

**APPENDIX 3**  
**DoD CBRNE CONSEQUENCE MANAGEMENT**

**APPENDIX 3-1: 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:

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.

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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, 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.

### 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.

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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.

### 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.

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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.

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;

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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

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.

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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.

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.

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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:

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:

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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.

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

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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.

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.

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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.

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.

5.12.3. 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.

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/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
- (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.

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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 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.

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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.

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 3-2: DoDD 3025.15, Military Assistance to Civil Authorities**

See next page.



Department of Defense

## DIRECTIVE

NUMBER 3025.15  
February 18, 1997

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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

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:

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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).

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4.2.2. Lethality (potential use of lethal force by or against DoD Forces).

4.2.3. Risk (safety of DoD Forces).

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 Department of Defense'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 paragraph 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 subparagraph 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.

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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 DoD 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 subparagraph 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 counter-terrorism 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 subparagraph 4.7.3.5., below.

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### 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 paragraph 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 paragraph 4.5. or subparagraph 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 paragraph 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 subparagraph 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, shall direct the required DoD assistance, in accordance with DoD Directive 3025.12 (reference (e)), DoD Directive 5160.54 (reference (f)), and

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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 Counter-terrorism 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 counter-terrorist 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 Department of Defense'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 counter-terrorism 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)).

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4.7.7. Counter-drug Operational Support. Counter-drug 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.

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 subparagraph 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 non-reimbursable 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 non-reimbursable 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 non-reimbursable 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 non-reimbursable support made by State or local civil authorities shall be approved as provided in DoD Directive 5525.5 (reference (i)).

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### 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 subparagraph 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. counter-terrorism 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 counter-terrorism crisis management, to include DoD responses to terrorism incidents, including weapons of mass destruction (WMD).

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 non-counter-drug 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 non-emergency, non-counter-drug support to civilian law enforcement agencies or

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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, the 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; inter-departmental 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.

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### 5.8. The Secretary of the Army shall:

5.8.1. Serve as the 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, the 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 paragraph 4.5. or subparagraph 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 paragraph 4.5. or subparagraph 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.

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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 the 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)).

5.10.3. Forward, if required under paragraph 4.5. or subparagraph 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

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military support to civil authorities will adversely affect military readiness. Adverse effects 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.

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.

APPENDIX 3: DoD CBRNE  
CONSEQUENCE MANAGEMENT

DODD 3025.15, February 18, 1997

7. EFFECTIVE DATE

This Directive is effective immediately.



John P. White  
Deputy Secretary of Defense

Enclosures - 2  
E1. References, continued  
E2. Definitions

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

DODD 3025.15, February 18, 1997

### 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

# APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

DODD 3025.15, February 18, 1997

## 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, the 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.

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 E2.1.9.)

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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plus DoD assistance for civil disturbances, counter-drug, sensitive support, counter-terrorism, 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 3-3: DoDD 5525.5, DoD COOPERATION WITH CIVILIAN LAW  
ENFORCEMENT OFFICIALS**



Department of Defense

**DIRECTIVE**

**NUMBER 5525.5**  
January 15, 1986

*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, the Navy, the Air Force, and the 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:

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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.

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 paragraph 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 2 through 7.

### 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.

5.1.4. Develop guidance and, as required, take other actions as specified in enclosures 2 through 7, taking into account the requirements of DoD intelligence components and the

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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 6 and 7.

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.

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 subparagraph 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 5.

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

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.

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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 the 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 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.

### 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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

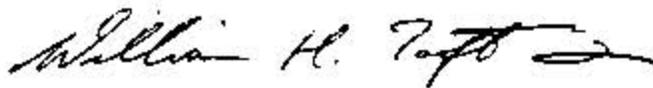
possible, the affected civilian law enforcement agencies shall be consulted before releasing such information.

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

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

8.2. *Miscellaneous. The provisions of paragraph E4.1.3. of enclosure 4 of Department of Defense Directive 5525.5 reference (a), 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.*



William H. Taft, IV  
Deputy Secretary of Defense

#### Enclosures - 7

- E1. References, continued
- E2. Use of Information Collected During Military Operations
- E3. Use of Military Equipment and Facilities
- E4. Restrictions on Participation of DoD Personnel in Civilian Law Enforcement Activities
- E5. Funding
- E6. Sample Format for Preparing, "Report on Support to Civilian Law Enforcement (RCS DD-FM&P(Q)1595)"
- E7. Aviation Assistance to Law Enforcement Agencies (Sample Format)

E1. ENCLOSURE 1

REFERENCES, continued

- (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
- (g) DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982
- (h) DoD 4515.13-R, "Air Transportation Eligibility," January 1980
- (i) Public Law, "The Economy Act," (31 U.S.C. §1535)
- (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
- (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) Appendix 3, Section 8(g) of title 5, United States Code

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- (y) Sections 23, 78, 593, and 1861(a) of title 16, United States Code
- (z) Sections 112, 351, 831, 1116, 1751, and 3056 of title 18, United States Code; "Presidential Protection Assistance Act of 1976," Public Law 94-524, 90 Stat. 2475
- (aa) Sections 408 and 461-462 of title 22, United States Code
- (bb) Section 180 of title 25, United States Code
- (cc) Sections 97, 1989, and 3789 of title 42, United States Code
- (dd) Section 1065 of title 43, United States Code
- (ee) Sections 1418, 1422, and 1591 of title 48, United States Code
- (ff) Section 220 of title 50, United States Code
- (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) Section 1401 of title 19, United States Code (The Tariff Act of 1930) and Section 1202 (Tariff Schedules of the United States)
- (kk) Section 873(b) of title 21, United States Code
- (ll) DoD 7220.9-M, "Department of Defense Accounting Manual," October 1983

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.

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.

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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 4.

### 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 5 apply.

E3. ENCLOSURE 3

USE OF MILITARY EQUIPMENT AND FACILITIES

E3.1. EQUIPMENT AND FACILITIES

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 paragraph 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 paragraph E4.1.6. (enclosure 4).

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 4.

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)).

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 subparagraphs 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.

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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 5.

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).

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.

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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:

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)).

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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 enclosures 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.

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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.

### 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 3. 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. §sect;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

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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 paragraph E4.1.3., above), except as provided in subparagraph 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 3 may be made by the head of a civilian agency empowered to enforce the following laws:

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 subparagraph 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

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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 subparagraph 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 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 subparagraph 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 subparagraph 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 3):

E4.1.7.1. Transfer of information acquired in the normal course of military operations. See enclosure 2.

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 3, 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

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 subparagraph E4.5.3.1., above:

E4.5.3.2.1. Use of DoD personnel to provide training or expert advice in accordance with paragraphs 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.

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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 the 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 5.

E5. ENCLOSURE 5

FUNDING

E5.1. ESTABLISHMENT OF GUIDANCE

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 3.)

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

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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.)
    - (3) Logistics

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- (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.

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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-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	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

Attachments - 1

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

APPENDIX 4: MILITARY SUPPORT TO  
CIVILIAN LAW ENFORCEMENT

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.