-11:** NGR 500-1/ANGI 10-8101, MILITARY SUPPORT TO CIVIL AUTHORITIES

<http://www.ngbpdc.ngb.army.mil/pubfiles/10/108101.pdf>

## APPENDIX 8-12: WILDFIRE MOU<sup>1</sup>

Appendix B  
Memorandum of Understanding Between the  
Department of Defense and the Departments of  
Agriculture and the Interior

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### I. PURPOSE

This Memorandum of Understanding establishes general guidelines concerning the furnishing of assistance by Department of Defense (DOD) components at the request of Boise Interagency Fire Center (BIFC) <sup>1/</sup> in forest and grass-land fire emergencies occurring within the continental United States (48 contiguous states).

### II. RESPONSIBILITIES

A. This Memorandum of Understanding does not supersede or modify the existing mutual aid agreement procedures between individual military installations and States. The Forest Service (FS), Department of Agriculture, has statutory responsibility for protection of the National Forests from damage by wildfire and for cooperation with the States in the protection of forest and watershed lands from fire. FS at BIFC will provide national coordination and logistical support for interregional fire control action.

B. Agencies of the Department of the Interior [Bureau of Land Management (BLM), National Park Service (NPS), Bureau of Indian Affairs (BIA), and U.S. Fish and Wildlife Service (FWS)] have statutory responsibility for the protection of land under their respective administration from damage by wildfire. The Bureau of Land Management (BLM) at BIFC provides logistical support to the initial attack capabilities of its Districts including coordination of fire control efforts in the twelve; Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Wyoming, Washington; Western States. BLM at BIFC also provides logistical support in fire control to the National Park Service, Bureau of Indian Affairs, and U.S. Fish and Wildlife Service.

C. When military assistance is furnished to BIFC in fire emergencies, such assistance will be deemed to have been furnished pursuant to section 601 of the Economy Act of 1932, as amended (31 U.S.C. 686).

D. The BIFC is responsible for providing national coordination and logistical support for Federal interagency fire control actions.

<sup>1/</sup> A Federal interagency fire coordination center under control of the Departments of Agriculture and the Interior.

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<sup>1</sup> This MOU is included for reference only. It is no longer still in effect, but some of the specified procedures have been modified by subsequent agreement (MOU between Dept of the Army and NIFC, 8 Aug, 1990).

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

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1. BIFC is staffed by Federal interagency personnel whose facilities are collectively combined to carry out their parent Department's fire responsibilities and who collaborate and cooperate in the solution of fire problems of mutual concern.

2. BIFC will act as liaison between Federal and, when requested, State agencies as regards their requirements for military assistance in suppressing forest or grassland fires.

3. BIFC shall establish and maintain contact with each CONUS Army headquarters to develop local procedures and to maintain information on military capabilities for emergency assistance.

E. As outlined in DOD Directive 3025.1, the Secretary of the Army has been designated DOD Executive Agent for military support in disasters within the 50 States, the District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof. The Secretary enters into this Memorandum of Understanding on behalf of the Department of the Army, Navy, Air Force, and DOD agencies, referred to hereafter as DOD Components, which may be requested to provide disaster assistance to Federal agencies and States through the BIFC.

F. The Federal Disaster Assistance Administration (FDAA), Department of Housing and Urban Development, is responsible for coordinating all Federal disaster assistance provided under the authority of the Disaster Relief Act of 1974 (PL 93-288) and Executive Order 11795, 11 July 1974, (hereinafter referred to as the Act).

### III. POLICY

It is the policy of the DOD to provide emergency assistance to Federal agencies in the form of personnel, equipment, supplies, or fire protection services in cases where a forest or grassland fire emergency is beyond the capabilities of the resources available. There are two situations in which the DOD, consistent with Defense priorities, will provide such assistance:

A. At the Request of the BIFC - When, in the determination of the BIFC, military assistance is required and justified in order to suppress wildfires. This includes requests for assistance for fires on Federal property as well as fires on State or private lands. Requests will include a statement to the effect that all available or suitable civilian resources have been committed and that requested support is not in competition with private enterprise.

B. Pursuant to the Act - When a forest or grassland fire on State or private land is declared a major disaster or a determination for emergency assistance is made by the President and the required military support is requested by the Federal Coordinating Officer (FCO) or FDAA Regional Director. The Act is not normally invoked for incidents or related incidents occurring on Federal property.

## IV. OPERATIONAL PROCEDURES AND FUNDING

A. The procedures set forth below will be followed when assistance is rendered under circumstances other than the Act.

1. All requests for forest or grassland fire assistance from Federal and State agencies should be submitted through the BIFC. BIFC will then submit the requests to the commander of the appropriate CONUS Army. However, when a fire emergency is so serious that adherence to normal request channels would significantly endanger life or result in great loss of property, Federal or State agencies may make requests for assistance directly to the commander of the nearest military installation. As soon as the situation permits, the BIFC will be notified and normal procedures established by the requesting agency.

2. Upon receipt of a request for assistance from the BIFC the CONUS Army Commander will provide the required support from either Army assets or from other DOD component assets, as required. Normal DOD disaster relief procedures will be followed and every effort will be made to expedite the provision of the requested support.

3. The Departments of Agriculture (FS) and the Interior (BLM, NPS, BIA, & FWS) will promptly reimburse the DOD for all costs incurred in furnishing the requested assistance as are in addition to the normal operating expenses of the personnel, equipment and resources involved without requirements of audit (see 31 U.S.C. 686 (a)). Such costs will include additional personal services of military and civilian employees, travel and per diem expenses for military and civilian personnel, and other expenses to include transportation of supplies, materials, and equipment furnished and not returned or damaged beyond economical repair; and costs of repairing or reconditioning nonconsumable items returned.

4. Each request submitted by BIFC will carry an appropriate identifying number (Fire Order Number), which will be utilized by the CONUS Army furnishing the assistance to maintain an accurate record of all expenses incurred in fulfilling that request. Billings attributable to each fire order will be submitted on Standard Form 1080, Voucher for Transfer Between Appropriation and/or Funds.

5. Billings by DOD components for the cost of assistance furnished will be forwarded by the CONUS Army to the BIFC for distribution to the agency responsible for reimbursement. Primary responsibility for reimbursement rests with the Departments of Agriculture and the Interior. Payments, however, will be made directly to the appropriate CONUS Army, with a copy of the payment voucher or other suitable document being furnished to BIFC to indicate that payment has been made.

6. Charges for personal services, materials, and/or equipment furnished will be governed by applicable DOD directives and implementing regulations.

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

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7. Charges will be made for costs incurred in withdrawing materials and equipment from and returning them to, depot stock. Damages to equipment will be charged on the basis of costs of repairing or reconditioning the equipment and placing it in as good a condition as when loaned. The DOD components concerned will furnish all needed repair material and perform all necessary repair and maintenance work. Charges for equipment destroyed will be on the basis of current replacement costs for an item in a condition similar to that immediately prior to destruction (30 Comptroller General 295 and Comptroller General B146588, 8/29/61).

8. In the event that the actual costs of furnishing requested assistance significantly differ from the standard costs or rates of charge specified in appropriate directives described in IV.A.6., above, it is mutually agreed that appropriate adjustments of charges will be made on the basis of actual costs. It is further agreed that where the extent of assistance provided requires an increase in the overall operating costs of the military agency involved, reimbursement will also cover these relevant increases in costs. Due consideration shall be given to the unusual costs involved in the expeditious transport of personnel, supplies, and equipment necessitated by emergency conditions (e.g., airlift, airdrop, ship-to-shore, float-in operations, etc.) and claims for the costs of such emergency operations shall be deemed valid and to constitute proper claims for reimbursement.

9. All charges for services or materials as specified above will be accumulated against appropriate reimbursable orders and cross-referenced to each Fire Order issued by BIFC. In the interest of convenience and economy, if the total accumulated charges for any single incident covered by one or more Fire Orders does not exceed \$100, billing by the respective DOD components concerned will be waived.

B. The procedures set forth below will be followed when assistance is rendered pursuant to Public Law 93-288.

1. When requesting assistance in connection with fire emergencies for support to State or private lands which have been declared "major disasters" or emergencies, the State officials will submit their requests to the FDAA Regional Director/Federal Coordinating Officer.

2. The FDAA Regional Director/Federal Coordinating Officer should request military assistance from the appropriate CONUS Army commander in accordance with existing procedures.

3. Military assistance will be provided in accordance with the policies and procedures established in DOD Directive 3025.1 and other appropriate directives.

4. Reimbursement to DOD for personnel, supplies, and services furnished will be made by FDAA pursuant to the provisions of Public Law 93-288 and the Code of Federal Regulations, Title 24, Chapter 13, Part 2205.

- V. This memorandum rescinds June 1971 Memorandum of Understanding between the Department of Defense and the Department of Agriculture.

VI. SUPPLEMENTAL AGREEMENT

Subordinate components of the DOD are authorized to enter into supplemental agreements with BIFC to implement provisions of this agreement. All such agreements will be documented on DD Forms 1144; and where such agreements involve recurring support, the participating DOD components will process such forms to the retail interservice support data bank in accordance with the applicable provisions of DOD Directive 4000.19-M.

VII. RESOLUTION OF DISAGREEMENTS

When disputes or unique situations produce stalemates, DOD components and the BIFC will promptly submit jointly-signed statements of disagreement to the DOD Executive Agent for resolution.

VIII. EFFECTIVE DATE

This memorandum is effective as of the date it is signed below and shall remain in effect until specifically rescinded; however, the provisions hereof relative to operational procedures and funding and financial procedures shall be reviewed biennially by designated representatives of the respective signatories to determine whether the agreements contained herein should be continued, modified, or terminated.

APPROVED FOR U. S. DEPARTMENT OF AGRICULTURE

By Earl L. Butz Date 1-10-75

APPROVED FOR U. S. DEPARTMENT OF THE INTERIOR

By Stanley K. Hathaway Date 6-26-75

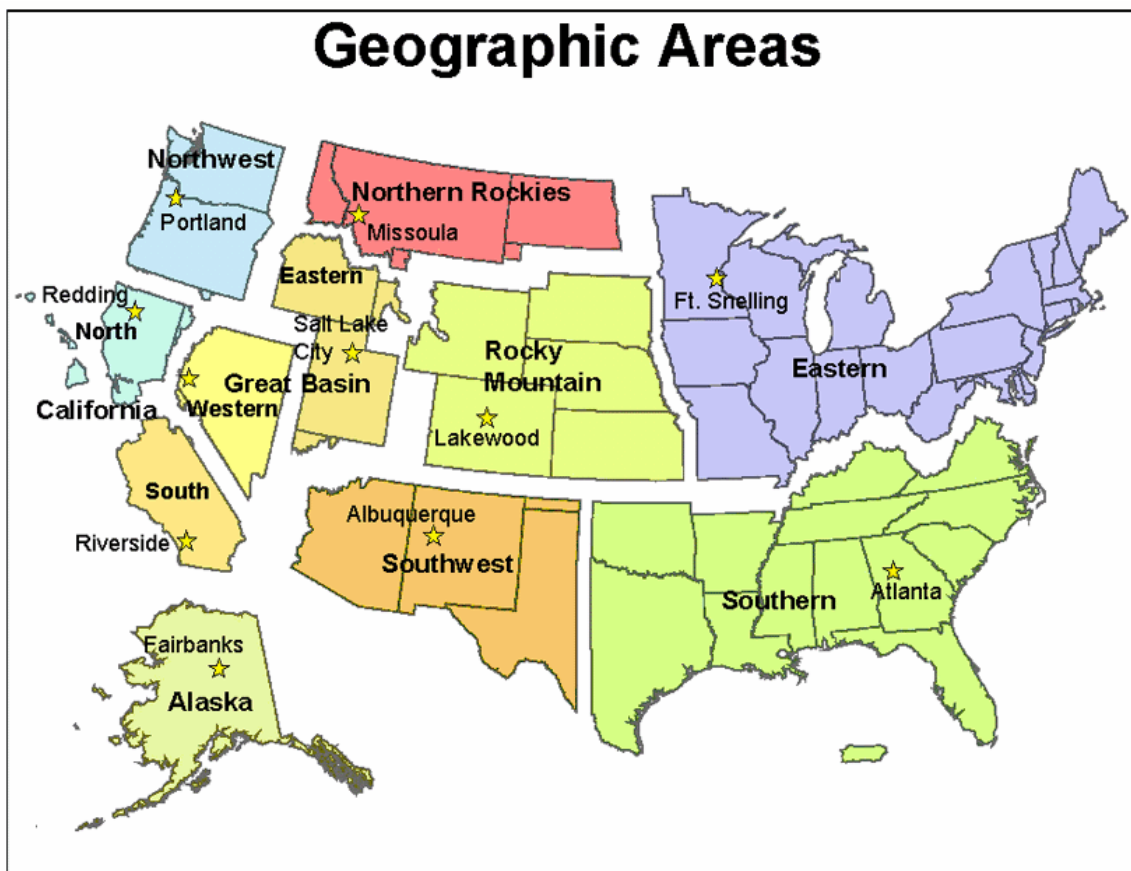
APPROVED FOR DEPARTMENT OF DEFENSE

By Howard H. Callaway Date 25 APR 75



## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

### APPENDIX 8-13: NIFC AREA COORDINATIONS CENTERS



### Appendix 8-14: Critical Asset Assurance Program

#### Department of Defense DIRECTIVE

NUMBER 5160.54

January 20, 1998

Certified Current as of November 24, 2003

USD(P)

SUBJECT: Critical Asset Assurance Program (CAAP)

- References:
- (a) DoD Directive 5160.54, "DoD Key Asset Protection Program (KAPP)," June 26, 1989 (hereby canceled)
  - (b) [DoD Directive 3020.36](#), "Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to Department of Defense Components," November 2, 1988
  - (c) DoD Directive S-3600.1, "Information Operations (IO) (U)," December 9, 1996
  - (d) DoD 5160.54-R, "Industrial Facilities Protection Regulation," March 1977
  - (e) through (n), see enclosure 1

#### 1. REISSUANCE AND PURPOSE

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This Directive:

1.1. Reissues reference (a) to update DoD policies and responsibilities for the protection and assurance of DoD and non-DoD Critical Assets worldwide, to support the requirements of reference (b), and to implement the policies established by reference (c) as they pertain to Critical Assets that are, include, or depend upon Information Systems. (See definition E2.1.9.)

1.2. Expands the requirement to identify Critical Assets and ensure their integrity, availability, survivability, and capability to support vital DoD missions across the full range of military operations.

1.3. Provides for an integrated infrastructure vulnerability assessment and assurance program based on an analysis of the identified Critical Assets using risk management principles. The risk management-based analysis provides the information necessary to effectively allocate available resources necessary for assurance.

1.4. Continues the authorization to publish reference (d), and authorizes the publication of DoD 5160.54-M, consistent with DoD 5025.1-M (reference (e)).

## 2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

## 3. DEFINITIONS

The terms used in this Directive are defined in enclosure 2.

## 4. POLICY

It is DoD policy to:

4.1. Identify and ensure the availability, integrity, survivability and adequacy of those assets (domestic and foreign) whose capabilities are deemed critical to DoD Force Readiness and operations in peace, crisis, and war by providing for their protection from all hazards; mitigating the effect of their loss or disruption; and/or planning for timely restoral or recovery. The level of assurance appropriate for each asset is a risk management decision of the owning or controlling DoD Component, made in coordination with those dependent on the asset, and based on its criticality, the threat, and resources available.

4.2. Recognize that critical DoD equipment, facilities, and services are dependent upon non-DoD assets -- the international and national infrastructures, other facilities and services of the private sector, and those of other Government Departments and Agencies; and that non-DoD assets essential to the functioning of DoD Critical Assets are also Critical Assets of concern to the Department of Defense. Critical Assets include information systems and computer-based systems and networks that can be distributive in nature.

4.3. Recognize that in peacetime responsibility for protecting non-DoD Critical Assets and designing their security rests primarily with the civil sector owners and with local, State, and Federal law enforcement authorities and that responsibility for protecting non-U.S. Critical Assets rests with the appropriate national authority. However, the Department of Defense must participate with the civil sector, emergency preparedness and law enforcement authorities in planning for Critical Asset assurance during an emergency, and must be prepared, in concert with the appropriate authorities and within defense priorities, to assist in their protection during emergencies, including natural disaster, physical or technical attack, and technological or other emergency that seriously degrades or threatens DoD operations. (See DoD Directives 3025.1, 3025.12, and 3025.15, references (f) through (h).)

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

4.4. Provide an integrated asset and infrastructure vulnerability assessment and assurance program for the protection and assurance of DoD and non-DoD Critical Assets worldwide through the CAAP. The CAAP must provide a comprehensive and integrated decision support environment to represent the relationship between Critical Assets and force readiness and operations in peace, crisis or war that can be used to assess the dependencies, vulnerabilities and effects of the disruption or loss of Critical Assets or supporting infrastructures on their plans and operations. The CAAP must also provide the capability for Critical Asset assurance analysis, planning, prioritization, resource programming, and response necessary to mitigate the disruption or loss of Critical Assets. It must also ensure that the collection, retention, and dissemination of CAAP information are in compliance with applicable U.S. law, statutes, directives, and policies as delineated by the established intelligence oversight program. (See DoD Directive 5240.1 and DoD 5240.1-R (references (i) and (j)).)

### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Provide policy direction and guidance for the development and implementation of the CAAP as an element of national security emergency preparedness.

5.1.2. Represent the Secretary of Defense with other Federal Departments and Agencies and with industry in the development, review, and approval of standards for the assurance of all Critical Assets and coordinate such agreements as may be appropriate for this program.

5.1.3. Develop and lead a process for annual program review of the CAAP with the DoD Components and the DoD Executive Agent that includes an analysis of the program effectiveness in meeting goals and objectives, an assessment of the performance of organizations in accomplishing their roles and responsibilities, a review of threats and technologies, and the status of planning and analysis for the assurance of Critical Assets to ensure compliance with this Directive.

5.1.5. Establish, support, and provide the Co-Chair (with the Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence) for the Critical Infrastructure Protection Working Group (CIPWG).

5.1.6. Maintain and revise this Directive.

5.2. The Under Secretary of Defense for Acquisition and Technology shall:

5.2.1. Comprehensively integrate the policies established by this Directive in acquisition policy guidance, to include the Federal Acquisition Regulations System (reference (k)); develop assurance standards; and ensure that internal and external infrastructure protection, mitigation, detection, reaction, and recovery measures are designed into the acquisition process, systems being developed and acquired, and the supporting industrial base.

5.2.2. Foster research on infrastructure systems assurance and analysis and promote development of infrastructure interdependency analysis. Identify technologies that represent threats to Critical Assets or related infrastructures (e.g., information or command and control systems), countermeasures technologies for existing or emerging threats, and technologies that may have inherent susceptibilities or vulnerabilities.

5.2.3. Provide policy to assess and mitigate infrastructure dependencies and vulnerabilities of specific DoD installations, facilities, and supporting private sector facilities and systems.

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5.2.4. In accordance with instructions from the DoD Executive Agent, provide DoD installations and facilities database support to facilitate maintenance of Critical Assets data by the DoD Components for inclusion in the CAAP.

5.3. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall:

5.3.1. Integrate the policies established by this Directive into policy guidance and standards promulgated for functional areas assigned by DoD Directive 5137.1 (reference (l)). Ensure, in consultation with Under Secretary of Defense for Acquisition and Technology, infrastructure dependencies and protection, mitigation, detection, reaction, and recovery measures are considered during command, control, communications, intelligence, information, and security systems development and acquisition. Ensure that intelligence, counterintelligence, and security countermeasure programs support the protection, survivability, availability, integrity, and recovery of Critical Assets.

5.3.2. Provide the Co-Chair (with the Office of the Under Secretary of Defense for Policy) for the CIPWG.

5.3.3. Require the Director, Defense Investigative Service (DIS), to:

5.3.3.1. Conduct, in coordination with the appropriate DoD Component and with permission of the owners, on-site surveys, to include vulnerability analyses to physical and technical threats, for each non-DoD Industrial and Infrastructure Critical Asset designated by the DoD Executive Agent as requiring on-site survey.

5.3.3.2. Maintain liaison with the DoD Executive Agent, the responsible DoD Component, and consult with industry, as appropriate. Develop CAAP survey procedures in coordination with the DoD Executive Agent, and support courses of instruction to orient and train Government and industry personnel on CAAP surveys. Obtain technical assistance from the other DoD Components, as required.

5.3.4. Require the Director, Defense Intelligence Agency (DIA), in coordination with the National Security Agency (NSA), the DIS, the Federal Bureau of Investigation (FBI), and the Director, Central Intelligence, to develop procedures for continuous analysis of the hostile intelligence; special operations; and technical, terrorist, criminal, and other transnational threats to Critical Assets and Infrastructures; develop and maintain a Critical Asset and Infrastructure Threat Assessment, and advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff and the DoD Components of hostile threats to Critical Assets and Infrastructures in their areas of responsibility as evolving threats become known. These activities must be accomplished within the provisions of DoD Directive 5240.1 and DoD 5240.1-R (references (i) and (j)).

5.3.5. Require the Director, National Imagery and Mapping Agency, to support the DoD Executive Agent's requirements for imagery and maps needed for the CAAP.

5.3.6. Require the Director, Defense Information Systems Agency, to:

5.3.6.1. Provide, in conjunction with the DoD Components, for the assurance of the Defense Information Infrastructure (DII) and mitigation of the effects of its loss or disruption.

5.3.6.2. Coordinate with the National Communication System (NCS) to identify National Information Infrastructure (NII) assets critical to the DoD operations and National Security and Emergency Preparedness telecommunications. Identify to the DoD Executive Agent and the appropriate DoD Components the Critical Assets of the DII and the NII whose disruption or loss would seriously affect DoD operations and the nature of those effects. Coordinate with the DoD Executive Agent, the DoD Components, and the NCS regarding actions taken to increase the reliability, redundancy, protection, and restoral of information systems supporting Critical Assets.

## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

5.3.6.3. Provide for overall coordination of the Computer Emergency Response Team (CERT) activities of the DoD Components and their interface with CERT-related activities of the Federal Government (to include the FBI), the NSA for national security systems, and the private sector.

5.4. The Chairman of the Joint Chiefs of Staff shall:

5.4.1. Ensure identification of Critical Assets necessary for the execution of Deliberate and Crisis Action Plans and plan for mitigation of their loss or disruption. Identify those Critical Assets to the DoD Executive Agent.

5.4.2. Ensure that disruption and loss of Critical Assets, to include supporting national infrastructures, are scripted and responded to in Joint Exercises.

5.5. The Secretary of the Army, as the DoD Executive Agent, shall:

5.5.1. Develop, implement, and administer the CAAP to meet the requirements described in paragraph 4.4., above. Obtain Critical Asset nominations from the DoD Components, integrate them into the CAAP, and program and provide CAAP resources for support of CAAP decision support systems, analytic and management activities. Provide the capability for each DoD Component to use the CAAP for identification, analysis, and assurance of assets critical to its operations. In coordination with the DoD Components, establish priorities for infrastructure analysis, and remediation, recommend actions to the DoD Components based upon the CAAP and DIA threat analysis, and review the CAAP annually with the Under Secretary of Defense for Policy (USD(P)) and the DoD Components.

5.5.2. Develop, publish, and administer DoD 5160.54-R (reference (d)), and 5160.54-M, consistent with DoD 5025.1-M (reference (e)).

5.5.3. Coordinate with other Departments and Agencies, as required, to solicit nominations of Infrastructure Assets critical to national defense applications. Designate non-DoD Industrial and Infrastructure Critical Assets that require on-site surveys and vulnerability assessments. Coordinate with the DIS regarding conduct of industrial Critical Asset site surveys and vulnerability assessments.

5.5.4. Ensure that regulations, plans, and procedures governing military support to law enforcement in civil disturbances, as promulgated under DoD Directive 3025.12 (reference (g)), facilitate response by the DoD Components to protect Critical Assets under any conditions or circumstances covered by that Directive.

5.6. The Secretary of the Navy shall require the Program Manager, Joint Program Office for Special Technology Countermeasures, to provide the infrastructure assurance analysis and vulnerability assessment support to the DoD Executive Agent.

5.7. The Heads of the DoD Components shall:

5.7.1. Identify those assets critical to their operations (to include the supporting DoD and non-DoD infrastructures and other civil sector facilities and services), nominate those Critical Assets for inclusion in the CAAP, conduct risk assessments, and designate their category of importance in accordance with the instructions of the DoD Executive Agent.

5.7.2. Retain overall responsibility for the assurance of the Critical Assets subject to their authority or control. Program and provide for increased Critical Asset reliability, security and redundancy; plan for their disruption or loss and subsequent restoral; and develop systems that are less dependent upon vulnerable infrastructures and systems. Program and provide for supplemental integrated infrastructure vulnerability assessment and assurance capability when requirements exceed organic capabilities. Provide for a CERT capability.

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5.7.3. Include a contractual requirement for cooperation in vulnerability assessments and assurance planning when contracting for private sector facilities, services and products, and consider all-hazard assurance of service when awarding contracts.

5.7.4. Review annually all Critical Asset nominations and recommend changes in accordance with the instructions of the DoD Executive Agent. Review the CAAP annually with the USD(P) and the DoD Executive Agent. Provide senior (flag or senior executive service) representation on the CIPWG.

5.7.5. Assign personnel to the Executive Agent to support the CAAP and comply with the requirements of the DoD Executive Agent in accordance with this Directive.

5.7.6. Require that commanders of DoD installations conduct an annual review with all tenant activities of all Critical Assets associated with their installation, to include supporting DoD and non-DoD infrastructures and other civil sector facilities and services upon which the Critical Assets depend. This review shall include the validation of data on facilities and their dependencies, an examination of Installation and tenants' plans for increasing reliability, reducing vulnerabilities, mitigating hazards to and the restoration of Critical Assets, and a review of these plans with the FBI, local emergency services personnel (including local law enforcement), the National Guard, and the representatives of critical infrastructure and support service providers, as appropriate. Assist tenant activities in direct coordination with local providers of critical infrastructure and other support services necessary to the operation of the their Critical Assets. Require that commanders of DoD Installations report through their chains of command the review results to the DoD Executive Agent so that plans and requirements can be fully coordinated and supported across the Department.

## 6. INFORMATION REQUIREMENTS

The collection of installations and facilities data identified in subparagraph 5.2.4., above, is assigned Report Control Symbol DD-A&T(A)760, and the collection of Critical Asset data identified in subparagraphs 5.5.1. and 5.7.1., above, is assigned Report Control Symbol DD-POL(A)1747, in accordance with DoD 8910-M (reference (m)). The information collections in subparagraphs 5.3.3.1., 5.3.4., and 5.7.6., above, are exempt from licensing in accordance with reference (m).

## 7. EFFECTIVE DATE

This Directive is effective immediately.

/s/

John J. Hamre

Deputy Secretary of Defense

Enclosures - 2

E1. References, continued

E2. Definitions

### E1. ENCLOSURE 1 REFERENCES, continued

- (e) DoD 5025.1-M, "DoD Directives System Procedures," August 1994
- (f) DoD Directive 3025.1, "Military Support to Civil Authorities (SCA)," January 15, 1993
- (g) DoD Directive 3025.12, "Military Assistance for Civil Disturbances," February 4, 1994
- (h) DoD Directive 3025.15, "Military Assistance to Civil Authorities," February 18, 1997
- (i) DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988
- (j) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982
- (k) Title 48, Code of Federal Regulations, "Federal Acquisition Regulations System," October 1, 1996
- (l) DoD Directive 5137.1, "Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD (C3I))," February 12, 1992

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- (m) [DoD 8910.1-M](#), "DoD Procedures for Management of Information Requirements," November 28, 1986, authorized by DoD Directive 8910.1, June 11, 1993
- (n) [DoD Directive 5200.8](#), "Security of DoD Installations and Resources," April 25, 1991

### E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Assurance. In the context of CAAP, assurance is a process of identifying assets deemed critical to the Department of Defense in peacetime, crisis and war; assessing the potential threats to these assets and the capabilities they provide; quantifying the likely non-availability to the Department of Defense under various hazard scenarios; identifying potential actions that can be taken to restore those assets (or functionality they provide) if they are lost, damaged, corrupted, or compromised; and identifying and recommending options to protect, mitigate, and improve the availability of these Critical Assets to the DoD organizations that own, use, and control them. It includes a range of activities to systematically inform planners and decisionmakers of the probability of availability and quality (e.g., integrity, reliability, confidentiality, survivability, endurability, capacity, adequacy) of specific assets or services under given scenarios; quantifying the likely impact of non-availability to the military operation or defense activity; and identifying and prioritizing options to improve the likelihood of the availability of specific assets or services in specific scenarios. Examples of assurance activities that can improve the likelihood of asset availability include protection (preventing, by whatever means, the disruption or corruption of an asset); mitigation or moderation of the effects of disruption or corruption (by controlling the damage, providing alternative services, and reducing demand on the asset); and planning for and providing timely restoral or recovery. Alternatively, plans can be made to absorb the loss of otherwise anticipated services. Assurance of a Critical Asset is the responsibility of the owning or controlling DoD Component.

E2.1.2. Computer Emergency Response Team (CERT). An organization chartered by an information system owner to coordinate and/or accomplish necessary actions in response to computer emergency incidents that threaten the availability or integrity of its information systems.

E2.1.3. Critical Asset. Any facility, equipment, service or resource considered essential to DoD operations in peace, crisis and war and warranting measures and precautions to ensure its continued efficient operation, protection from disruption, degradation or destruction, and timely restoration. Critical Assets may be DoD assets or other Government or private assets, (e.g., Industrial or Infrastructure Critical Assets), domestic or foreign, whose disruption or loss would render DoD Critical Assets ineffective or otherwise seriously disrupt DoD operations. Critical Assets include both traditional "physical" facilities or equipment, non-physical assets (such as software systems) or "assets" that are distributed in nature (such as command and control networks, wide area networks or similar computer-based networks).

E2.1.4. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in this Directive.

E2.1.5. DoD Infrastructure. Infrastructure owned, operated or provided by the Department of Defense. DoD Infrastructures include the DII, C4ISR, Space, Financial Services, Logistics, Public Works (includes DoD-owned or -operated utilities, roads, rails and railheads and their interface to commercial and other Government Systems), Personnel, Health Affairs and Emergency Preparedness. See also definitions of Infrastructure and National Infrastructure, below.

E2.1.6. DoD Installation. A facility subject to the custody, jurisdiction, or administration of any DoD Component. This term includes, but is not limited to, military reservations, installations, bases, posts, camps, stations, arsenals, or laboratories where a DoD Component has operational responsibility for facility security and defense. Examples are facilities where orders or regulations for protection and security have been issued by the military commander or other specified DoD official under provisions of DoD Directive 5200.8 (reference (n)). Both industrial assets and infrastructure assets, not owned by the Department of Defense, may exist within the boundaries of a military installation.

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E2.1.7. Industrial Asset. Any factory, plant, building or structure used for manufacturing, producing, processing, repairing, assembling, storing, or distributing a product or components that supports a DoD Component. A Critical Industrial Asset is an industrial asset deemed essential to DoD operations or the functioning of a Critical Asset

E2.1.8. Information Assurance. Information Operations that protect and defend information and information systems by ensuring their availability, integrity, authentication, confidentiality, and non-repudiation. This includes providing for restoration of information systems by incorporating protection, detection, and reaction capabilities. (See DoD Directive S-3600.1, reference (c).)

E2.1.9. Information System. The entire infrastructure, organization, personnel and components that collect, process, store, transmit, display, disseminate and act on information under reference (c).

E2.1.10. Infrastructure. The framework of interdependent networks and systems comprising identifiable industries, institutions, and distribution capabilities that provide a continual flow of goods and services essential to the defense and economic security of the United States, the smooth functioning of government at all levels, or society as a whole.

E2.1.11. Infrastructure Asset. Any Infrastructure facility, equipment, service or resource that supports a DoD Component. A Critical Infrastructure Asset is an infrastructure asset deemed essential to DoD operations or the functioning of a Critical Asset.

E2.1.12. National Infrastructure. Those infrastructures essential to the functioning of the nation and whose incapacity or destruction would have a debilitating regional or national impact. National infrastructures include telecommunications, electrical power systems, gas and oil transportation and storage, water supply systems, banking and finance, transportation, emergency services, and continuity of government operations.

E2.1.13. Technical Attack. An attack that can be perpetrated by circumventing or nullifying hardware or software protection mechanisms, or exploiting hardware or software vulnerabilities, rather than physical destruction or by subverting system personnel or other users.

## APPENDIX 8-15: PDD-NSC-67

### **PDD-NSC-67 ENDURING CONSTITUTIONAL GOVERNMENT AND CONTINUITY OF GOVERNMENT OPERATIONS (U) 21 OCTOBER 1998**

*Presidential Decision Directive 67 (PDD 67), issued 21 October 1998, relates to enduring constitutional government, continuity of operations (COOP) planning, and continuity of government (COG) operations. The purpose of Enduring Constitutional Government (ECG), Continuity of Government (COG), and Continuity of Operations (COOP) is to ensure survival of a constitutional form of government and the continuity of essential Federal functions. Presidential Decision Directive 67 replaced the Bush Administration's NSD 69 "Enduring Constitutional Government" of 02 June 1992, which in turn succeeded NSD 37 "Enduring Constitutional Government" of 18 April 1990 and NSDD 55 "Enduring National Leadership" of 14 September 1982.*

*In addition, Executive Order 12656 [Section 202] required that "The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities."*



## APPENDIX 8: MISCELLANEOUS SUPPORT OPERATIONS

*Among other things, PDD 67 required Federal agencies to develop Continuity of Operations Plans for Essential Operations. In response to this directive, many Federal agencies formed task forces of representatives from throughout the agency who were familiar with agency contingency plans. They developed the COOP as a unifying concept that did not replace existing plans but, instead, superimposed COOP functions if and when a problem threatens serious disruption to agency operations. The plans identify those requirements necessary to support the primary function, such as emergency communications, establishing a chain of command, and delegation of authority.*

*With the reduced threat to this country of nuclear attack by the former Soviet Union and its successor nations, Enduring Constitutional Government programs (the former Continuity of Government programs) were scaled back in the early 1990s. Most of the resources of the National Preparedness Directorate of the Federal Emergency Management Agency [FEMA] were spent on ensuring the continuation of civilian government in the event of a nuclear war, through what are known as the Enduring Constitutional Government programs. The directorate also supports ongoing studies through war gaming, computer modeling, and other methods.*

*The April 1999 "Federal Response Plan" [FEMA 9230.1-PL] required the head of each Federal Department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.*

*The text of PDD-67 has not been released, and there is no White House Factsheet summarizing its provisions.*

*A [Federal Preparedness Circular \(FPC-65\)](#) provides guidance to Federal Executive Branch departments and agencies for use in developing viable and executable contingency plans for the continuity of operations (COOP).*



## APPENDIX 9 INTELLIGENCE LAW

### **APPENDIX 9-1: 50 U.S.C. § 401 ET SEQ – NATIONAL SECURITY ACT OF 1947 (AS AMENDED)**

See <http://www4.law.cornell.edu/uscode/50/401.html>

### **APPENDIX 9-2: 50 U.S.C. § 1801 ET SEQ. - FOREIGN INTELLIGENCE SURVEILLANCE ACT**

See <http://www4.law.cornell.edu/uscode/50/1801.html>

### **APPENDIX 9-3: EXECUTIVE ORDER 12333 - U.S. INTELLIGENCE ACTIVITIES**

#### **EXECUTIVE ORDER 12333--UNITED STATES INTELLIGENCE ACTIVITIES**

**Source:** The provisions of Executive Order 12333 of Dec. 4, 1981, appear at 46 FR 59941, 3 CFR, 1981 Comp., p. 200, unless otherwise noted.

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

## **Part 1**

### *Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort*

1.1 *Goals.* The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

### *1.2 The National Security Council.*

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

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(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

### 1.3 *National Foreign Intelligence Advisory Groups.*

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

- (1) Production, review and coordination of national foreign intelligence;
- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments on intelligence matters;
- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 *The Intelligence Community.* The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(b) Production and dissemination of intelligence;

(c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

1.5 *Director of Central Intelligence.* In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

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- (a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;
- (b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;
- (c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;
- (d) Ensure implementation of special activities;
- (e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;
- (f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;
- (g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;
- (h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;
- (i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;
- (j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;
- (k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;
- (l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;
- (m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;
- (n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

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- (o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;
- (p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;
- (q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;
- (r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and
- (s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

### *1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.*

- (a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.
- (b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.
- (c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

### *1.7 Senior Officials of the Intelligence Community.* The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

- (a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;
- (b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;
- (c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

## DOPLAW HANDBOOK

- (d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;
- (e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;
- (f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;
- (g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;
- (h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and
- (i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 *The Central Intelligence Agency.* All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

- (a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;
- (b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;
- (c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;
- (d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;
- (e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)<sup>1</sup>) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;
- (f) Conduct services of common concern for the Intelligence Community as directed by the NSC;
- (g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;
- (h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and



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(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 *The Department of State.* The Secretary of State shall:

- (a) Overtly collect information relevant to United States foreign policy concerns;
- (b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;
- (c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;
- (d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and
- (e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 *The Department of the Treasury.* The Secretary of the Treasury shall:

- (a) Overtly collect foreign financial and monetary information;
- (b) Participate with the Department of State in the overt collection of general foreign economic information;
- (c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and
- (d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 *The Department of Defense.* The Secretary of Defense shall:

- (a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;
- (b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;
- (c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;
- (d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

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- (e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;
- (f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;
- (g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;
- (h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;
- (i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;
- (j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and
- (k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include: (1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include: (1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

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- (4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;
  - (5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;
  - (6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;
  - (7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;
  - (8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;
  - (9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;
  - (10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;
  - (11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;
  - (12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and
  - (13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.
- (c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include: (1) Carrying out consolidated reconnaissance programs for specialized intelligence;
- (2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and
- (3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.
- (d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include: (1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States

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shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.* If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 *The Department of Energy.* The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 *The Federal Bureau of Investigation.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

## Part 2

### *Conduct of Intelligence Activities*

## APPENDIX 9: INTELLIGENCE LAW

2.1 *Need.* Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 *Purpose.* This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 *Collection of Information.* Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

- (a) Information that is publicly available or collected with the consent of the person concerned;
- (b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;
- (c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;
- (d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;
- (e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;
- (f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;
- (g) Information arising out of a lawful personnel, physical or communications security investigation;
- (h) Information acquired by overhead reconnaissance not directed at specific United States persons;
- (i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and
- (j) Information necessary for administrative purposes.

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In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

*2.4 Collection Techniques.* Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize: (a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance; (b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for: (1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

*2.5 Attorney General Approval.* The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

*2.6 Assistance to Law Enforcement Authorities.* Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

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(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

*2.7 Contracting.* Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

*2.8 Consistency With Other Laws.* Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

*2.9 Undisclosed Participation in Organizations Within the United States.* No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

*2.10 Human Experimentation.* No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

*2.11 Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

*2.12 Indirect Participation.* No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

### Part 3

#### *General Provisions*

*3.1 Congressional Oversight.* The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

*3.2 Implementation.* The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence

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Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 *Procedures.* Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community and agencies within the Intelligence Community* refer to the following agencies or organizations:

- (1) The Central Intelligence Agency (CIA);
- (2) The National Security Agency (NSA);
- (3) The Defense Intelligence Agency (DIA);
- (4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) The Bureau of Intelligence and Research of the Department of State;
- (6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and
- (7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;



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(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

**3.5 Purpose and Effect.** This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

**3.6 Revocation.** Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

<sup>1</sup> **Editorial note:** The correct citation is (87 Stat. 555).

### **APPENDIX 9-4: DODD 5200.27 - ACQUISITION OF INFORMATION CONCERNING PERSONS AND ORGANIZATIONS NOT AFFILIATED WITH THE DEPARTMENT OF DEFENSE**

See <http://www.dtic.mil/whs/directives/corres/pdf2/d520027p.pdf>

### **APPENDIX 9-5: DODD 5240.1 - DOD INTELLIGENCE ACTIVITIES**

See [http://www.dtic.mil/whs/directives/corres/pdf/d52401\\_042588/d52401p.pdf](http://www.dtic.mil/whs/directives/corres/pdf/d52401_042588/d52401p.pdf)

### **APPENDIX 9-6: DOD 5240.1-R - PROCEDURES GOVERNING THE ACTIVITIES OF DOD INTELLIGENCE COMPONENTS THAT AFFECT U.S. PERSONS**

See <http://www.dtic.mil/whs/directives/corres/pdf2/p52401r.pdf>

### **Appendix 9-9: AR 381-10, US Army Intelligence Activities**

### **Appendix 9-10: AR 381-20, The Army Counterintelligence Program**

Appendix 9-11: Policy Guidance for Intel Support in CONUS

UNCLASSIFIED



DEPARTMENT OF THE ARMY  
OFFICE OF THE DEPUTY CHIEF OF STAFF FOR INTELLIGENCE  
WASHINGTON, DC 20310-1001

REPLY TO  
ATTENTION OF



DAMI-CHI (100)

19 Feb 99

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy Guidance for Intelligence Support to Force Protection in CONUS

1. References:

- a. AR 381-10, U.S. Army Intelligence Activities, 1 Aug 84.
- b. AR 381-12, Subversion and Espionage Directed Against the Army (SAEDA) 15 Jan 93.
- c. AR 381-20, The Army Counterintelligence Program, 15 Nov 93.
- d. AR 525-13, Antiterrorism Force Protection (AT/FP): Security of Personnel, Information, and Critical Resources, 10 Sep 98.
- e. DoD message, ATSD-10, dtg 181700Z Nov 98, subject: Policy Guidance for Intelligence Support to Force Protection (enclosed).

2. Reference 1a governs Military Intelligence (MI) activities that affect United States Persons, and states that authority to employ certain collection techniques is limited to that necessary to perform functions assigned to the intelligence component. References 1b-1d assign more specific functions and responsibilities for intelligence support to force protection. Reference 1e is the most current DoD guidance.

3. This memo implements reference 1e and provides additional guidance:

- a. Although reference 1e refers to a DoD list of U.S. Persons and organizations against whom DoD intelligence elements may collect, Army MI elements may not conduct intelligence activities specifically targeting them. Because the Army maintains its law enforcement separately from its intelligence elements, it is inappropriate to collect information on these persons and organizations through intelligence activities. The Army designated law enforcement as the responsible agency, per reference 1d.
- b. MI elements will no longer report U.S. criminal threat information as intelligence or SAEDA incident reports. This change is being included in the revision of references 1b and 1c. Note that this does not pertain to national security crimes (treason, spying, espionage, sedition, subversion, etc.) which are within MI responsibility per reference 1c.

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DAMI-CHI

SUBJECT: Policy Guidance for Intelligence Support to Force Protection in CONUS

c. MI personnel will pass, via the most expedient method, U.S. criminal and U.S. terrorist threat information received through normal assigned activities ("incidentally acquired") to the Provost Marshal/Director of Security and the U.S. Army Criminal Investigation Command (USACIDC). Receiving and passing the information fully complies with references 1a and 1e. Do not send copies to the HQDA Antiterrorism Operations and Intelligence Cell or Army Counterintelligence Center, as it could create circular reporting or false confirmation. USACIDC has that reporting responsibility, per reference 1d. A synopsis may be filed in general correspondence files ("administrative purposes"), as needed, for crediting work done.

d. MI personnel will refer requests for U.S. terrorist and U.S. criminal threat information and assessments to USACIDC or the Provost Marshal, in accordance with reference 1d. Local threat assessments are the installation's responsibility; MI may augment the local information with foreign intelligence and counterintelligence information and analysis.

e. MI personnel participating in AT/FP assessment teams per reference 1d are responsible for foreign intelligence and counterintelligence information and analysis. They may provide analytical advice and assistance to other team personnel in developing the overall assessment, but should not be used as the analytical subject matter expert for non-MI functional areas.

f. Any MI element may request a collectability determination through command channels to HQDA (DAMI-CHI), in accordance with references 1a and 1e. Because of the 90-day retention time limit in reference 1a, commanders must ensure speedy transmittal to HQDA.

4. This memo was coordinated with the Office of the Army General Counsel, Office of The Judge Advocate General, Office of The Inspector General, Office of the Deputy Chief of Staff for Operations, USACIDC, and the Intelligence and Security Command.

5. Ensure widest possible dissemination to commanders, operations personnel, installation security officials, provosts marshal, inspectors general, criminal investigative and intelligence elements. MACOM supplements require HQDA prior approval.

Encl

*Original Signed*  
CLAUDIA J. KENNEDY  
Lieutenant General, GS  
Deputy Chief of Staff  
for Intelligence

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SUBJECT: Policy Guidance for Intelligence Support to Force Protection in CONUS

DISTRIBUTION:

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U.S. Army Criminal Investigation Command  
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CF:

ATSD-10  
SAGC  
SAIG-10  
DAJA-10  
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Eighth U.S. Army  
U.S. Army Europe and Seventh Army  
U.S. Army South  
650th Military Intelligence Group

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FM SECDEF WASHINGTON DC//ATSD-IO//

TO RUEKJCS/JOINT STAFF WASHINGTON DC//OJCS-LA/DJS//G/J2/J3//

RUEADWD/SECARMY WASHINGTON DC//SAIG-IO/GC//

RUENAAA/SECNAV WASHINGTON DC//NAVINGEN/GC//

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RUENAAA/CNO WASHINGTON DC//N00/N09/N095/N2/N3/N5/NLSC//

RUEAHQA/CSAF WASHINGTON DC//CC/CV/XO/XO/JAG/AF-RE//

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RUFNGOA/USCINCEUR VA//HNGEN GE//G/J2/J3/SJA//

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RUCJACC/USCINCCENT MACDILL AFB FL//IG/J2/J3/SJA//

RUCJAAA/USCOM MACDILL AFB FL//IG/J2/J3/SJA/CORB//

RUMIAAA/USCINCSO MIAMI FL//IG/J2/J3/SJA//

RUPEUNA/USCINCSpace PETERSON AFB CO//IG/J2/J3/SJA//

RHCJAAA/USCINCTrans SCOTT AFB IL//IG/J2/J3/SJA//

RHHMUNA/USCINCPAC HONOLULU HI//IG/J2/J3/SJA//

RUCUSTR/USCINCSSTRAT OFFUTT AFB NE//IG/J2/J3/SJA//

RUETIAA/DIRNSA FT GEORGE G MEADE MD//IG/GC/NSOC//

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RUEKDIA/DIA WASHINGTON DC//IG/J2/GC/DO/DHS/DAC/DAJ/DIO/MC//

RUEBMJB/NRO WASHINGTON DC//IG/GC//

RUEAJU/NIMA WASHINGTON DC//IG/GC//

RUEADN/DTRA WASHINGTON DC//IG/GC/CI//

RUEAUSA/CNGB WASHINGTON DC//NGC-ZA/NGC-ARZ/NGB-IG//

RUEAUSA/NGB WASHINGTON DC//CF//

INFO RUEKJCS/SECDEF WASHINGTON DC//GC/IG/USDP/C3//ATSD-IO//

RUDHAAA/CDRINSCOM FT BELVOIR VA//CDR/CS-IO/IG/DCSOPS/SJA//

RUCXNLG/ONI SUTLAND MD//IG/GC//

RUDHNIS/DIRNAVCRIMINVSERV WASHINGTON DC//IG/GC//

RUQVAIA/AIA KELLY AFB TX//CC/CV/IG/IN/SJA//

RUEDADI/AFOSI BOLLING AFB DC//CC/CV/IG/SJA//

RUWMFBA/AFIA KIRTLAND AFB NM//CC/IG-IO//

RULSMCA/MCIA QUANTICO VA

BT

UNCLAS SUBJECT: POLICY GUIDANCE FOR INTELLIGENCE SUPPORT TO FORCE PROTECTION

REFERENCES:

A. EXECUTIVE ORDER 12333

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B. DODD 5240.1

C. DODD 5200.27

D. DOD REG 5240.1-R

E. MCM 75-91

F. AR 381-10

G. SECNAVINST 3820.3D

H. AFI 14-104

J. MCO 3800.2A

J. DIRECTOR OF COUNTERINTELLIGENCE MEMO, "AUTHORITY TO COLLECT INFORMATION ON DOMESTIC TERRORIST AND OTHER GROUPS COMMITTING ILLEGAL ACTS THAT POSE A THREAT TO THE DEPARTMENT OF DEFENSE (U)," DATED 27 JAN 98.

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1. THE PURPOSE OF THIS MESSAGE IS TO PROVIDE POLICY GUIDANCE TO COMMANDERS AND SUPPORTING DOD INTELLIGENCE ORGANIZATIONS REGARDING PERMISSIBLE INTELLIGENCE SUPPORT FOR FORCE PROTECTION ACTIVITIES.
2. THIS MESSAGE HAS BEEN COORDINATED WITH THE JOINT STAFF; THE DOD GENERAL COUNSEL; THE INSPECTOR GENERAL, DOD; THE UNDERSECRETARY OF DEFENSE FOR POLICY; AND THE SENIOR CIVILIAN OFFICIAL IN THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE.

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3. FORCE PROTECTION IS A FUNDAMENTAL COMMAND RESPONSIBILITY FOR ALL COMMANDERS WHEREVER LOCATED. DOD INTELLIGENCE AND COUNTERINTELLIGENCE (INTEL/CI) COMPONENTS HAVE AN IMPORTANT ROLE TO PLAY IN SUPPORT OF THE COMMANDERS' FORCE PROTECTION MISSION. EXECUTIVE ORDER 12333 AND DOD 5240.1-R REGULATE THE CONDUCT OF INTEL/CI ACTIVITIES; THE ATTORNEY GENERAL HAS APPROVED THE PROCEDURES IN DOD 5240.1-R. THEIR PURPOSE IS TO ENABLE DOD INTEL/CI COMPONENTS TO CARRY OUT EFFECTIVELY THEIR AUTHORIZED FUNCTIONS WHILE ENSURING THAT THEIR ACTIVITIES THAT AFFECT UNITED STATES PERSONS ARE CARRIED OUT IN A MANNER THAT PROTECTS THE CONSTITUTIONAL RIGHTS AND PRIVACY OF SUCH PERSONS.
4. INTEL/CI COMPONENTS DO NOT HAVE A LAW ENFORCEMENT MISSION. LAW ENFORCEMENT IS THE RESPONSIBILITY OF THOSE AGENCIES SPECIFICALLY CHARTERED TO HANDLE LAW ENFORCEMENT MATTERS, E.G., PROVOST MARSHAL; CID; OSI; AND NCIS. (NOTE: AFOSI AND NCIS HAVE BOTH COUNTERINTELLIGENCE AND LAW ENFORCEMENT MISSIONS, WHICH ARE MANAGED SEPARATELY WITHIN THESE ORGANIZATIONS.) OFF THE INSTALLATION IN CONUS, LAW ENFORCEMENT IS THE RESPONSIBILITY OF LOCAL AND STATE LAW ENFORCEMENT OFFICIALS AND THE FBI AT THE FEDERAL LEVEL, NOT DOD INTEL/CI COMPONENTS.
5. WHEN FOREIGN GROUPS OR PERSONS THREATEN DOD PERSONNEL, RESOURCES,

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- OR ACTIVITIES – WHETHER CONUS OR OCONUS – DOD INTEL/CI COMPONENTS MAY INTENTIONALLY TARGET, COLLECT, RETAIN, AND DISSEMINATE INFORMATION ON THEM (UNLESS THE GROUPS OR PERSONS IN QUESTION MEET THE DEFINITION OF UNITED STATES PERSONS IN EXECUTIVE ORDER 12333/DOD 5240.1-R – SEE PARA 11A BELOW). BOTH CONUS AND OCONUS, INTEL/CI COMPONENTS ARE RESTRICTED IN WHAT AND HOW THEY CAN COLLECT, RETAIN, AND DISSEMINATE INFORMATION WITH RESPECT TO UNITED STATES PERSONS, AS EXPLAINED BELOW.
6. COMMANDERS MAY NOT LEGALLY DIRECT DOD INTEL/CI COMPONENTS TO TARGET OR INTENTIONALLY COLLECT INFORMATION FOR FORCE PROTECTION PURPOSES ON U.S. PERSONS UNLESS SUCH PERSONS HAVE BEEN IDENTIFIED IN REFERENCE J, OR SUBSEQUENT VERSIONS. THE FBI PARTICIPATES IN THE IDENTIFICATION OF THESE PERSONS.
7. COMMANDERS SHOULD BE COGNIZANT, HOWEVER, OF THE FACT THAT DURING THE CONDUCT OF ROUTINE LIAISON ACTIVITIES, DOD INTEL/CI COMPONENTS OFTEN RECEIVE INFORMATION IDENTIFYING U.S. PERSONS ALLEGED TO THREATEN DOD RESOURCES, INSTALLATIONS, MATERIEL, PERSONNEL, INFORMATION, OR ACTIVITIES. DOD INTEL/CI ACTIVITIES MAY ACT AS A CONDUIT AND MUST PASS ANY THREAT INFORMATION INCIDENTALLY RECEIVED IN THIS MANNER TO THE THREATENED COMMANDER AND THE ENTITY WHICH HAS

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- RESPONSIBILITY FOR COUNTERING THAT THREAT (E.G., MILITARY POLICY, PROVOST MARSHAL, OR SECURITY DIRECTOR). THIS TRANSMITTAL OF INFORMATION DOES NOT CONSTITUTE COLLECTION BY THE DOD INTEL/CI ORGANIZATION WITHIN THE MEANING OF DOD REGULATION 5240.1-R (REFERENCE D), AND IS THEREFORE PERMISSIBLE. HOWEVER, ANY FOLLOW-ON INTEL/CI INVESTIGATION, COLLECTION, OR TARGETING OF SUCH U.S.

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PERSONS WOULD BE SUBJECT TO EXISTING PROCEDURES AS SET FORTH IN REFERENCES A THROUGH J.

8. LAW REFERENCE C., DOD LAW ENFORCEMENT AND SECURITY ORGANIZATIONS – AS OPPOSED TO INTEL/CI COMPONENTS – MAY LEGALLY ACCEPT AND RETAIN FOR UP TO 90 DAYS, UNLESS LONGER RETENTION IS REQUIRED BY LAW OR PERMISSION IS SPECIFICALLY GRANTED BY THE SECRETARY OF DEFENSE OR HIS DESIGNEE INFORMATION PERTAINING TO U.S. PERSONS WHICH THREATENS DOD RESOURCES, PERSONNEL, INSTALLATIONS, MATERIEL, INFORMATION, OR ACTIVITIES. COMMANDERS SHOULD TAKE APPROPRIATE ADVANTAGE OF LAW ENFORCEMENT LIAISON ACTIVITIES TO MONITOR CRIMINAL ACTIVITY IN THE VICINITY OF THEIR INSTALLATIONS/ACTIVITIES (ACTS OF TERROR, ASSAULT, THREATS OF HARM, OR DESTRUCTION OF GOVERNMENT PROPERTY ARE CRIMINAL ACTS).
9. TO CLARIFY THE ROLE OF DOD INTEL/CI ORGANIZATIONS IN SUPPORTING

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COMMANDERS' FORCE PROTECTION RESPONSIBILITIES, THE FOLLOWING GUIDANCE IS EFFECTIVE ON RECEIPT.

- A. WHEN DOD INTEL/CI ORGANIZATIONS LEARN OF INFORMATION PRESENTING A REASONABLE BELIEF THAT A U.S. PERSON OTHER THAN A PERSON IDENTIFIED BY THE DOD DIRECTOR OF COUNTERINTELLIGENCE (IN REFERENCE J) POSES A THREAT TO DEPARTMENTAL RESOURCES, PERSONNEL, INSTALLATIONS, MATERIEL, INFORMATION, OR ACTIVITIES, THE ACQUIRING UNIT SHALL IMMEDIATELY ALERT THE APPROPRIATE OFFICIAL OF THE THREATENED ENTITY AND PROVIDE THE INFORMATION TO THE APPROPRIATE LAW ENFORCEMENT AUTHORITY. FOLLOWING SUCH NOTIFICATION, IF THE ACQUIRING UNIT HAS REASON TO PERMANENTLY RETAIN THAT INFORMATION UNDER THE PROVISION OF PROCEDURE 3 OF DOD REGULATION 5240.1-R, IT SHALL REQUEST, BY THE MOST EXPEDITIOUS MEANS AVAILABLE AND THROUGH ITS SERVICE INTELLIGENCE COMPONENT, THAT OASD(C3I) EVALUATE THE ACQUIRED INFORMATION FOR RETENTION ("COLLECTABILITY DETERMINATION"). OASD(C3I) WILL COORDINATE THE REQUEST WITH THE DOD GENERAL COUNSEL AND THE ATSD(IO) PRIOR TO NOTIFYING THE SERVICE INTELLIGENCE COMPONENT OF APPROVAL/DISAPPROVAL OF THE REQUEST. THE MILITARY SERVICES ARE ENJOINED TO PROCESS COLLECTABILITY DETERMINATIONS EXPEDITIOUSLY.
- B. WHILE AWAITING A COLLECTABILITY/RETAINABILITY DETERMINATION, THE ACQUIRING UNIT MAY INDEX THE INFORMATION AND MAINTAIN IT ON FILE FOR A 90 DAY PERIOD. IF, DURING THAT 90 DAY PERIOD, THE ACQUIRING UNIT LEARNS OF ADDITIONAL INFORMATION RELATING TO THE THREAT POSED BY THE U.S. PERSON IN

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QUESTION, THE UNIT SHALL IMMEDIATELY PASS THAT INFORMATION TO THE APPROPRIATE OFFICIAL OR LAW ENFORCEMENT AUTHORITY. (THIS INFORMATION MAY BE DISSEMINATED TO AFFECTED COMMANDERS AND SECURITY OFFICIALS, ONLY.)

- C. IF OASD(C3I) DENIES PERMISSION TO COLLECT OR RETAIN INFORMATION ON THE U.S. PERSON, THE REQUESTING ORGANIZATION WILL REMOVE ALL INFORMATION PERTAINING TO THAT U.S. PERSON FROM ITS FILES AND DESTROY IT OR TRANSFER IT TO A DOD LAW ENFORCEMENT OR SECURITY ACTIVITY WHICH HAS AN OFFICIAL NEED FOR THE INFORMATION. OASD(C3I) WILL PROVIDE TO OATSD(IO) AND THE GENERAL COUNSEL, WITHIN FIVE WORKING DAYS, ONE COPY OF ALL PERMISSIONS TO COLLECT/RETAIN INFORMATION ON U.S. PERSONS NOT LISTED IN REFERENCE J. WITHIN 30 DAYS OF RECEIPT OF THIS MESSAGE, HEADS OF DOD INTEL/CI COMPONENTS WILL PROVIDE TO OATSD(IO) ONE COPY OF ANY INSTRUCTIONS ISSUED WHICH IMPLEMENT THIS MESSAGE.

10. REQUEST HEADS OF DOD INTEL/CI COMPONENTS ENSURE THAT ALL FIELD LOCATIONS PROVIDING INTELLIGENCE SUPPORT TO COMMANDERS RECEIVE A COPY OF THIS MESSAGE.
11. ADDRESSEES ARE INVITED TO VISIT OUR RECENTLY ACTIVATED ATSD(IO) HOMEPAGE ON THE INTERNET AT [WWW.DTIC.MIL/ATSDIO](http://WWW.DTIC.MIL/ATSDIO).

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12. DEFINITIONS:

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A. FROM APPENDIX A, DOD REGULATION 5240.1-R:

(1) THE TERM "U.S. PERSONS" MEANS:

(A) A U.S. CITIZAN;

(B) AN ALIEN KNOWN BY THE DOD INTELLIGENCE COMPONENT CONCERNED TO BE A PERMANENT RESIDENT ALIEN (PRA);

(C) AN UNINCORPORATED ASSOCIATION SUBSTANTIALLY COMPOSED OF U.S. CITIZENS OR PRAS;

(D) A CORPORATION INCORPORATED IN THE U.S., EXCEPT FOR A CORPORATION DIRECTED AND CONTROLLED BY A FOREIGN GOVERNMENT OR GOVERNMENTS. A CORPORATION OR CORPORATE SUBSIDIARY INCORPORATED ABROAD, EVEN IF PARTIALLY OR WHOLLY OWNED BY A CORPORATION INCORPORATED IN THE U.S., IS NOT A U.S. PERSON.

[A PERSON OR ORGANIZATION OUTSIDE THE U.S. SHALL BE PRESUMED NOT TO BE A U.S. PERSON UNLESS SPECIFIC INFORMATION TO THE CONTRARY IS OBTAINED. AN ALIEN IN THE U.S. SHALL BE PRESUMED NOT TO BE A U.S. PERSON UNLESS SPECIFIC INFORMATION TO THE CONTRARY IS OBTAINED.]

[A PERMANENT RESIDENT ALIEN IS A FOREIGN NATIONAL LAWFULLY ADMITTED INTO THE U.S. FOR PERMANENT RESIDENCE AND,

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THEREFORE, IS A U.S. PERSON.]

(2) FOREIGN INTELLIGENCE IS INFORMATION RELATING TO THE CAPABILITIES, INTENTIONS, AND ACTIVITIES OF FOREIGN POWERS, CAPABILITIES, INTENTIONS, AND ACTIVITIES OF FOREIGN POWERS, ORGANIZATIONS, OR PERSONS, BUT NOT INCLUDING COUNTERINTELLIGENCE EXCEPT FOR INFORMATION ON INTERNATIONAL TERRORIST ACTIVITIES.

(3) COUNTERINTELLIGENCE IS INFORMATION GATHERED AND ACTIVITIES CONDUCTED TO PROTECT AGAINST ESPIONAGE, OTHER INTELLIGENCE ACTIVITIES, SABOTAGE, OR ASSASSINATIONS CONDUCTED FOR OR ON BEHALF OF FOREIGN POWERS, ORGANIZATIONS, OR PERSONS, OR INTERNATIONAL TERRORIST ACTIVITIES, BUT NOT INCLUDING PERSONNEL, PHYSICAL, DOCUMENT, OR COMMUNICATIONS SECURITY PROGRAMS.

B. FROM JOINT PUB 2-01, DEPARTMENT OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS, DATED 23 MAR 94: FORCE PROTECTION IS DEFINED AS "SECURITY PROGRAM DESIGNED TO PROTECT SOLDIERS, CIVILIAN EMPLOYEES, FAMILY MEMBERS, FACILITIES, AND EQUIPMENT, IN ALL LOCATIONS AND SITUATIONS, ACCOMPLISHED THROUGH PLANNED AND INTEGRATED APPLICATION OF COMBATING TERRORISM, PHYSICAL SECURITY, OPERATIONS SECURITY, PERSONAL PROTECTIVE SERVICES, AND SUPPORTED BY INTELLIGENCE, COUNTERINTELLIGENCE, AND OTHER SECURITY PROGRAMS."

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## APPENDIX 10: RESERVE COMPONENTS

### APPENDIX 10. RESERVE COMPONENTS

#### APPENDIX 10-1: ROLE OF THE NG IN DOMESTIC SUPPORT OPERATIONS

##### INFORMATION PAPER

NGB-ARO-OM  
12 February 1997

SUBJECT: Domestic Support Operations

1. Purpose. To provide information on Department of Defense procedures during domestic support operations and the role of the National Guard in this area.

2. Facts.

a. The National Command Authorities (NCA) direct the Army to conduct domestic and international operations. The Secretary of Defense has designated the Secretary of the Army (SA) as the executive agent for most domestic support operations. During these operations, military support supplements, rather than replaces, civil agency responsibilities.

b. In domestic support operations, the Army recognizes that National Guard forces, acting under the command of their respective governor's in a state (non federal) status, have the primary responsibility for providing military assistance to state, territorial, and local governments. States routinely provide mutual support through the use of various interstate compacts.

c. The National Guard Bureau has long emphasized a need for a single national compact that would allow states to provide mutual support during natural or man-made disasters. During Fiscal Year 1996, the Southern Governor's Association submitted the Emergency Management Assistance Compact (EMAC) for U.S. Congressional ratification. The 104th Congress approved the EMAC for national implementation. No further action is required at the National level. Currently 14 states have enacted EMAC with an additional 6 showing interest. Implementation at the state level requires the passing of enabling legislation.

d. When state and National Guard resources need supplementation and the governor requests it, the Army will, after a Presidential Declaration of Disaster, assist civil authorities. As the Department of Defense (DOD) executive agent for domestic support operations, the SA develops necessary planning guidance, plans, and procedures. The SA has the authority to task DOD components to plan for and to commit DOD resources in response to requests for military support from civil authorities. Any commitment of military forces of the unified

# DOPLAW HANDBOOK

NGB-ARO-OM

SUBJECT: Domestic Support Operations

and specified commands must be coordinated with the Chairman, Joint Chiefs of Staff (CJCS). The SA uses the inherent authority of his office to direct Army assistance to domestic support operations.

e. The Director of Military Support (DOMS) is the DOD primary contact for all federal departments and agencies during periods of domestic civil emergencies or disaster response. The DOMS serves as a joint staff, ensuring planning, coordination, and execution of many domestic support operations. DOMS serves as the action agent for domestic support operations involving DOD. The Operating Agents, (supported Commander-in-Chiefs) utilized by DOMS are U.S. Atlantic Command (USACOM) for Continental U.S. (CONUS) and the Caribbean, and Pacific Command (PACOM) for the Pacific region and Alaska. Forces Command (FORSCOM) is the lead operating authority for USACOM in domestic support operations.

f. The National Guard Bureau is the federal coordination center for the Army and Air National Guard. It serves as the legal channel of communication among the U.S. Army, U.S. Air Force, and the National Guards in the 54 states and territories. The Chief, National Guard Bureau has given executive agent responsibility for planning and coordinating the execution of military support operations to the Director, Army National Guard (DARNG). In coordination with DOMS, FORSCOM, and USACOM, the NGB acts as a facilitator to provide augmentation to DOD in federally declared disasters.

g. Reserve Forces of the U.S. participate in domestic support missions but are limited to 15 days under statutory provisions of Service Secretarial call-up authority.

h. The Posse Comitatus Act prescribes criminal penalties for use of the U.S. Army or Air Force to execute the laws of or to perform civilian law enforcement functions within the U.S. DOD policy extends this prohibition to the U.S. Navy and Marine Corps. The Posse Comitatus Act does not apply to members of the National Guard when not in federal service. Components of the U.S. Military, (Active Duty, National Guard, Reserve Component, may be called to federal service to suppress insurrections or enforce federal laws. This is prescribed in Title 10, Chapter 15. The limitations of Posse Comitatus do not apply under these circumstances.

MAJ Michael J. Captain/607-9334  
Approved 

## APPENDIX 10: RESERVE COMPONENTS

### APPENDIX 10-2: COMPARISON OF DUTY STATUS FOR NATIONAL GUARD PERSONNEL

#### COMPARISON OF DUTY STATUSES FOR NATIONAL GUARD PERSONNEL

	<b>State Active Duty</b>	<b>Title 32</b>	<b>Title 10</b>
<b>Command &amp; control</b> <sup>12</sup>	State Governor	State Governor	Federal President
<b>Who performs duty</b>	Federally organized NG	Organized NG in service of US <sup>1</sup>	AC <sup>8</sup> , RC and National Guard of US <sup>1</sup>
<b>Where duty performed</b>	IAW state law	CONUS	Worldwide
<b>Pay</b>	IAW state law	Federal pay & allowances	Federal pay & allowances
<b>Federal reimbursement</b>	IAW Stafford Act <sup>2</sup> or Cooperative Agreement <sup>11</sup>	N/A personnel costs paid by Federal funds	N/A personnel costs paid by Federal funds
<b>Tort immunity</b>	IAW state law	FTCA <sup>6</sup>	FTCA <sup>6</sup>
<b>PCA<sup>3</sup> application</b>	No	No	Yes
<b>USERRA<sup>4</sup></b>	No, IAW state law	Yes	Yes
<b>SSCRA<sup>5</sup></b>	No, IAW state law	No	Yes
<b>Mission types</b>	IAW state law	IDT, AT, state AGR & other Federally authorized	ODT, ADT, AGR & as assigned, subj. to PCA
<b>Discipline</b>	State military code	State military code	UCMJ <sup>7</sup>
<b>Federal retirement points</b>	No	Yes	Yes
<b>Other benefits</b>	IAW state law	Federal	Federal
<b>Medical</b>	IAW state law	Federal	Federal
<b>Disability</b>	IAW state law	Federal	Federal
<b>Involuntary order to duty</b>	IAW state law	Yes <sup>9</sup>	Yes <sup>10</sup>
<b>Voluntary order to duty</b>	IAW state law	Yes	Yes

32 USC § 502(f) provides:

“Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may-

- (1) without his consent, but with the pay and allowances provided by law; or
- (2) with his consent, either with or without pay and allowances;

be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay.”

<sup>1</sup>USC §§ 3062(c) and 8062(c)

<sup>2</sup>Stafford Act (42 USC § 5121) for disaster-related activities

<sup>3</sup>Posse Comitatus Act (18 USC § 1385)

<sup>4</sup>Uniformed Services Employment and Reemployment Rights Act (38 USC §§ 4301-4333)

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<sup>5</sup>*Soldiers and Sailors Civil Relief Act (50 USC App. §§ 500-548, 560-591)*

<sup>6</sup>*Federal Tort Claims Act (28 USC §§ 2671-2680)*

<sup>7</sup>*Uniform Code of Military Justice (10 USC §§ 800-946)*

<sup>8</sup>*Active component*

<sup>9</sup>*32 USC §502(f)(1)*

<sup>10</sup>*Under Presidential Reserve Call-up (10 USC § 12304); partial mobilization (10 USC § 12302); or full mobilization (10 USC § 12301(a))*

<sup>11</sup>*Cooperative agreement if to perform an authorized National Guard function*

<sup>12</sup>*See 10 USC § 315, 325*

## APPENDIX 11: RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

### APPENDIX 11. RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

#### APPENDIX 11-1: U. S. CONSTITUTION

*See*

<http://www.law.cornell.edu/constitution/constitution.overview.html>

#### APPENDIX 11-2: FOURTH AMENDMENT, US CONSTITUTION.

##### Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Source: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentiv>

#### APPENDIX 11-3: FIFTH AMENDMENT, US CONSTITUTION.

##### Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Source: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentiv>

#### APPENDIX 11-4: EIGHTH AMENDMENT, US CONSTITUTION.

##### Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Source: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentiv>

**APPENDIX 11-5: ARTICLE II, SECTIONS 1 (EXECUTIVE POWERS CLAUSE), 2 (COMMANDER IN CHIEF CLAUSE), AND 3 (EXECUTION OF LAWS CLAUSE).**

**Article II**

Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."



## APPENDIX 11: RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

Section 2. The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Source: <http://www.law.cornell.edu/constitution/constitution.articleii.html#section1>

### **APPENDIX 11-6: 18 USC § 1385, POSSE COMITATUS ACT.**

*See Appendix 2-1*

### **APPENDIX 11-7: 10 USC §s 331, *ET SEQ.*, INSURRECTION ACT.**

*See Appendix 4-1*

### **APPENDIX 11-8: 50 USC § 2301 *ET SEQ.*, DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION ACT.**

*See <http://www4.law.cornell.edu/uscode/50/ch40.html>*

### **APPENDIX 11-9: 10 USC § 12310, RESERVE COMPONENTS GENERALLY.**

#### **Sec. 12301. - Reserve components generally**

(a) In time of war or of national emergency declared by Congress, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty (other than for training) for the duration of the war or emergency and for six months thereafter. However a member on an inactive status list or in a retired status

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may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.

**(b)** At any time, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of that Secretary to active duty for not more than 15 days a year. However, units and members of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor of the State (or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard).

**(c)** So far as practicable, during any expansion of the active armed forces that requires that units and members of the reserve components be ordered to active duty (other than for training), members of units organized and trained to serve as units who are ordered to that duty without their consent shall be so ordered with their units. However, members of those units may be reassigned after being ordered to active duty (other than for training).

**(d)** At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State concerned.

**(e)** The period of time allowed between the date when a Reserve ordered to active duty (other than for training) is alerted for that duty and the date when the Reserve is required to enter upon that duty shall be determined by the Secretary concerned based upon military requirements at that time.

**(f)** The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.

**(g) (1)** A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated.

**(2)** The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations.

**(3)** In this section, the term "captive status" means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member's military status.

**(h) (1)** When authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty -

**(A)** to receive authorized medical care;

**(B)** to be medically evaluated for disability or other purposes; or

## APPENDIX 11: RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

(C) to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

(2) A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

(3) A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.

Source: <http://www4.law.cornell.edu/uscode/10/12301.html>

### Notes on Sec. 12301.

#### SOURCE

Aug. 10, 1956, ch. 1041, 70A Stat. 27, Sec. 672

Pub. L. 85-861, Sec. 1(13), 33(a)(5), Sept. 2, 1958, 72 Stat. 1440, 1564

Pub. L. 96-357, Sec. 6, Sept. 24, 1980, 94 Stat. 1182

Pub. L. 96-584, Sec. 1, Dec. 23, 1980, 94 Stat. 3377

Pub. L. 99-500, Sec. 101(c) (title IX, Sec. 9122), Oct. 18, 1986, 100 Stat. 1783-82, 1783-127, and Pub. L.

99-591, Sec. 101(c) (title IX, Sec. 9122), Oct. 30, 1986, 100 Stat. 3341-82, 3341-127

Pub. L. 99-661, div. A, title V, Sec. 522, 524(a), Nov. 14, 1986, 100 Stat. 3871

Pub. L. 100-456, div. A, title XII, Sec. 1234(a)(1), (2), Sept. 29, 1988, 102 Stat. 2059

renumbered Sec. 12301 and amended Pub. L. 103-337, div. A, title XVI, Sec. 1662(e)(2), 1675(c)(1), Oct. 5, 1994, 108 Stat. 2992, 3017

Pub. L. 106-65, div. A, title V, Sec. 512, Oct. 5, 1999, 113 Stat. 592.

Historical and Revision Notes 1956 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
672(a) 672(b)	50:961(a). 50:961(c). 50:961(g).	July 9, 1952, ch. 608, Sec. 233 (less (b) and (f)),
672(c) 672(d)	50:961(d). 50:962 (1st sentence).	234 (1st sentence), 66 Stat. 489, 490.
672(e)	50:961(e).	

In subsection (a), the word "hereafter" is omitted as surplusage. The words "there are not enough \* \* \* who are" are substituted for the words "adequate numbers of \* \* \* are not". The words "without the consent of the persons affected" and "under the jurisdiction of that Secretary" are inserted for clarity. The words "and the members thereof" are omitted as surplusage.

In subsection (b), the words "without the consent of the persons affected" are substituted for the words "without his consent", since units as well as individuals are covered by the revised subsection. The words "and the members thereof", "and required to perform", "or required to serve on", and "in the service of the United States" are omitted as surplusage.

In subsections (b) and (d), the words "active duty for training" are omitted as covered by the words "active duty".

In subsection (c), the words "to active duty" are substituted for the words "into the active military service of the United States", in 50:961(g) (1st and last sentences). The words "to serve" are substituted for the words "for the purpose of serving". The words "without their consent" are

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substituted for the word "involuntarily". The words "to that duty" are substituted for the words "into active duty". The last sentence of the revised subsection is substituted for 50:961(g) (last sentence).

In subsection (d), the words "the consent of that member" are substituted for the words "his consent". The words "under his jurisdiction" are inserted for clarity. 50:962 (last 15 words of 1st sentence) is omitted as covered by 50:961(d).

In subsection (e), the words "to active duty (other than for training)" are substituted for the words "into the active military service of the United States". The words "period of" are omitted as surplusage. The word "requirements" is substituted for the word "condition" for clarity.

## 1958 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
672(a)	50:961(a).	Aug. 9, 1955, ch. 665, Sec. 2(e), 69 Stat. 599.

The word "hereafter" is omitted as surplusage. The words "there are not enough . . . who are" are substituted for the words "adequate numbers of . . . are not". The words "without the consent of the persons affected" and "under the jurisdiction of that Secretary" are inserted for clarity.

The changes are necessary to reflect section 101(b) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 901(b)), which defines the term "active duty" to exclude active duty for training. This definition applied to the source law for these sections (sections 672 and 673), section 233(a), (b)(1), and (c) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 961(a), (b)(1), (c))

## CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

## AMENDMENTS

1999 - Subsec. (h). Pub. L. 106-65 added subsec. (h). 1994 - Pub. L. 103-337, Sec. 1662(e)(2), renumbered section 672 of this title as this section.

Subsec. (b). Pub. L. 103-337, Sec. 1675(c)(1)(A), substituted "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)" for "or Territory or Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be".

Subsec. (d). Pub. L. 103-337, Sec. 1675(c)(1)(B), struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is" after "authority of the State". 1988 - Subsec. (b). Pub. L. 100-456, Sec. 1234(a)(2), substituted "or Puerto Rico" for ", Puerto Rico, or the Canal Zone,".

Subsec. (d). Pub. L. 100-456, Sec. 1234(a)(1), struck out "the Canal Zone," after "Puerto Rico,". 1986 - Subsec. (f). Pub. L. 99-500 and Pub. L. 99-591, Sec. 101(c) (Sec. 9122), Pub. L. 99-661, Sec. 522, amended section identically adding subsec. (f). Subsec. (g). Pub. L. 99-661, Sec. 524(a), added subsec. (g). 1980 - Subsec. (a). Pub. L. 96-357 struck out cl. (1) designation for second sentence and cl. (2) prohibition against ordering a member of the Standby Reserve to active duty unless the Director of Selective Service determined that the member was available for active duty.

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Subsec. (e). [Pub. L. 96-584](#) substituted provisions respecting determination of the allowable time in terms of military requirements for provisions authorizing a reasonable time. 1958 - Subsec. (a). [Pub. L. 85-861](#), Sec. 1(13), 33(a)(5), inserted "(other than for training)" after "active duty", substituted "inactive National Guard" for "inactive Army National Guard or in the inactive Air National Guard", and inserted provisions prohibiting a member of the Standby Reserve from being ordered to active duty under this subsection unless the Director of Selective Service determines that the member is available for active duty.

Subsec. (c). [Pub. L. 85-861](#), Sec. 33(a)(5), inserted "(other than for training)" after "active duty"

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by [Pub. L. 103-337](#) effective Dec. 1, 1994, except as otherwise provided, see section 1691 of [Pub. L. 103-337](#), set out as an Effective Date note under section [10001](#) of this title

### EFFECTIVE DATE OF 1986 AMENDMENT

Section 524(b) of [Pub. L. 99-661](#) provided that: "Section 672(g) (now 12301(g)) of title [10](#), United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act (Nov. 14, 1986)."

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(a)(5) of [Pub. L. 85-861](#) effective Aug. 10, 1956, see section 33(g) of [Pub. L. 85-861](#), set out as a note under section [101](#) of this title

### RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99-500, 99-591, AND 99-661

For rule of construction for certain duplicate provisions of Public Laws 99-500, 99-591, and 99-661, see [Pub. L. 100-26](#), Sec. 6, Apr. 21, 1987, 101 Stat. 274, set out as a note under section [2302](#) of this title

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections [101](#), [523](#), [582](#), [641](#), [672](#), [10142](#), [10151](#), [10215](#), [12305](#), [12306](#), [12307](#), [12310](#), [12408](#), [12686](#), [16131](#), [16133](#) of this title; title [5](#) section [6323](#); title [38](#) sections [3011](#), [3013](#), [3103](#), [3105](#), [3231](#), [3511](#), [3512](#), [4211](#), [4312](#); title [50](#) App. section [592](#)

Source: <http://www4.law.cornell.edu/uscode/10/12301.notes.html>

## APPENDIX 11-10: 18 USC § 242, DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Sec. 242. - Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his

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color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death

## APPENDIX 11: RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

Appendix 11-11: CJCSI 3121.01A, Standing Rules of Engagement (U).



# CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION

J-3  
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CJCSI 3121.01A  
15 January 2000

### STANDING RULES OF ENGAGEMENT FOR US FORCES

Reference: See Enclosure M.

1. Purpose. This instruction establishes:

a. SecDef-approved standing rules of engagement (SROE) that implement the inherent right of self-defense and provide guidance for the application of force for mission accomplishment.

b. Fundamental policies and procedures governing action to be taken by US force commanders during all military operations and contingencies as specified in paragraph 3.

2. Cancellation. CJCSI 3121.01, 1 October 1994, is canceled.

3. Applicability. ROE apply to US forces during military attacks against the United States and during all military operations, contingencies, and terrorist attacks occurring outside the territorial jurisdiction of the United States. The territorial jurisdiction of the United States includes the 50 states, the Commonwealths of Puerto Rico and Northern Marianas, US possessions, and US territories.

a. Peacetime operations conducted by the US military within the territorial jurisdiction of the United States are governed by use-of-force rules contained in other directives or as determined on a case-by-case basis for specific missions (see paragraph 4 of Enclosure H and Enclosure I).

b. Inclusion of NORAD. For purposes of this document, the Commander, US Element NORAD, will be referred to as a CINC.

4. Policy. See Enclosure A.

5. Definitions. Definitions are contained in the enclosures and the Glossary.

6. Responsibilities. The NCA approve ROE for US forces. The Joint Staff, Joint Operations Division (J-3), is responsible for the maintenance of these ROE.

a. The CINCs may augment these SROE as necessary to reflect changing political and military policies, threats, and missions specific to their areas of responsibility (AORs). When a CINC's theater-specific ROE modify these SROE, they will be submitted to Chairman of the Joint Chiefs of Staff for NCA approval, if required, and referenced in Enclosure K of this instruction.

b. Commanders at every echelon are responsible for establishing ROE for mission accomplishment that comply with ROE of senior commanders and these SROE. The SROE differentiate between the use of force for self-defense and for mission accomplishment. Commanders have the inherent authority and obligation to use all necessary means available and to take all appropriate actions in the self-defense of their unit and other US forces in the vicinity. **ROE supplemental measures apply only to the use of force for mission accomplishment and do not limit a commander's use of force in self-defense** (see Enclosure A for amplification).

c. The two types of supplemental measures are -- those that authorize a certain action and those that place limits on the use of force for mission accomplishment. Some actions or weapons must be authorized either by the NCA or by a CINC. In all other cases, commanders may use any lawful weapon or tactic available for mission accomplishment unless specifically restricted by an approved supplemental measure. Any commander may issue supplemental measures that place limits on the use of force for mission accomplishment (see Enclosure J for amplification).

d. The CINCs distribute these SROE to subordinate commanders and units for implementation.

7. Procedures. Guidance for the use of force for self-defense and mission accomplishment is set forth in this document. Enclosure A, minus appendixes, is UNCLASSIFIED and intended to be used as a coordination tool with US allies for the development of combined or



# APPENDIX 11: RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

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multinational ROE consistent with these SROE. The supplemental measures list in Enclosure J is organized by authorization level to facilitate quick reference during crisis planning. As outlined in paragraph 6 above, the CINCs will submit theater-specific SROE for reference in this instruction to facilitate theater-to-theater coordination.

9. Releasability. This instruction is approved for limited release. DOD components (to include the combatant commands) and other Federal agencies may obtain copies of this instruction through controlled internet access only (limited to .mil and .gov users) from the CJCS Directives Home Page--<http://www.dtic.mil/doctrine/jel.htm>. The Joint Staff activities may access or obtain copies of this instruction from the Joint Staff LAN.

10. Effective Date. This instruction is effective upon receipt for all US force commanders and supersedes all other nonconforming guidance.

11. Document Security. This basic instruction is UNCLASSIFIED. Enclosures are classified as indicated.

HENRY H. SHELTON  
Chairman  
of the Joint Chiefs of Staff

## Enclosures:

- A -- Standing Rules of Engagement for US Forces
  - Appendix A – Self-Defense of US Nationals and Their Property at Sea
  - Appendix B – Recovery of US Government Property at Sea
  - Appendix C – Protection and Disposition of Foreign Nationals in the Custody of US Forces
- B -- Maritime Operations
- C -- Air Operations
- D -- Land Operations
- E -- Space Operations
- F -- Information Operations
- G -- Noncombatant Evacuation Operations
- H -- Counterdrug Support Operations
- I -- Domestic Support Operations

- J -- Supplemental Measures
  - Appendix A – General Supplemental Measures
  - Appendix B – Supplemental Measures for Maritime Operations
  - Appendix C – Supplemental Measures for Air Operations
  - Appendix D – Supplemental Measures for Land Operations
  - Appendix E – Supplemental Measures for Space Operations
  - Appendix F – Message Formats and Examples
- K -- Combatant Commander's Theater-Specific ROE
- L -- Rules of Engagement Process
- M -- References
- GL -- Glossary

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ENCLOSURE A

STANDING RULES OF ENGAGEMENT FOR US FORCES

1. Purpose and Scope

a. The purpose of these SROE is to provide implementation guidance on the application of force for mission accomplishment and the exercise of the inherent right and obligation of self-defense. In the absence of superseding guidance, the SROE establish fundamental policies and procedures governing the actions to be taken by US force commanders in the event of military attack against the United States and during all military operations, contingencies, terrorist attacks, or prolonged conflicts outside the territorial jurisdiction of the United States, including the Commonwealths of Puerto Rico and Northern Marianas, US possessions, and US territories. To provide uniform training and planning capabilities, this document is authorized for distribution to commanders at all levels and is to be used as fundamental guidance for training and directing their forces.

b. Except as augmented by supplemental ROE for specific operations, missions, or projects, the policies and procedures established herein remain in effect until rescinded.

c. US forces operating with multinational forces:

(1) US forces assigned to the operational control (OPCON) or tactical control (TACON) of a multinational force will follow the ROE of the multinational force for mission accomplishment if authorized by the NCA. US forces always retain the right to use necessary and proportional force for unit and individual self-defense in response to a hostile act or demonstrated hostile intent.

(2) When US forces, under US OPCON or TACON, operate in conjunction with a multinational force, reasonable efforts will be made to effect common ROE. If such ROE cannot be established, US forces will operate under these SROE. To avoid misunderstanding, the multinational forces will be informed prior to US participation in the operation that US forces intend to operate under these SROE and to exercise unit and individual self-defense in response to a hostile act or demonstrated hostile intent. For additional guidance concerning peace operations, see Appendix A to Enclosure A.

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(3) Participation in multinational operations may be complicated by varying national obligations derived from international agreements; e.g., other coalition members may not be parties to treaties that bind the United States, or they may be bound by treaties to which the United States is not a party. US forces remain bound by US international agreements even if the other coalition members are not parties to these agreements and need not adhere to the terms.

d. Commanders of US forces subject to international agreements governing their presence in foreign countries (e.g., Status of Forces Agreements) retain the inherent authority and obligation to use all necessary means available and take all appropriate actions for unit self-defense.

e. US forces in support of operations not under OPCON or TACON of a US CINC or that are performing missions under direct control of the NCA, Military Departments, or other USG departments or agencies (e.g., Marine Security Guards, certain special security forces) will operate under use-of-force policies or ROE promulgated by those departments or agencies. US forces, in these cases, retain the authority and obligation to use all necessary means available and to take all appropriate actions in unit self-defense in accordance with these SROE.

f. US Naval units under USCG OPCON or TACON conducting law enforcement support operations will follow the use-of-force and weapons policy issued by the Commandant, USCG, but only to the extent of use of warning shots and disabling fire per 14 USC 637 (reference w). DOD units operating under USCG OPCON or TACON retain the authority and obligation to use all necessary means available and to take all appropriate actions in unit self-defense in accordance with these SROE.

g. US forces will comply with the Law of War during military operations involving armed conflict, no matter how the conflict may be characterized under international law, and will comply with its principles and spirit during all other operations.

## 2. Policy

a. **These rules do not limit a commander's inherent authority and obligation to use all necessary means available and to take all appropriate actions in self-defense of the commander's unit and other US forces in the vicinity.**

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b. The goal of US national security policy is to preserve the survival, safety, and vitality of our nation and to maintain a stable international environment consistent with US national interests. US national security interests guide global objectives of deterring and, if necessary, defeating armed attack or terrorist actions against the United States to include US forces and, in certain circumstances, US nationals and their property, US commercial assets, persons in US custody, designated non-US forces, and foreign nationals and their property.

3. Intent. These SROE are intended to:

a. Implement the right of self-defense, which is applicable worldwide to all echelons of command.

b. Provide guidance governing the use of force consistent with mission accomplishment.

c. Be used in peacetime operations other than war, during transition from peacetime to armed conflict or war, and during armed conflict in the absence of superseding guidance.

4. CINCs' Theater-Specific ROE

a. CINCs may augment these SROE as necessary as delineated in subparagraph 6a of the basic instruction.

b. CINCs will distribute these SROE to subordinate commanders and units for implementation. The mechanism for disseminating ROE supplemental measures is set forth in Enclosure J.

5. Definitions

a. Inherent Right of Self-Defense. A commander has the authority and obligation to use all necessary means available and to take all appropriate actions to defend that commander's unit and other US forces in the vicinity from a hostile act or demonstration of hostile intent. Neither these rules, nor the supplemental measures activated to augment these rules, limit this inherent right and obligation. At all times, the requirements of necessity and proportionality, as amplified in these SROE, will form the basis for the judgment of the on-scene commander (OSC) or individual as to what constitutes an appropriate response to a particular hostile act or demonstration of hostile intent.

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b. National Self-Defense. Defense of the United States, US forces, and, in certain circumstances, US nationals and their property, and/or US commercial assets. National self-defense may be exercised in two ways: first, it may be exercised by designated authority extending protection against a hostile act or demonstrated hostile intent to US nationals and their property, and/or designated US commercial assets [in this case, US forces will respond to a hostile act or demonstrated hostile intent in the same manner they would if the threat were directed against US forces]; second, it may be exercised by designated authority declaring a foreign force or terrorist(s) hostile [in this case, individual US units do not need to observe a hostile act or determine hostile intent before engaging that force or terrorist(s)].

c. Collective Self-Defense. The act of defending designated non-US forces, and/or designated foreign nationals and their property from a hostile act or demonstrated hostile intent. Unlike national self-defense, the authority to extend US protection to designated non-US forces, foreign nationals and their property may not be exercised below the NCA level. Similar to unit self-defense and the extension of US forces protection to US nationals and their property and/or commercial assets, the exercise of collective self-defense must be based on an observed hostile act or demonstrated hostile intent.

d. Unit Self-Defense. The act of defending a particular US force element, including individual personnel thereof, and other US forces in the vicinity, against a hostile act or demonstrated hostile intent.

e. Individual Self-Defense. The inherent right to use all necessary means available and to take all appropriate actions to defend oneself and US forces in one's vicinity from a hostile act or demonstrated hostile intent is a unit of self-defense. Commanders have the obligation to ensure that individuals within their respective units understand and are trained on when and how to use force in self-defense.

f. Elements of Self-Defense. Application of force in self-defense requires the following two elements:

(1) Necessity. Exists when a hostile act occurs or when a force or terrorist(s) exhibits hostile intent.

(2) Proportionality. Force used to counter a hostile act or demonstrated hostile intent must be reasonable in intensity, duration,

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and magnitude to the perceived or demonstrated threat based on all facts known to the commander at the time (see Glossary for amplification).

g. Hostile Act. An attack or other use of force against the United States, US forces, and, in certain circumstances, US nationals, their property, US commercial assets, and/or other designated non-US forces, foreign nationals and their property. It is also force used directly to preclude or impede the mission and/or duties of US forces, including the recovery of US personnel and vital US Government property (see Glossary for amplification).

h. Hostile Intent. The threat of imminent use of force against the United States, US forces, and in certain circumstances, US nationals, their property, US commercial assets, and/or other designated non-US forces, foreign nationals and their property. Also, the threat of force to preclude or impede the mission and/or duties of US forces, including the recovery of US personnel or vital USG property (see Glossary for amplification).

i. Hostile Force. Any civilian, paramilitary, or military force or terrorist(s), with or without national designation, that has committed a hostile act, exhibited hostile intent, or has been declared hostile by appropriate US authority.

6. Declaring Forces Hostile. Once a force is declared hostile by appropriate authority, US units need not observe a hostile act or a demonstration of hostile intent before engaging that force. The responsibility for exercising the right and obligation of national self-defense and as necessary declaring a force hostile is a matter of the utmost importance. All available intelligence, the status of international relationships, the requirements of international law, an appreciation of the political situation, and the potential consequences for the United States must be carefully weighed. The exercise of the right and obligation of national self-defense by competent authority is separate from and in no way limits the commander's right and obligation to exercise unit self-defense. The authority to declare a force hostile is limited as amplified in Appendix A of this Enclosure.

### 7. Authority to Exercise Self-Defense

a. National Self-Defense. The authority to exercise national self-defense is outlined in Appendix A of this Enclosure.

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b. Collective Self-Defense. Only the NCA may authorize the exercise of collective self-defense.

c. Unit Self-Defense. A unit commander has the authority and obligation to use all necessary means available and to take all appropriate actions to defend the unit, including elements and personnel, or other US forces in the vicinity, against a hostile act or demonstrated hostile intent. In defending against a hostile act or demonstrated hostile intent, unit commanders will use only that degree of force necessary to decisively counter the hostile act or demonstrated hostile intent and to ensure the continued protection of US forces (see subparagraph 8a of this enclosure for amplification).

d. Individual Self-Defense. Commanders have the obligation to ensure that individuals within their respective units are trained on and understand when and how to use force in self-defense.

#### 8. Action in Self-Defense

a. Means of Self-Defense. All necessary means available and all appropriate actions may be used in self-defense. The following guidelines apply for individual, unit, national, or collective self-defense:

(1) Attempt to De-Escalate the Situation. When time and circumstances permit, the hostile force should be warned and given the opportunity to withdraw or cease threatening actions (see Appendix A of this Enclosure for amplification).

(2) Use Proportional Force -- Which May Include Nonlethal Weapons -- to Control the Situation. When the use of force in self-defense is necessary, the nature, duration, and scope of the engagement should not exceed that which is required to decisively counter the hostile act or demonstrated hostile intent and to ensure the continued protection of US forces or other protected personnel or property.

(3) Attack to Disable or Destroy. An attack to disable or destroy a hostile force is authorized when such action is the only prudent means by which a hostile act or demonstration of hostile intent can be prevented or terminated. When such conditions exist, engagement is authorized only while the hostile force continues to commit hostile acts or exhibit hostile intent.

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b. Pursuit of Hostile Forces. Self-defense includes the authority to pursue and engage hostile forces that continue to commit hostile acts or exhibit hostile intent.

c. Defending US Nationals, Property, and Designated Foreign Nationals

(1) Within a Foreign Nation's US-Recognized Territory or Territorial Airspace. The foreign nation has the principal responsibility for defending US nationals and property within these areas (see Appendix A of this Enclosure for amplification).

(2) At Sea. Detailed guidance is contained in Appendix A to Enclosure B.

(3) In International Airspace. Protecting civil aircraft in international airspace is principally the responsibility of the nation of registry. Guidance for certain cases of actual or suspected hijacking of airborne US or foreign civil aircraft is contained in CJCSI 3610.01, 31 July 1997, "Aircraft Piracy and Destruction of Derelict Airborne Objects."

(4) In Space. Military or civilian space systems such as communication satellites or commercial earth-imaging systems may be used to support a hostile action. Attacking third party or civilian space systems can have significant political and economic repercussions. Unless specifically authorized by the NCA, commanders may not conduct operations against space-based systems or ground and link segments of space systems. Detailed guidance is contained in Enclosure E.

(5) Piracy. US warships and aircraft have an obligation to repress piracy on or over international waters directed against any vessel, or aircraft, whether US or foreign flagged and are authorized to employ all means necessary to repress piratical acts. For ships and aircraft repressing an act of piracy, the right and obligation of self-defense extends to persons, vessels, or aircraft assisted. If a pirate vessel or aircraft fleeing from pursuit proceeds into the territorial sea, archipelagic waters, or superjacent airspace of another country, every effort should be made to obtain the consent of the coastal state prior to continuation of the pursuit.

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d. Operations Within or in the Vicinity of Hostile Fire or Combat Zones Not Involving the United States

(1) US forces should not enter, or remain in, a zone in which hostilities (not involving the United States) are imminent or occurring between foreign forces unless directed by proper authority.

(2) If a force commits a hostile act or exhibits hostile intent against US forces in a hostile fire or combat zone, the commander is obligated to act in unit self-defense in accordance with SROE guidelines.

e. Right of Assistance Entry

(1) Ships, or under certain circumstances aircraft, have the right to enter a foreign territorial sea or archipelagic waters and corresponding airspace without the permission of the coastal or island state to engage in legitimate efforts to render emergency assistance to those in danger or distress from perils of the sea.

(2) Right of Assistance Entry extends only to rescues where the location of those in danger is reasonably well known. It does not extend to entering the territorial sea, archipelagic waters, or territorial airspace to conduct a search.

(3) For ships and aircraft rendering assistance on scene, the right and obligation of self-defense extends to and includes persons, vessels, or aircraft being assisted. The right of self-defense in such circumstances does not include interference with legitimate law enforcement actions of a coastal nation. However, once received on board the assisting ship or aircraft, persons assisted will not be surrendered to foreign authority unless directed by the NCA.

(4) Further guidance for the exercise of the right of assistance entry is contained in CJCS Instruction 2410.01A, 23 April 1997, "Guidance for the Exercise of Right of Assistance Entry."

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ENCLOSURE K

COMBATANT COMMANDERS' THEATER-SPECIFIC ROE

1. Purpose and Scope. This enclosure contains a list of effective CJCS AOR-specific ROE provided by the combatant commanders to assist commanders and units participating in operations outside their assigned AORs. CINCs who develop ROE specific to their AOR will provide the Chairman of the Joint Chiefs of Staff with a copy of this specific ROE for NCA approval, as necessary, and for inclusion in this enclosure.
2. Policy. The SROE establish the fundamental policies and procedures governing the actions to be taken by US force commanders during all military operations, contingencies, or prolonged conflicts. To provide uniform training and planning capabilities, this document is authorized for distribution to commanders at all levels to be used as the fundamental guidance for training and directing their troops.
3. Intent. These SROE set forth guidance concerning the inherent right of self-defense and provide NCA-level guidance for mission accomplishment. Subordinate commanders will use the supplementals provided in this enclosure to construct refined, tactical-level ROE guidance. If a situation develops that is not covered by any of the supplementals provided in this document, commanders will use the modification guidance delineated in Appendix J to request new supplemental measures that will be defined in an unused supplemental number. Commanders will clearly define the mission requirements and situational needs in the remarks section (paragraph 6) of the request message.
4. Theater-Specific ROE
  - a. USCINACOM. To be issued (TBI).
  - b. USCINCCENT. Current edition of USCINCCENT Theater-Specific and other applicable ROE. GCCS address <http://www.centcom.smil.mil/ccj3/ops2.htm/>.
  - c. USCINCEUR. TBI.

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- d. USCINCPAC. Current edition of USCINCPAC Theater-Specific ROE. GCCS address <http://www.hq.pacom.smil.mil/j06/j06/jo6.htm/>.
  - e. USCINCSO. TBI.
  - f. USCINCSpace. TBI.
  - g. USCINCSSTRAT. TBI.
5. Coast Guard Use-of-Force Policy. Current edition of COMDINST M16247 (series). Global Command and Control System (GCCS) address <http://204.36.191.2/cghq.html/>.
6. Document Security. This enclosure is UNCLASSIFIED. CINC directives are classified as marked.

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ENCLOSURE L

RULES OF ENGAGEMENT PROCESS

1. Purpose and Scope. Developing and implementing effective ROE are critical to mission accomplishment. This enclosure provides guidelines for incorporating ROE development into the crisis action planning (CAP) and deliberate planning processes by commanders and staff at all levels. All supplemental measures not specifically requiring NCA or CINC approval (001-199) are available for use by commanders unless expressly withheld by higher authority.

2. ROE Development

a. General. ROE are an operational issue and must directly support the operational concept. Once assigned a mission, the commander and staff must incorporate ROE considerations into mission planning. Operations planning and ROE development are parallel and collaborative processes that require extensive integration and may require development and request of supplemental measures requiring NCA or CINC approval for mission accomplishment. The issues addressed throughout the planning process will form the basis for supplemental ROE requests requiring NCA or CINC approval in support of a selected course of action (COA). ROE development is a continuous process that plays a critical role in every step of CAP and deliberate planning. Normally, the Director for Operations (J-3) is responsible for developing ROE during CAP while the Director for Strategic Plans and Policies (J-5) develops ROE for deliberate planning. The Staff Judge Advocate (SJA) assumes the role of principal assistant to the J-3 or J-5 in developing and integrating ROE into operational planning.

b. Task Steps. The following steps can be used to assist staffs in developing and implementing ROE during planning.

(1) Mission Analysis

(a) Review the SROE, including the CINC theater-specific ROE contained in Enclosure K.

(b) Review supplemental ROE measures already approved by higher headquarters, and determine existing constraints and restraints.

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(c) Review higher headquarters planning documents for political, military, and legal considerations that affect ROE. Consider tactical or strategic limitations on the use of force imposed by:

1. Higher headquarters in the initial planning documents.
2. International law, including the UN Charter.
3. US domestic law and policy.
4. HN law and bilateral agreements with the United States.
5. For multinational or coalition operations:
  - a. Foreign forces ROE, NATO ROE, or other use of force policies.
  - b. UN resolutions or other mission authority.

(d) Desired End State. Assess ROE requirements throughout preconflict, deterrence, conflict, and postconflict phases of an operation. ROE should support achieving the desired end state.

## (2) Planning Guidance

(a) Review commander's planning guidance for considerations affecting ROE development.

(b) Ensure ROE considerations derived from commander's planning guidance are consistent with those derived from initial planning documents.

(3) Warning Orders. Incorporate instructions for developing ROE in warning orders, as required. Contact counterparts at higher, lower, and adjacent headquarters, and establish the basis for concurrent planning.

(4) COA Development. Determine ROE requirements to support the operational concept of each proposed COA.

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(5) COA Analysis

(a) Analyze ROE during the wargaming process. In particular, assess each COA to identify any ROE normally retained by a higher echelon (NCA, CINC) that must be delegated to subordinate commanders. Identify ROE required by decision and decisive points.

(b) Refine ROE to support synchronizing each phase of proposed COAs.

(6) COA Comparison and Selection. Consider ROE during the COA comparison process.

(7) Commander's Estimate. Identify NCA-level ROE required to support recommended COA.

(8) Preparation of Operations Order (OPORD).

(a) Prepare and submit requests for all supplemental ROE measures in accordance with Enclosure A. Normally, the OPORD should not be used to request supplemental measures.

(b) Prepare the ROE appendix of the OPORD in accordance with CJCSM 3122.03 (JOPEs Volume II: Planning Formats and Guidance). The ROE appendix may include supplemental ROE measures that are already approved.

(c) Include guidance for disseminating approved ROE.  
Consider:

1. Developing "plain language" ROE.
2. Creating ROE cards.
3. Issuing special instructions (SPINS).
4. Distributing ROE to multinational forces or coalitions.
5. Issuing ROE translations (for multinational forces or coalitions).

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(9) ROE Request and Authorization Process. Commanders will request and authorize ROE, as applicable, in accordance with Enclosure A of this enclosure.

(10) ROE Control. Commanders and their staffs must continuously analyze ROE and recommend modifications required to meet changing operational parameters. The ROE process must anticipate changes in the operational environment and modify supplemental measures to support the assigned mission.

(a) Ensure that only the most current ROE serial is in use throughout the force.

(b) Catalog all supplemental ROE requests and approvals for ease of reference.

(c) Monitor ROE training.

(d) Modify ROE as required. Ensure that a timely, efficient staff process exists to respond to requests for and authorizations of ROE changes.

3. Establish ROE Planning Cell. Commanders may use a ROE Planning Cell to assist in developing ROE. The following guidelines apply:

a. The J-3 or J-5 is responsible for the ROE Planning Cell and, assisted by the SJA, developing supplemental ROE.

b. ROE are developed as an integrated facet of crisis action and deliberate planning and are a product of the Operations Planning Group (OPG) or Joint Planning Group (JPG), or equivalent staff mechanism.

c. ROE Planning Cell can be established at any echelon to refine ROE derived from the OPG or JPG planning and to produce ROE requests and/or authorizations.

(1) The J-3 or J-5 is responsible for the ROE Cell.

(2) The SJA assists the J-3 and J-5.

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ENCLOSURE M

REFERENCES

- a. CJCSI 2410.1A, 23 April 1997, "Guidance for the Exercise of Right of Assistance Entry."
- b. CJCSI 2410.02, 4 January 1995, "Policy on Foreign Ships Operating in US Waters."
- c. CJCSI 3110.07A, 15 December 1998, "Nuclear, Biological, and Chemical Defense; Riot Control Agents; and Herbicides."
- d. CJCSI 3123.01A, 1 November 1997, "US Action in the Event of Cuban Attack of US Aircraft, Ships, and Vessels."
- e. CJCSI 3150.3, 1 December 1993, "Joint Reporting Structure Event and Incident Reports."
- f. CJCSI 3210.01A, 2 January 1996, "Joint Information Warfare Policy."
- g. CJCSI 3210.03, 22 November 1996, "Joint Electronic Warfare Policy."
- h. CJCSI 3250.01, 6 May 1994, "Policy Guidance for Sensitive Airborne and Maritime Surface Reconnaissance Operations."
- i. CJCSI 3710.01, 28 May 1993, "Delegation of Authority for Approving Operational Support to Drug Law Enforcement Agencies and Counterdrug-Related Deployment of DOD Personnel."
- j. CJCSI 5810.01, 12 August 1996, "Implementation of the DOD Law of War Program."
- k. CJCSI 6210.02, 15 July 1997, "Attack Information and Operational Architecture of the Integrated Tactical Warning Assessment (ITW/AA) System."
- l. CJCSI 6510.01B, 22 August 1997, "Defensive Information Operations Implementation."

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m. Joint Publication 3-07, 16 June 1995, "Joint Doctrine for Military Operations Other Than War."

n. Joint Publication 3-07.3, 29 April 1994, "JTTP for Peacekeeping Operations."

o. Joint Publication 3-53, 10 July 1996, "Doctrine for Joint Psychological Operations."

p. DOD Instruction 3321.1, 26 July 1984, "Overt Psychological Operations Conducted by the Military Services in Peacetime and in Contingencies Short of Declared War."

q. DOD Directive 5100.77, 9 December 1998, "DOD Law of War Program."

r. DOD Instruction 5210.56, 25 February 1992, "Use of Deadly Force and the Carrying of Firearms by DOD Personnel Engaged in Law Enforcement and Security Duties."

s. DOD Directive 1300.7, 23 December 1988, "Training and Education Measures Necessary to Support the Code of Conduct, CH1."

t. DOD Directive 2000.11, 3 March 1972, "Procedures for Handling Requests for Political Asylum and Temporary Refuge, CH1."

u. DOD Directive 3000.3, 9 July 1996, "Policy for Nonlethal Weapons."

v. Deputy Secretary of Defense memorandum, 27 October 1993, "DOD Guidance for Implementation of National Drug Control Policy."

w. Secretary of Defense memorandum, 6 October 1998, "Military Support to Counternarcotics Activities."

x. Coast Guard Use-of-Force Policy. Current edition of COMDINST M16247 (series). Global Command and Control System (GCCS) address <http://204.36.191.2/cghq.html/>.

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GLOSSARY

PART I: ABBREVIATIONS AND ACRONYMS

AOR	area of responsibility
AWCM*	acoustic warfare countermeasures
AWCCM*	acoustic warfare counter-countermeasures
C2	command and control
C2W	command and control warfare
CAP	crisis action planning
CD	counterdrug
CERTSUB*	certain submarine
CI	counterintelligence
CINC	commander of a combatant command
CJCS	Chairman of the Joint Chiefs of Staff
CJCSI	Chairman of the Joint Chiefs of Staff Instruction
CJCSM*	Chairman of the Joint Chiefs of Staff Manual
CNA*	computer network attack
CND*	computer network defense
COA	course of action
COM	Chief of Mission
DE	directed energy
DEW	directed-energy warfare
DOD	Department of Defense
DOS	Department of State
EA	electronic attack
EAP	Emergency Action Plan
EEZ	exclusive economic zone
EMCON	emission control

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EP	electronic protection
ES	electronic warfare support
EW	electronic warfare
FSU*	former Soviet Union
GENSER	general service (message)
GCCS	global command and control system
GPS	global positioning system
HN	host nation
I and W	indication and warning
IA*	information assurance
ICAO	International Civil Aviation Organization
INCSEA*	incidents at sea
INFOSEC	information security
IO	information operations
IW	information warfare
JPG*	joint planning group
LEA	law enforcement agencies
LEDET	Law Enforcement Detachment (USCG)
LLSO	low-level source operations
MERSHIPS*	merchant ships
MILDEC*	military deception
MIO	maritime intercept operations
MOA	memorandum of agreement
MSG	Marine Security Guard
NATO	North Atlantic Treaty Organization
NCA	National Command Authorities
NEO	noncombatant evacuation operation
nm	nautical mile
NORAD	North American Aerospace Defense Command
NOTAM	notice to airmen
NOTMAR	notice to mariners
OPCON	operational control
OPG	operations planning group

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OPLAN	operation plan
OPORD	operation order
OPREP	operational report
OPSEC	operations security
OSC	on-scene commander
PA	public affairs
PO	peace operations
PROBSUB*	probable submarine
POSSUB*	possible submarine
PSYOP	psychological operations
RCA	riot control agent
ROE	rules of engagement
RPV	remotely piloted vehicle
SCI	sensitive compartmented information
SA	selective availability
SIGINT	signals intelligence
SIO*	special information operations
SJA	Staff Judge Advocate
SPINS	special instructions
SROE	standing rules of engagement
TACON	tactical control
TBI	to be issued
TCN	third country national
UAV	unmanned aerial vehicle
UN	United Nations
USCG	US Coast Guard
USCINACOM	Commander in Chief, US Atlantic Command
USCINCCENT	Commander in Chief, US Central Command
USCINCEUR	US Commander in Chief, Europe
USCINCPAC	Commander in Chief, US Pacific Command
USCINCSO	Commander in Chief, US Southern Command
USCINCSOC	Commander in Chief, US Special Operations Command
USCINCSpace	Commander in Chief, US Space Command
USCINCSSTRAT	Commander in Chief, US Strategic Command
USCINCSTRANS	Commander in Chief, US Transportation Command

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USELEMNORAD	US Element North American Aerospace Defense Command
USG	US Government
WARM	wartime reserve mode

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*Source:* [http://www.fas.org/man/dod-101/dod/docs/cjcs\\_sroe.pdf](http://www.fas.org/man/dod-101/dod/docs/cjcs_sroe.pdf)

## APPENDIX 11: RULES FOR THE USE OF FORCE FOR FEDERAL FORCES

Appendix 11-12: CJCSI 3121.02, Use of Force for Support to Civilian Counterdrug Law Enforcement.

*See Appendix 3-8*

Appendix 11-13: Draft CJCSI 3121.01B, Standing Rules for Use of Force.

*Unclassified portion not currently available for general distribution*

Appendix 11-14: DoD OPLAN GARDEN PLOT.

*See Appendix 4-18*





## APPENDIX 12: RULES FOR THE USE OF FORCE FOR NATIONAL GUARD

### APPENDIX 12. RULES FOR THE USE OF FORCEFOR NATIONAL GUARD

#### APPENDIX 12-1: 10 U.S.C., CHAPTER 15 - INSURRECTION ACT

*See Appendix 4-1*

#### APPENDIX 12-2: 18 U.S.C. § 1385 - THE POSSE COMITATUS ACT (PCA)

*See Appendix 2-1*

#### APPENDIX 12-3: 28 U.S.C. § 1346, 2671 - 2680 FEDERAL TORT CLAIMS ACT

*See Appendix 4-6*

#### APPENDIX 12-4: 32 USC § 502- REQUIRED DRILLS AND FIELD EXERCISES

Sec. 502. - Required drills and field exercises

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall -

(1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and

(2) participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required membership in the National Guard.

(b) An assembly for drill and instruction may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the Secretary concerned, a series of ordered formations of parts of those organizations. However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within 90 consecutive days.

(c) The total attendance at the series of formations constituting an assembly shall be counted as the attendance at that assembly for the required period. No member may be counted more than once or receive credit for more than one required period of attendance, regardless of the number of formations that he attends during the series constituting the assembly for the required period.

(d) No organization may receive credit for an assembly for drill or indoor target practice unless -

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- (1) the number of members present equals or exceeds the minimum number prescribed by the President;
  - (2) the period of military duty or instruction for which a member is credited is at least one and one-half hours; and
  - (3) the training is of the type prescribed by the Secretary concerned.
- (e) An appropriately rated member of the National Guard who performs an aerial flight under competent orders may receive credit for attending drill for the purposes of this section, if the flight prevented him from attending a regularly scheduled drill.
- (f) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may -
- (1) without his consent, but with the pay and allowances provided by law; or
  - (2) with his consent, either with or without pay and allowances;
- be ordered to perform training or other duty in addition to that prescribed under subsection
- (a). Duty without pay shall be considered for all purposes as if it were duty with pay

### **APPENDIX 12-5: NGR 500-1 - MILITARY SUPPORT TO CIVIL AUTHORITIES**

*See Appendix 8-20*

### **APPENDIX 12-6: EMERGENCY MANAGEMENT ASSISTANCE COMPACT (EMAC)**

APPENDIX 12: RULES FOR THE USE OF FORCE  
FOR NATIONAL GUARD

PUBLIC LAW 104–321—OCT. 19, 1996

110 STAT. 3877

Public Law 104–321  
104th Congress

Joint Resolution

Granting the consent of Congress to the Emergency Management Assistance Compact.

Oct. 19, 1996  
[H.J. Res. 193]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. CONGRESSIONAL CONSENT.

State listing.

The Congress consents to the Emergency Management Assistance Compact entered into by Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. The compact reads substantially as follows:

**“Emergency Management Assistance Compact**

**“ARTICLE I.**

**“PURPOSE AND AUTHORITIES.**

“This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term ‘states’ is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

“The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

“This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states’ National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

## “ARTICLE II.

## “GENERAL IMPLEMENTATION.

“Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

“The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

“On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

## “ARTICLE III.

## “PARTY STATE RESPONSIBILITIES.

“A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

“1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

“2. Review party states’ individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

“3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

“4. Assist in warning communities adjacent to or crossing the state boundaries;

“5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

“6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

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“7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

“B. The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

“1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

“2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

“3. The specific place and time for staging of the assisting party’s response and a point of contact at that location.

“C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

### “ARTICLE IV.

#### “LIMITATIONS.

“Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

“Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

## “ARTICLE V.

## “LICENSES AND PERMITS.

“Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

## “ARTICLE VI.

## “LIABILITY.

“Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

## “ARTICLE VII.

## “SUPPLEMENTARY AGREEMENTS.

“Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

## “ARTICLE VIII.

## “COMPENSATION.

“Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

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### “ARTICLE IX.

#### “REIMBURSEMENT.

“Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

### “ARTICLE X.

#### “EVACUATION.

“Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

### “ARTICLE XI.

#### “IMPLEMENTATION.

“A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

Effective date.

“B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve

the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

“C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

“ARTICLE XII.

“VALIDITY.

“This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

“ARTICLE XIII.

“ADDITIONAL PROVISIONS.

“Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under § 1385 of Title 18 of the United States Code.”.

**SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.**

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall—

(1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;

(2) not be construed as consent to the National Guard Mutual Assistance Compact;

(3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;

(4) not be construed as providing authority in Article III A. 7. that does not otherwise exist for the suspension of statutes or ordinances;

(5) be construed as understanding that Article III C. does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and

(6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by article I of the Constitution and title 10 of the United States Code.

**SEC. 3. CONSTRUCTION AND SEVERABILITY.**

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes



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thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

### SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the States.

Approved October 19, 1996.

## APPENDIX 12-7: STATE RULES FOR THE USE OF FORCE CHECK

- I. Format and Approval
  - A. Annex to OPLAN/OPORD
  - B. MOA/MOU
  - C. Soldier pocket card
  - D. Arming orders
  - E. Other
  - F. Approval of amendment by TAG/TF Cdr required/subordinate headquarters may Impose more restrictive RUF
- II. Definitions
  - A. Asset inherently/not inherently dangerous to others
  - B. Asset vital/not vital to national security
  - C. Dangerous instrument
  - D. Deadly force, non-deadly force
    - 1. Use of firearm always deadly force
    - 2. Other
  - E. Deadly weapon, non-deadly weapon
  - F. Detention
  - G. Hostile act, hostile intent, hostile force
  - H. Necessary/reasonable force
  - I. Peace officer
  - J. Physical/bodily injury
  - K. Reasonable belief
  - L. Self defense
  - M. Serious physical/bodily injury
  - N. Terrorism
- III. Use of Force
  - A. Mission and relationship of RUF to mission
  - B. General duty to avoid use of force; preference for use of non-deadly force if at all
  - C. General requirement for training and provision for legal protection (see Training Below)
  - D. Rules for use of force applicable to both non-deadly and deadly force
    - 1. Apply/don't apply scheme of NGR 500-1, para 4-6 for SAD (must be determined IAW the law and civil and military policies of that state).
    - 2. Employ minimum force necessary/readily available, using escalating/tailored response:
      - a. request civilian peace officer to handle situation
      - b. verbal persuasion/order/warning

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- c. display/use of non-lethal weapon
  - d. display of lethal weapon
  - e. verbal warning for use of lethal weapon
  - f. warning shots allow/not allowed
  - g. use of weapon to injure/stop
  - h. use of weapon to kill
- 3. Use force options in FM 19-15 and NG Civil Disturbance Handbook as a guide
- 4. Self Defense using deadly/non-deadly weapon(s) always available (see Self Defense below)
- 5. Allow surrender, treat humanly, respect private property
- E. Situations requiring/allowing use of force
  - 1. Self defense (see Self Defense below)
  - 2. Mission accomplishment
    - a. Apprehension/detention
    - b. Search, seizure
    - c. Civil disturbance
    - d. Crowd control
    - e. Enforcement of orders of civil authorities
    - f. Detaining
    - g. Apprehending
    - h. Prevent escape of detained or apprehended person
    - i. Pursuit of suspect of crime
    - j. Defense of occupied/unoccupied property
    - k. Prevent specified/unspecified offenses at specified/unspecified times/places
    - l. Specified THREATCON levels (see THREATCON RUF below)
    - m. At direction/request of CLEO
- F. Non-deadly force
  - 1. Use of force authorized/authorized for specific purposes (e.g., apprehension, detention, protection of occupied/unoccupied property)/unauthorized
  - 2. Specific weapons/devices authorized
    - a. Pepper spray, RCA
    - b. Flex cuffs
    - c. Baton
    - d. Other (see Weapons below)
- G. Deadly force
  - 1. General conditions for employment
    - a. Non-deadly force exhausted or self defense requires
    - b. Authorized/authorized for specified purposes (e.g., apprehension, detention, protection of occupied/unoccupied property)/unauthorized
    - c. No danger to others
    - d. Warning required if possible
    - e. Warning shots authorized/unauthorized
  - 2. Other considerations
    - a. Situs of defender (e.g., residence of person employing force)
    - b. Any conditions for use of particular weapon satisfied (e.g. use of lock plates on M16)
    - c. Status of person employing force
      - (1) armed citizen
      - (2) peace officer
      - (3) armed citizen at direction of/authorization by peace officer/other official
    - d. reasonable belief of person employing force
    - e. assistance to victim(s), Call 911, etc.
    - f. If mission cannot be accomplished without use of deadly force and deadly force not permitted, mission must be changed or delayed (assuming RUF not amended) until sufficient non-deadly force arrives to accomplish the mission.

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- g. Report use of force/discharge of firearm/violations of RUF through chain of command
- h. Pneumonic devices:
  - (1) R-A-M-P
  - (2) C-P-A
  - (3) L-I-D
  - (4) W-O-C-S

### IV. Self Defense

- A. Defense of Self
- B. Defense of others
- C. Defense of occupied property
- D. Conditions for employment
  - 1. Response to hostile act, hostile intent
  - 2. Use minimum force necessary/available (see Use of Force above)
  - 3. Retreat doctrine v. right to position defense
    - a. Situs of defender (e.g., defender's home)
    - b. Status of defender (same as Use of Force E1e above)
    - c. Reasonable belief of defender
  - 4. Response must be proportional in degree, intensity, and duration
  - 5. Searches for protection of force or incident to lawful apprehension

### V. Powers of Peace Officer

- D. Statutory or other bases
- E. Use of Force
- F. Apprehension/Detention
- G. Search and seizure

### VI. Apprehension/Detention

- A. Clarification of military vs. civilian terms
  - 1. Arrest
  - 2. Apprehension
- B. Detention
- C. Authorized/authorized under stated conditions/unauthorized
- D. Probable cause
- E. Use of force/resisting arrest
- F. Pursuit of suspects, hot pursuit
- G. Reliance on civilian law enforcement (see Civilian Law Enforcement below)
- H. Treatment of persons apprehended/arrested, or detained
- I. Use of flex cuffs (allowed/allowed under specified conditions/not allowed)
- J. Completion of apprehension/arrest or detention record (DA Form 3316-R)
- K. NG forces may/may under specified conditions/may not conduct interrogations (Art. 31 rights would apply)
- L. NG forces may/may under specified circumstances/may not advise individuals of Miranda/Art. 31 rights

### VII. Search and Seizure

- A. Search (including/excluding stop and frisk)
- B. Seizure
- C. Authorized/authorized under specified conditions/not authorized
  - 1. Persons/property
  - 2. Purpose
    - a. Mission accomplishment
    - b. Self defense (see Self Defense above)
  - 3. Probable cause, reasonable suspicion

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4. Bases of execution
  - a. Search (no warrant issued)
    - (1) consent
    - (2) incident to lawful apprehension/arrest or detention
    - (3) exigent circumstances
    - (4) probable cause (e.g., plain view)
  - b. Seizure (no warrant issued)
    - (1) consent
    - (2) safety of force
    - (3) evidence of an offense
5. Method of execution
  - a. Special use area
  - b. Pat downs of female suspects
6. Role of/Reliance on civilian authorities (see Civilian Law Enforcement below)
7. Safe keeping of/account for seized property (DA 3316-R)
8. Use of force (see Use of Force above)
9. Notification to civilian law enforcement

### VIII. Weapons

- A. Type
  1. Usually allowed
    - a. Rifle
    - b. Pistol
    - c. Bayonet
    - d. Baton
    - e. Pepper spray
  2. Allowed only in limited circumstances
    - a. Working dogs
    - b. High pressure water
    - c. M203
    - d. RCAs
    - e. Crew served
  3. Usually not allowed
    - a. Privately owned
- B. Conditions for Use
  1. Secure storage required
  2. Use of force (see Use of Force above)
  3. Use only in approved manner (e.g., use of M16 only with lock plate)
  4. Tactical control of increasingly deadlier force by NCO or officer
  5. Firearms not to be fired from moving vehicles (self defense exception)
  6. Discharge of firearm report required
- C. Arming orders
  1. Use chart/matrix
  2. Use numbered levels
  3. To be used/not used sequentially
  4. Soldier card

### IX. THREATCON RUF

- A. THREATCON levels
- B. RUF for each THREATCON level
- C. THREATCON Arming orders
- D. Role of Cdr

### X. Training

- A. Subjects

## APPENDIX 12: RULES FOR THE USE OF FORCE FOR NATIONAL GUARD

1. Mission
  2. Method of execution
  3. Use of force
    - a. General principles
    - b. Self defense
    - c. Mission accomplishment
  4. Apprehension/arrest or detention
  5. Search and seizure
  6. Use of pneumatic device (see Use of Force above)
  7. Use of arming order
  8. Legal authority/protection
    - a. Civil liability
    - b. Criminal liability
  9. Use of protective equipment
  10. Use only approved method of employment of weapons/equipment
  11. Civilian law enforcement
  12. Weapons qualification
  - B. Method
    1. Briefing/hand outs
    2. Vignettes
    3. Pneumatic devices (see Use of Force above)
    4. Testing
  - C. Soldier acknowledges receipt of training
- XI. Command/Commander Responsibility
- A. Exercise Close supervision over operations involving use of force
    1. Lautenberg compliance
    2. Security clearance requirements
    3. Safe storage of weapons
    4. Tactical control/direction at point of mission execution
  - B. Training in use of force, weapons, and equipment (see Training above)
  - C. Direct control of NG forces is/is not given to civilian law enforcement
- XII. Civilian Law Enforcement
- A. Role, location, contacting, relationship with
  - B. NG forces are/are not under direct control of civilian authorities
  - C. Use/reliance on for specified purposes
    1. Apprehension/arrest or detention
    2. Search
    3. Seizure
    4. Operation of detention facility
- XIII. Special Orders/General Orders/Coordinating Instructions
- A. Maintain professional appearance and bearing at all times
  - B. Treat all civilians respectfully
  - C. Do not discuss operations outside military chain of command
  - D. Report accidents and injuries through chain of command
  - E. Code of ethics (Do's and don'ts less than RUF while performing duty)
  - F. Issuance and accountability of weapons, ammunition, and other equipment
  - G. Method/place of deployment at airport
  - H. Applicability of state UCMJ
  - I. General characteristics of a terrorist
- XIV. Contact With Media Personnel
- A. You may/may not respond to request from the media for interviews or statements.

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- B. Refer questions on Army/National Guard policy to military Public Affairs Officer
- C. Do not unnecessarily impede freedom of movement of properly identified media personnel

## **APPENDIX 13.**

### **DOMESTIC SUPPORT OPERATIONS FUNDING**

**APPENDIX 13-1:** 18 U.S.C. § 1385, POSSE COMITATUS ACT.

*See Appendix 2-1*

**APPENDIX 13-2:** 10 U.S.C. §§ 371-382, CHAPTER 18, MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES.

*See Appendix 2-2*

**APPENDIX 13-3:** 10 U.S.C. §§ 331-334, CHAPTER 15, INSURRECTIONS.

*See Appendix 4-1*

**APPENDIX 13-4:** 10 U.S.C. §2012, INNOVATIVE READINESS TRAINING.

*See Appendix 7-1*

**APPENDIX 13-5:** 10 U.S.C. §2551, EQUIPMENT AND OTHER SERVICES: NATIONAL VETERANS' ORGANIZATIONS.

Sec. 2551. - Equipment and barracks: national veterans' organizations

(a) The Secretary of a military department, under conditions prescribed by him, may lend cots, blankets, pillows, mattresses, bed sacks, and other supplies under the jurisdiction of that department to any recognized national veterans' organization for use at its national or state convention or national youth athletic or recreation tournament. He may, under conditions prescribed by him, also permit the organization to use unoccupied barracks under the jurisdiction of that department for such an occasion.

(b) Property lent under subsection (a) may be delivered on terms and at times agreed upon by the Secretary of the military department concerned and representatives of the veterans' organization. However, the veterans' organization must defray any expense incurred by the United States in the delivery, return, rehabilitation, or replacement of that property, as determined by the Secretary.

(c) The Secretary of the military department concerned shall require a good and sufficient bond for the return in good condition of property lent or used under subsection (a)

**APPENDIX 13-6:** 10 U.S.C. §2552, EQUIPMENT AND OTHER SERVICES: AMERICAN RED CROSS.

Sec. 2552. - Equipment for instruction and practice: American National Red Cross

The Secretary of a military department, under regulations to be prescribed by him, may lend equipment under the jurisdiction of that department that is on hand, and that can be temporarily spared, to any

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organization formed by the American National Red Cross that needs it for instruction and practice for the purpose of aiding the Army, Navy, or Air Force in time of war. The Secretary shall by regulation require the immediate return, upon request, of equipment lent under this section. The Secretary shall require a bond, in double the value of the property issued under this section, for the care and safekeeping of that property and for its return when required

## **APPENDIX 13-7: 10 U.S.C. §2554, EQUIPMENT AND OTHER SERVICES: BOY SCOUT JAMBOREES.**

*See Appendix 7-2*

## **APPENDIX 13-8: 10 U.S.C. §2555, EQUIPMENT AND SERVICES: GIRL SCOUTS OF AMERICA.**

Sec. 2555. - Transportation services: international Girl Scout events

(a) The Secretary of Defense is authorized, under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for

(1) those Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States,

(2) United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and

(3) the equipment and property of such Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations.

(b) Before furnishing any transportation under subsection (a), the Secretary of Defense shall take from the Girl Scouts of the United States of America a good and sufficient bond for the reimbursement to the United States by the Girl Scouts of the United States of America, of the actual costs of transportation furnished under subsection (a).

(c) Amounts paid to the United States to reimburse it for the actual costs of transportation furnished under subsection (a) shall be credited to the current applicable appropriations or funds to which such costs were charged and shall be available for the same purposes as such appropriations or funds

## **APPENDIX 13-9: 10 U.S.C. §2556, EQUIPMENT AND SERVICES: HOMELESS.**

Sec. 2556. - Shelter for homeless; incidental services

(a)

(1) The Secretary of a military department may make military installations under his jurisdiction available for the furnishing of shelter to persons without adequate shelter. The Secretary may, incidental to the furnishing of such shelter, provide services as described in subsection (b). Shelter and incidental services provided under this section may be provided without reimbursement.



(2) The Secretary concerned shall carry out this section in cooperation with appropriate State and local governmental entities and charitable organizations. The Secretary shall, to the maximum extent practicable, use the services and personnel of such entities and organizations in determining to whom and the circumstances under which shelter is furnished under this section.

(b) Services that may be provided incident to the furnishing of shelter under this section are the following:

(1) Utilities.

(2) Bedding.

(3) Security.

(4) Transportation.

(5) Renovation of facilities.

(6) Minor repairs undertaken specifically to make suitable space available for shelter to be provided under this section.

(7) Property liability insurance.

(c) Shelter and incidental services may only be provided under this section to the extent that the Secretary concerned determines will not interfere with military preparedness or ongoing military functions.

(d) The Secretary concerned may provide bedding for support of shelters for the homeless that are operated by entities other than the Department of Defense. Bedding may be provided under this subsection without reimbursement, but may only be provided to the extent that the Secretary determines that the provision of such bedding will not interfere with military requirements.

(e) The Secretary of Defense shall prescribe regulations for the administration of this section

### **APPENDIX 13-10: 10 U.S.C. §2558, EQUIPMENT AND SERVICES: NATIONAL MILITARY ASSOCIATIONS: ASSISTANCE AT NATIONAL CONVENTIONS.**

Sec. 2558. - National military associations: assistance at national conventions

(a) Authority To Provide Services. - The Secretary of a military department may provide services described in subsection (c) in connection with an annual conference or convention of a national military association.

(b) Conditions for Providing Services. - Services may be provided under this section only if -

(1) the provision of the services in any case is approved in advance by the Secretary concerned;

(2) the services can be provided in conjunction with training in appropriate military skills; and

(3) the services can be provided within existing funds otherwise available to the Secretary concerned.

(c) Covered Services. - Services that may be provided under this section are -

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- (1) limited air and ground transportation;
- (2) communications;
- (3) medical assistance;
- (4) administrative support; and
- (5) security support.

(d) National Military Associations. - The Secretary of Defense shall designate those organizations which are national military associations for purposes of this section.

(e) Regulations. - The Secretary of Defense shall prescribe regulations to carry out this section.

## **APPENDIX 13-11: 10 U.S.C. §2562, PROHIBITION ON TRANSFER OF CONSTRUCTION OF FIREFIGHTING EQUIPMENT IN FMS.**

Sec. 2562. - Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs

(a) Limitation. - Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if -

(1) no department or agency of the Federal Government (other than the Department of Defense), no State, and no other person or entity eligible to receive excess or surplus property under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

(b) Rule of Construction. - Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2557 of this title.

(c) Definition. - In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

## **APPENDIX 13-12: 10 U.S.C. §2564, PROVISION OF SUPPORT FOR CERTAIN SPORTING EVENTS.**

Sec. 2564. - Provision of support for certain sporting events

(a) Security and Safety Assistance. - At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of

Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

(b) Other Assistance. - The Secretary of Defense may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only -

(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the armed forces; and

(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of this title and other applicable provisions of law.

(c) Inapplicability to Certain Events. - Subsections (a) and (b) do not apply to the following sporting events:

(1) Sporting events for which funds have been appropriated before September 23, 1996.

(2) The Special Olympics.

(3) The Paralympics.

(d) Terms and Conditions. - The Secretary of Defense may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) Report on Assistance. - Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth -

(1) a description of the assistance provided;

(2) the amount expended by the Department in providing the assistance;

(3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and

(4) if the assistance was provided under subsection (b) -

(A) an explanation why the assistance could not reasonably be met by a source other than the Department; and

(B) the amount the Department was reimbursed under that subsection.

(f) Relationship to Other Laws. - Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of this title.

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## **APPENDIX 13-13: 10 U.S.C. §2576, SALE OR DONATION OF MILITARY EQUIPMENT.**

Sec. 2576. - Surplus military equipment: sale to State and local law enforcement and firefighting agencies

(a) The Secretary of Defense, under regulations prescribed by him, may sell to State and local law enforcement and firefighting agencies, at fair market value, pistols, revolvers, shotguns, rifles of a caliber not exceeding .30, ammunition for such firearms, gas masks, and protective body armor which

(1) are suitable for use by such agencies in carrying out law enforcement and firefighting activities, and

(2) have been determined to be surplus property under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(b) Such surplus military equipment shall not be sold under the provisions of this section to a State or local law enforcement or firefighting agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe, and such request, with respect to the type and amount of equipment so requested, is certified as being necessary and suitable for the operation of such agency by the Governor (or such State official as he may designate) of the State in which such agency is located. Equipment sold to a State or local law enforcement or firefighting agency under this section shall not exceed, in quantity, the amount requested and certified for such agency and shall be for the exclusive use of such agency. Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency

## **APPENDIX 13-14: 10 U.S.C. §2667, LEASE OF DoD PROPERTY.**

*See Appendix 4-2*

## **APPENDIX 13-15: 31 U.S.C. §1535, ECONOMY ACT.**

*See Appendix 4-7*

## **Appendix 13-16: 31 U.S.C. §3302, Miscellaneous Receipts.**

Sec. 3302. - Custodians of money

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without -

(1) lending the money;

(2) using the money;

(3) depositing the money in a bank; and

(4) exchanging the money for other amounts.

(b) Except as provided in section 3718(b) <sup>[1]</sup> of this title, an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c)

(1) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay in the Treasury or with a depository designated by the Secretary of the Treasury under law. Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money. The Secretary or a depository receiving a deposit shall issue duplicate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government

**APPENDIX 13-17: 32 U.S.C. § 112, DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.**

*See Appendix 3-5*

**APPENDIX 13-18: 42 U.S.C. § 5121, ET SEQ., AS AMENDED, STAFFORD ACT.**

*See Appendix 5-11*

**APPENDIX 13-19: 50 U.S.C. § 2311, RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.**

Sec. 2311. - Response to threats of terrorist use of weapons of mass destruction

(a) Enhanced response capability

In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action -

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

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## (b) Report required

Not later than January 31, 1997, the President shall transmit to Congress a report containing -

- (1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;
- (2) requirements for improvements in those capabilities; and
- (3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required

### **APPENDIX 13-20:** DoDD 1100.20, SUPPORT AND SERVICES FOR ELIGIBLE ORGANIZATIONS AND ACTIVITIES OUTSIDE THE DEPARTMENT OF DEFENSE

*See Appendix 7-4*

### **APPENDIX 13-21:** DoDD 2000.15, SUPPORT TO SPECIAL EVENTS

*See Appendix 7-5*

### **APPENDIX 13-22:** DoDD 3025.15, MILITARY ASSISTANCE TO CIVIL AUTHORITIES

*See Appendix 4-9*

### **APPENDIX 13-23:** DoDD. 3025.1, MILITARY SUPPORT TO CIVIL AUTHORITIES

*See Appendix 6-3*

### **APPENDIX 13-24:** DoD 3025.1M, MANUAL FOR CIVIL EMERGENCIES

*See Appendix 5-16*

### **APPENDIX 13-25:** DoDD. 3025.12, MILITARY ASSISTANCE FOR CIVIL DISTURBANCES

*See Appendix 2-4*

### **APPENDIX 13-26:** DoDD. 5525.5, DoD COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS 15 JANUARY 1986, THROUGH CHANGE 1, 20 DECEMBER 1989.

*See Appendix 2-3*

**APPENDIX 13-27:** NGR 500-1/ ANGI 10-8101, MILITARY SUPPORT TO CIVIL AUTHORITIES.

*See Appendix 8-2*

**APPENDIX 13-28:** NGB 500-2/ ANGI 10-801, NATIONAL GUARD COUNTERDRUG SUPPORT.

*See Appendix 3-10*

**APPENDIX 13-29:** CJCS INSTRUCTION 3710.01, DELEGATION OF AUTHORITY FOR APPROVING OPERATIONAL SUPPORT TO DRUG LAW ENFORCEMENT AGENCIES AND COUNTERDRUG-RELATED DEPLOYMENT OF DoD PERSONNEL.

*See Appendix 3-9*

**APPENDIX 13-30:** AR 500-50, CIVIL DISTURBANCES.

*See Appendix 4-13*

**APPENDIX 13-31:** AR 500-51, SUPPORT TO CIVILIAN LAW ENFORCEMENT.

*See Appendix 2-8*

**APPENDIX 13-32:** AR 700-131, LOAN, LEASE AND DONATION OF ARMY MATERIAL

*See Appendix 4-14*

**APPENDIX 13-33:** DoD CIVIL DISTURBANCE PLAN GARDEN PLOT.

*See Appendix 4-18*

**APPENDIX 13-34:** FM 100-19, DOMESTIC SUPPORT OPERATIONS.

*See Appendix 4-17*