

ROUTING COVER SHEET

SHIELDS

CLASSIFICATION UNCLASSIFIED	DATE RECEIVED 10/23/2001	ACTION NUMBER J-3A 00531-01
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SUBJECT
**JOD; CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, OR HIGH YIELD
 EXPLOSIVE (CBRNE) CONSEQUENCE MANAGEMENT (CM) PLANNING FOR THE 2002
 WINTER OLYMPICS**

CJCS REPLY

CIRCULATION OF THIS DOCUMENT WILL BE TO INDIVIDUALS INDICATED BELOW. THE DOCUMENT WILL BE RETURNED TO THE ADMINISTRATIVE SUPPORT BRANCH FOR DISPATCH OR FILING. **THIS FORM SHOULD NOT BE REMOVED FROM ATTACHED DOCUMENT.**

TO	NAME	INITIAL	COMMENTS
5	CHAIRMAN OF THE JCS		
	EXECUTIVE ASSISTANT	<i>W</i>	CJCS HAS SEEN OCT 29 2001
	DEPUTY EXECUTIVE ASSISTANT	<i>PC 36</i>	OCT 30 2001 OCT 30 2001
4	VICE CHAIRMAN OF THE JCS	<i>R 10/26</i>	
	EXECUTIVE ASSISTANT	<i>AS 10-26</i>	
	ASSISTANT TO THE CJCS		
	EXECUTIVE ASSISTANT		
	ASSISTANT TO CJCS FOR NG		
	ASSISTANT TO CJCS FOR RM		
	SPECIAL ASSISTANTS		
	LEGAL COUNSEL		
	LEGISLATIVE ASST		
	PROTOCOL		
	JOINT HISTORY OFFICE		
	PUBLIC AFFAIRS		
3	DIRECTOR, JT STAFF	<i>A 10/25</i>	
	EXECUTIVE ASSISTANT		
2	VICE DIRECTOR, JT STAFF	<i>2nd 10/25</i>	
	EXECUTIVE ASSISTANT	<i>50/24</i>	
1	SECRETARY, JT STAFF	<i>23 Oct 01</i>	
	CHIEF, ACTIONS DIVISION	<i>ORR</i>	
	RETURN TO ADM SUPPORT BR		

SJS ASB SCANNED

[Signature]
OCT 31 2001

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JOINT STAFF ACTION PROCESSING FORM

CLASSIFICATION UNCLASSIFIED

ACTION NUMBER J3A 00531-01

TO CJCS *WMM 10/20* | THRU DJS *A 10/25* VCJCS *8/10/26* | ORIG SUSPENSE 18 Oct 01

SUBJECT Chemical, Biological, Radiological, Nuclear, or High Yield Explosive (CBRNE) Consequence Mangement (CM) Planning for the 2002 Winter Olympics.

EXECUTIVE SUMMARY

1. Purpose. To obtain ~~_____~~ ^{approval} CJCS release of PLANORD directing USCINCFJCOM to conduct CBRNE CM planning for the 2002 Winter Olympics.

2. Background

- The 2002 Winter Olympics have been designated a National Special Security Event (NSSE).
- 8-24 Feb 02 is designated 2002 Winter Olympic period.
- **No specific threat** to the 2002 Winter Olympics has been identified to date.
- Numerous Interagency (IA) training events/planning conferences have already been conducted.

3. Discussion

- CBRNE CM planning for the 2002 Winter Olympics **will directly contribute to the expanded global campaign against terrorism.**
- No request for DOD CBRNE CM assistance from any Lead Federal Agency has been received as of this date. However, if the threat level changes, it is likely that the Federal Emergency Management Agency (FEMA)/FBI will request military assistance prior to the event.
- The CBRNE CM planning will be conducted by USCINCFJCOM and provided to the Joint Staff for review and approval.
- Since the CBRNE CM threat is "minimal" pre-positioning of significant Federal consequence management assets is not appropriate.
- PLANORD (TAB) directs USCINCFJCOM to include the following in the CBRNE CM planning:
 - Command Relationships. Command relationships for CBRNE and how they interact with other possible military support to civil authorities' alert and routine

COORDINATION

NAME	AGENCY	DATE	NAME	AGENCY	DATE
LtGen Newbold, USMC, Dir for Ops	J-3	9 Oct	LTC Cohen, USA, ASD SO/LIC	SO/LIC	15 Aug
MG Ward, USA, Vice Dir for Ops	J-31	8 Oct	BGen Moore, USMC, Dir Ops/Plans	JFCOM	03 Oct
Brig Gen Rosa, USAF, Dep Dir Ops	J-33	08 OCT	LTC (b)(6), USA, Planner	PACOM	26 Sep
COL (b)(6), USA, J33B	J-33B	05 Oct	CAPT (b)(6), USN, OCJCS-PA	OCJCS PA	15 Aug
LtCol (b)(6), USAF, Acting DIV CH	WHEM	03 Oct	Col (b)(6), USAF, Planner	J-4	08 Aug
CAPT (b)(6), USN, OCJC-LC	OCJCS LC	13 Aug	Col (b)(6), USMC, Planner	J-5	03 Aug
Mr (b)(6), GS-15, Vice DEP DIR J2J	J-2	09 Aug	Col, USMC	J-7	04 Sep

AOJ/DIV/EXT MAJ (b)(6) | JOD WHEM, (b)(6) | Date Prepared: 03 Oct 01

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support plans.

- Threats that would cause different levels of DOD support and for placing CBRNE units on a higher state of alert.
- Liaison officer plans. Recommended locations for both pre-positioning and at different levels of DoD support, if requested by lead federal agencies.
- Staging plans. DoD locations required to stage equipment and personnel at different levels of DoD support.
- TPFDD plan. Prioritized plan for essential CBRNE CM assets. Should include only units, which would be required within 24-48 hours.
- Training plan. All pre-Olympic CBRNE CM training exercises/meetings.
- JFCOM will also ensure that any plan which pre-positions DoD assets includes only those DoD personnel and equipment essential for a smooth transition to follow-on courses of action.
- All developed plans shall be briefed to CJCS at a date to be determined.

4. Legal Certification. The Legal Counsel or designated Deputy Legal Counsel to the Chairman of the Joint Chiefs of Staff has reviewed this planning order and certifies that it complies with applicable law. (Init/Date: HHD/13Aug01)

5. Recommendation. [REDACTED] CJCS ^{approve} release PLANORD at Tab.

COORDINATION							
NAME		AGENCY	DATE	NAME		AGENCY	DATE
CAPT (b)(6)	USN, Planner	J-8	08 Aug				
Mr. (b)(6)	CH Special Events Branch	DOMS	24 Aug				
COL (b)(6)	USA, Planner	J3 SOD	15 Aug				
CAPT (b)(6)	USN, Planner	J-34	02 Aug				

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CJCS WASHINGTON DC
 CSA WASHINGTON DC
 CNO WASHINGTON DC//N32/OP09D//
 CSAF WASHINGTON DC
 CMC WASHINGTON DC
 USCINCFROM NORFOLK VA
 USCINCPAC HONOLULU HI
 USCINCSpace PETERSON AFB CO
 USCINTRANS SCOTT AFB IL
 DIA WASHINGTON DC
 DLA WASHINGTON DC
 DTRA ALEX WASHINGTON DC//CP/CPOC/NSE//
 NIMA WASHINGTON DC
 INFO WHITE HOUSE SITUATION ROOM WASHINGTON DC
 SECDEF WASHINGTON DC
 SECDEF WASHINGTON DC//ASD-SOLIC/OSDPA/ASD-RA/ASD-
 HA//
 SECARMY WASHINGTON DC//SAGC/SASA-MS//
 USCINCENT MACDILL AFB FL
 USCINCEUR VAIHINGEN GE

J3

(b)(6)

MAJ, USA

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RICHARD B. MYERS
CHAIRMAN
JOINT CHIEFS OF STAFF

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USCINCSO MIAMI FL
USCINCSOC MACDILL AFB FL
DA WASHINGTON DC//DAMO-ODO/DAMO-ODS/DAMO-
ODL/MOSO-SOD//
DCMA WASHINGTON DC
DISA WASHINGTON DC
DIRNSA FT GEORGE G MEADE MD
WHITE HOUSE MILITARY OFFICE WASHINGTON DC//PEOC//
FEMA WASHINGTON DC//MSLO//
FEDERAL BUREAU OF INVESTIGATION WASHINGTON DC
JPO BIOLOGICAL DEFENSE WASHINGTON DC//SFAE-BD//
CNGB WASHINGTON DC//NGB-ARO-R//
US PUBLIC HEALTH SVC BETHESDA MD
DEPT OF HHS WASHINGTON DC

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MSGID/PLANORD/CJCS//

REF/A/DOC/OSD/15JAN93/-/NOTAL//

AMPN/DOD DIRECTIVE 3025.1 ON MILITARY SUPPORT TO CIVIL
AUTHORITIES//

REF/B/DOC/OSD/18FEB97/-/NOTAL//

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AMPN/DOD DIRECTIVE 3025.15 ON MILITARY ASSISTANCE TO CIVIL
AUTHORITIES//

REF/C/DOC/OSD/15JAN86/-/NOTAL//

AMPN/DOD DIRECTIVE 5525.5 ON COOPERATION WITH CIVILIAN LAW
ENFORCEMENT OFFICIALS//

REF/D/DOC/CONGRESS/18USC1385/-/NOTAL//

AMPN/POSSE COMITATUS ACT//

REF/E/DOC/CONGRESS/31USC1535/-/NOTAL//

AMPN/ECONOMY ACT ON AUTHORITY FOR REIMBURSEMENT FOR DOD
SUPPORT//

ORDTYP/PLANORD/CJCS//

TIMEZONE/Z//

NARR/THIS IS A PLANNING ORDER. REQUEST USCINCFCOM CONDUCT
PLANNING FOR CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND
HIGH YIELD EXPLOSIVE (CBRNE) CONSEQUENCE MANAGEMENT (CM) FOR THE
2002 WINTER OLYMPICS.//

GENTEXT/SITUATION/

1. THE 2002 WINTER OLYMPIC PERIOD IS 8-24 FEBRUARY 2002 AND HAS
BEEN DESIGNATED A NATIONAL SPECIAL SECURITY EVENT. SECARMY, AS
SECDEF'S EXECUTIVE AGENT FOR MILITARY SUPPORT TO CIVIL

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AUTHORITIES (MSCA), HAS TASKED USCINCFROM TO PROVIDE ROUTINE DOD SUPPORT FOR THE 2002 WINTER OLYMPICS. USCINCFROM ESTABLISHED JOINT TASK FORCE OLYMPICS (JTF-0) TO CONDUCT CRITICAL PLANNING AND EXECUTE COMMAND AND CONTROL FOR ROUTINE DOD SUPPORT. CRISIS RESPONSE (CR) PLANNING WILL BE ADDRESSED IN SEPARATE COORDINATION. THE PURPOSE OF THIS ORDER IS TO INITIATE CBRNE CM PLANNING AND DOES NOT PRESUME A FINAL SECDEF DECISION TO CONDUCT OR AUTHORITY TO CONDUCT CM OPERATIONS.//
GENTEXT/MISSION/

2. WHEN DIRECTED BY THE NATIONAL COMMAND AUTHORITIES (NCA), USCINCFROM WILL PREPARE FOR AND CONDUCT RAPID CBRNE CM OPERATIONS IN SUPPORT OF A LEAD FEDERAL AGENCY FOR THE 2002 WINTER OLYMPICS.//

GENTEXT/EXECUTION/

3. USCINCFROM

A. CONDUCT CBRNE CM PLANNING FOR THE 2002 WINTER OLYMPICS.

B. INTERNAL PLANNING REQUIREMENTS:

(1) PLANNING GUIDANCE. CBRNE CM CONTINGENCY PLAN SHOULD BE A STAND-ALONE PLAN, SEPARATE FROM THOSE PREPARED FOR

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ROUTINE, MILITARY ASSISTANCE FOR CIVIL DISTURBANCE, OR CR SUPPORT.

(2) ALERT POSTURE. PLAN SHOULD IDENTIFY VARIOUS THREAT INDICATORS THAT WOULD TRIGGER RECOMMENDED CHANGES IN DOD SUPPORT LEVELS, PRE-POSITIONING OF DESIGNATED CBRNE CM CAPABLE UNITS, OR INCREASES TO THE DESIGNATED UNIT ALERT POSTURES.

(3) COMMAND AND CONTROL PLANNING. REQUEST PLAN IDENTIFY COMMAND AND CONTROL STRUCTURES TO BE EMPLOYED FOR VARIOUS TIERS OF CM SUPPORT. COMMAND RELATIONSHIPS WITH OTHER DOD SUPPORTING COMMANDERS SHOULD BE CLEARLY DEFINED. PROPOSED LIAISON ELEMENTS, TO INCLUDE COMMUNICATIONS SUPPORT AND PRE-POSITION LOCATIONS, SHOULD ALSO BE IDENTIFIED.

(4) FORCE PLANNING. PLAN SHOULD ATTEMPT TO MINIMIZE THE ON-THE-GROUND FOOTPRINT TO ONLY THOSE FORCES ABSOLUTELY REQUIRED. RECOMMEND USCINCPACOM CONSIDER USE OF JTF-0 TO MEET FOLLOW-ON-FORCE RECEPTION STAGING ONWARD-MOVEMENT AND INTEGRATION AND LIFE-SUPPORT REQUIREMENTS. ENSURE SUPPORT FOR INTERNATIONAL SPORTING COMPETITION DOLLARS ARE NOT USED FOR CBRNE OPERATIONS. ANY PROPOSED PRE-POSITIONING OF DOD ASSETS

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SHOULD BE LIMITED TO THOSE DOD PERSONNEL AND EQUIPMENT ESSENTIAL FOR A SMOOTH TRANSITION TO FOLLOW-ON COURSES OF ACTION.

(5) STAGING PLANS. PLAN SHOULD IDENTIFY SITES REQUIRED TO STAGE EQUIPMENT AND PERSONNEL FOR DIFFERENT LEVELS OF DOD SUPPORT. PLAN SHOULD DECONFLICT SITE LOCATIONS BETWEEN JTF-0 AND OTHER FEDERAL AGENCIES CONDUCTING OLYMPIC SUPPORT.

(6) TIME-PHASED FORCE AND DEPLOYMENT DATA (TPFDD) PLANS. DEVELOP AND SUBMIT A FORCE CAPABILITY LIST IN LEVEL II DETAIL TO SUPPORT OLYMPIC CONTINGENCIES SO THAT FORCES COULD BE READILY IDENTIFIED AND PLACED IN A TPFDD, IF REQUIRED.

(7) TRAINING PLAN. ENSURE ALL PRE-OLYMPIC CBRNE CM TRAINING EXERCISES/CONFERENCES ARE INCLUDED IN THE PLAN.

4. USCINCPAC, USCINTRANS, USCINSPACE, CSA, CNO, CSAF, CMC, DTRA, NIMA, AND DLA.

A. PROVIDE SUPPORT/FORCES AS REQUIRED.

B. USTRANSCOM WILL FURNISH PRELIMINARY DEPLOYMENT ESTIMATES AND FORCE CLOSURE PROFILES TO USCINJFCOM UPON REQUEST.

5. FORCE PROTECTION (FP) GUIDANCE. USCINJFCOM SHOULD COORDINATE WITH DEPARTMENT OF JUSTICE (DOJ) (FBI) FOR THREAT ASSESSMENT AND ENSURE DEPLOYING FORCES ARE AWARE OF THREAT

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LEVEL. SUPPORTING CINCS, SERVICES, AND AGENCIES SHOULD ENSURE FORCES COMPLETE USCINCFCOM REQUIRED PREDEPLOYMENT TRAINING. DOD FORCES WILL TAKE APPROPRIATE FP MEASURES, BASED ON THE THREAT, TO PROTECT THEIR PERSONNEL AND PROPERTY.

B. COORDINATING INSTRUCTIONS

A. PROPOSED C-DAY, TBD.

B. TARGET DATE FOR EXECUTION IS 08 FEB 02.

C. DEPLOYMENT OF ANY INDIVIDUAL OR UNIT ON EXECUTION OF ANY CBRNE CM OLYMPIC SUPPORT FUNCTION IS NOT AUTHORIZED WITHOUT PRIOR SECDEF APPROVAL. USCINCFCOM IS AUTHORIZED DIRECT COORDINATION WITH ALL APPROPRIATE AGENCIES AND MILITARY COMMANDS. USCINCFCOM WILL REMAIN IN PRE-EMERGENCY/MONITORING UNTIL DIRECTED OTHERWISE BY NCA THROUGH THE NATIONAL MILITARY COMMAND CENTER. TRAVEL OF DESIGNATED INDIVIDUALS FOR THE PURPOSE OF SITE RECONNAISSANCE AND COORDINATION IS AUTHORIZED.

D. ANTICIPATED LENGTH OF OPERATIONS IS NOT IN EXCESS OF 30 DAYS.

E. DOD IS A SUPPORTING AGENCY TO THE LEAD FEDERAL AGENCY (US SECRET SERVICE FOR SECURITY PLANNING, FBI FOR CRISIS PLANNING, FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR

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CONSEQUENCE MANAGEMENT). LEAD FEDERAL AGENCIES MUST FORMALLY REQUEST DOD SUPPORT.

F. ~~DOD OCJCS-LEGAL COUNCIL (LC)~~ AND DOJ STATE THAT PERSONNEL DEPLOYED IN A CM ROLE WILL NOT DEPLOY WITH WEAPONS.//

GENTEXT/ADMIN AND LOG/

7. TRANSPORT

A. AIRLIFT PRIORITY FOR CM EXECUTION IS PROJECTED TO BE 1B1.

B. MILITARY/COMMERCIAL AIR IS AUTHORIZED; HOWEVER, COMMERCIAL AIR MAY BE UNAVAILABLE IN AND OUT OF SALT LAKE CITY, UT, DURING THE OLYMPIC TIMEFRAME.

8. USE OF JOPES IS DIRECTED.

9. PUBLIC AFFAIRS (PA) GUIDANCE. DOD PA POSTURE DURING PLANNING PHASE WILL BE PASSIVE. QUESTIONS BEYOND THE SCOPE OF THIS GUIDANCE SHOULD BE REFERRED TO FEMA, THE LEAD FEDERAL AGENCY FOR CM. USCINCFCOM PA WILL DRAFT PROPOSED AMPLIFYING GUIDANCE AND FORWARD TO OSD-PA PLANS FOR INTERAGENCY COORDINATION AND APPROVAL. (QUOTE) THE DEPARTMENT OF DEFENSE HAS A WIDE RANGE OF UNIQUE CAPABILITIES THAT ARE ROUTINELY PROVIDED TO SUPPORT INTERAGENCY EFFORTS. THESE UNIQUE

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CAPABILITIES ARE MADE AVAILABLE IN ACCORDANCE WITH FEDERAL AND LOCAL LAWS. (UNQUOTE). DESIGNATE THIS QUOTE FOR USE AS PART OF THE EXECUTION ORDER. OASD(PA) PLANS POC IS MAJ (b)(6)

(b)(6), USA, COMM: (b)(6); DSN (b)(6)

10. FUNDING. THE JOINT STAFF WILL NOT PROVIDE FUNDING. CINC COMPONENT COMMANDS WILL FUND COSTS OF THE OPERATION. CINC COMPONENT COMMANDS WILL CAPTURE INCREMENTAL AND TOTAL COSTS OF THE OPERATION AND REPORT COSTS TO SERVICE COMPTROLLERS.//

GENTEXT/COMMAND AND SIGNAL/

11. COMMAND RELATIONSHIPS. USCINCFCOM IS THE SUPPORTED CINC. USCINCPAC, USCINTRANS, AND USCINSPACE ARE SUPPORTING CINCS. USA, USMC, USN, AND USAF ARE SUPPORTING SERVICES. DTRA, DLA, DIA, AND NIMA ARE SUPPORTING AGENCIES.//

AKNLDG/NO//

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Department of Defense
DIRECTIVE

NUMBER 3025.1

January 15, 1993

USD(P)

SUBJECT: Military Support to Civil Authorities (MSCA)

- References: (a) DoD Directive 3025.1, "Use of Military Resources During Peacetime Civil Emergencies within the United States, its Territories, and Possessions," May 23, 1980 (hereby canceled)
- (b) DoD Directive 3025.10, "Military Support of Civil Defense," July 22, 1981 (hereby canceled)
- (c) DoD Directive 5030.45, "DoD Representation on Federal Emergency Management Agency (FEMA) Regional Preparedness Committees and Regional Field Boards," November 29, 1983 (hereby canceled)
- (d) Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," November 18, 1988
- (e) through (u), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) and replaces references (b) and (c) to:

1.1. Consolidate all policy and responsibilities previously known as "Military Assistance to Civil Authorities (MACA)," applicable to disaster-related civil emergencies within the United States, its territories, and possessions under reference (a), with those related to attacks on the United States, which previously were known as "Military Support to Civil Defense (MSCD)" under reference (b).

1.2. Provide for continuation of the DoD Regional Military Emergency Coordinator (RMEC) teams, previously developed under reference (c), to facilitate peacetime planning for MSCA and to provide trained teams of DoD liaison personnel to represent essential DoD Components, as appropriate, for response to any national security emergency.

1.3. Constitute a single system for MSCA, by which DoD Components (as defined in subsection 2.1., below) shall plan for, and respond to, requests from civil government agencies for military support in dealing with the actual or anticipated consequences of civil emergencies requiring Federal response, or attacks, including national security emergencies as defined in reference (d).

1.4. State the policy and responsibilities by which the Department of Defense responds to major disasters or emergencies in accordance with the Stafford Act, as amended (reference (e)), and supports the national civil defense policy and Federal or State civil defense programs, in cooperation with the Federal Emergency Management Agency (FEMA), under the authority of The Federal Civil Defense Act of 1950 (reference (f)).

1.5. Designate the Secretary of the Army as the DoD Executive Agent for MSCA.

1.6. Authorize the publication of DoD 3025.1-M, "DoD Manual for Civil Emergencies," consistent with DoD 5025.1-M, reference (g).

2. APPLICABILITY AND SCOPE

This Directive:

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

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

2.3. Does not apply to foreign disasters covered by DoD Directive 5100.46 (reference (h)).

2.4. Focuses on the assignment and allocation of DoD resources to support civilian authorities during civil emergencies arising during peace, war, or transition to war.

2.5. Does not integrate contingency war planning as a subelement of MSCA, and does not relieve the Chairman of the Joint Chiefs of Staff of his authority to supervise contingency planning.

2.6. Does not include military support to civil law enforcement. (See paragraph 4.2., below.)

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

4. POLICY

4.1. National Policy

4.1.1. Planning and preparedness by the Federal Government for civil emergencies and attacks are important due to the severity of the consequences of emergencies for the Nation and the population, and to the sophistication of means of attack on the United States and its territories.

4.1.2. Under the Stafford Act, as amended (reference (e)), it is the policy of the Federal Government to provide an orderly and continuing means of supplemental assistance to State and local governments in their responsibilities to alleviate the suffering and damage that result from major disasters or emergencies. Upon declaring a major disaster or emergency under reference (e), the President may direct any Agency of the Federal Government to undertake missions and tasks (on either a reimbursable or non-reimbursable basis) to provide assistance to State and local agencies. The President appoints a Federal Coordinating Officer (FCO) to operate in the affected area, and delegates authority to the FCO. The President has delegated to the Director of FEMA the authority to appoint FCOs; and FEMA officials frequently serve as FCOs.

4.1.3. In accordance with the Federal Civil Defense Act of 1950, as amended (reference (f)), the national civil defense policy is to have a civil defense program to develop capabilities common to all catastrophic emergencies and those unique to attack

emergencies, which will support all hazard emergency management at State and local levels, in order to protect the population and vital infrastructure. Under the national civil defense policy, the Department of Defense will support civil authorities in civil defense, to include facilitating the use of the National Guard in each State for response in both peacetime disasters and national security emergencies.

4.1.4. Under E.O. 12656 (reference (d)), it is the policy of the Federal Government to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency.

4.2. Scope. This Directive governs all planning and response by DoD Components for civil defense or other assistance to civil authorities, with the exception of military support to law enforcement operations under DoD Directive 3025.12 (reference (i)) and contingency war plans.

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

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

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

4.3.3. The Commander in Chief, Forces Command (CINCFOR); the Commander in Chief, U.S. Atlantic Command (USCINCLANT); and the Commander in Chief, U.S. Pacific Command (USCINCPAC), shall serve as "DoD Planning Agents" for MSCA. Pursuant to guidance issued by the DoD Executive Agent, after coordination with the Chairman of the Joint Chiefs of Staff, the DoD Planning Agents shall conduct MSCA planning, and shall lead MSCA planning activities of all DoD

Components within the following geographic areas:

4.3.3.1. CINCFOR (48 contiguous States and the District of Columbia).

4.3.3.2. USCINCLANT (Puerto Rico and the U.S. Virgin Islands).

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

4.3.4. The Commanders of the Unified and Specified Commands shall provide MSCA response, as directed by the DoD Executive Agent.

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

4.4. MSCA Policy

4.4.1. MSCA shall include (but not be limited to) support similar to that described for Immediate Response (subsection 5.4., below), in either civil emergencies or attacks, during any period of peace, war, or transition to war. It shall include response to civil defense agencies, but shall not include military assistance for civil law enforcement operations.

4.4.1.1. DoD Directive 3025.12 (reference (i)) governs use of military resources in the event of civil disturbances, which may include providing physical security for DoD Key Assets, as defined in DoD Directive 5160.54 (reference (j)).

4.4.1.2. Materiel, logistic, communications, and other assistance to law enforcement (especially drug enforcement operations) is provided under DoD Directive 5525.5 (reference (k)).

4.4.2. The DoD Components shall respond to requirements of the DoD Executive Agent and DoD Planning Agents for MSCA, as authorized by this Directive.

4.4.3. To ensure sound management of DoD resources, MSCA planning will stress centralized direction of peacetime planning with civil authorities, with decentralized planning by DoD Components with civil agencies, where appropriate, and decentralized execution of approved plans in time of emergency.

4.4.4. Subject to priorities established by the President or the Secretary of Defense, all DoD resources are potentially available for MSCA. MSCA planning and

execution will encourage and adhere to the following premises:

4.4.4.1. That civil resources are applied first in meeting requirements of civil authorities.

4.4.4.2. That DoD resources are provided only when response or recovery requirements are beyond the capabilities of civil authorities (as determined by FEMA or another lead Federal Agency for emergency response).

4.4.4.3. That specialized DoD capabilities requested for MSCA (e.g., airlift and airborne reconnaissance) are used efficiently.

4.4.4.4. Generally, military operations other than MSCA will have priority over MSCA, unless otherwise directed by the Secretary of Defense.

4.4.5. MSCA shall provide a mechanism to facilitate continuous and cooperative civil and military planning and preparedness to mobilize all appropriate resources and capabilities of the civil sector and the Department of Defense, whenever required for any form of national security emergency.

4.4.6. DoD planning shall recognize that:

4.4.6.1. Army and Air National Guard forces, acting under State orders (i.e., not in Federal service), have primary responsibility for providing military assistance to State and local government agencies in civil emergencies.

4.4.6.2. The Army National Guard State Area Command (STARC), when ordered to Federal Active Duty, will be the DoD focal point for delivery of MSCA at State and local levels in time of war.

4.4.6.3. Plans and preparedness measures for MSCA must foster close and continuous coordination for efficient employment of DoD resources of the National Guard (whether employed under State or Federal authority), as well as resources of the DoD Components, in time of peace, war, or transition to war.

4.4.6.4. In the event of an attack on the United States, its territories, or possessions, the scope of MSCA in each geographical area will depend upon the commitment of military resources to military operations, the extent of damage sustained by the civilian communities, and the status of Active and Reserve Component forces.

4.4.7. DoD Components shall augment staffs responsible for MSCA, as appropriate, with personnel from Reserve components of all Military Services who are specifically trained for civil-military planning and emergency liaison duties. (See enclosure 3 in DoD Directive 1215.6 (reference (l))). The Military Services also shall ensure that all Active or Reserve component military personnel assigned or attached to FEMA are appropriately trained and employed to enhance DoD capabilities for MSCA in time of war or attack on the United States or its territories.

4.4.8. The DoD Components ordinarily shall provide DoD resources in response to civil emergencies on a cost reimbursable basis. However, see paragraph 4.5.2., below, for circumstances in which an inability or unwillingness of a requester to commit to reimbursement will not preclude action by DoD Components.

4.4.8.1. The DoD Components shall comply with legal and accounting requirements for the loan, grant, or consumption of DoD resources for MSCA, as necessary, to ensure reimbursement of costs to the DoD Components under the Stafford Act, as amended (reference (e)); the Defense Emergency Response Fund established by Pub. L. No. 101-165 (1989) (reference (m)); or other applicable authority.

4.4.8.2. The DoD Components shall not procure or maintain any supplies, materiel, or equipment exclusively for providing MSCA in civil emergencies, unless otherwise directed by the Secretary of Defense.

4.4.8.3. Planning for MSCA during any time of attack on the United States shall assume that financial requirements will be met through appropriate legal processes.

4.4.9. Military forces employed in MSCA activities shall remain under military command and control under the authority of the DoD Executive Agent at all times.

4.4.10. The DoD Components shall not perform any function of civil government unless absolutely necessary on a temporary basis under conditions of Immediate Response. Any commander who is directed, or undertakes, to perform such functions shall facilitate the reestablishment of civil responsibility at the earliest time possible.

4.5. Immediate Response

4.5.1. Imminently serious conditions resulting from any civil emergency or attack may require immediate action by military commanders, or by responsible officials of other DoD Agencies, to save lives, prevent human suffering, or mitigate great property damage. When such conditions exist and time does not permit prior approval from higher headquarters, local military commanders and responsible officials of other DoD Components are authorized by this Directive, subject to any supplemental direction that may be provided by their DoD Component, to take necessary action to respond to requests of civil authorities. All such necessary action is referred to in this Directive as "Immediate Response."

4.5.2. While Immediate Response should be provided to civil agencies on a cost-reimbursable basis if possible, it should not be delayed or denied because of the inability or unwillingness of the requester to make a commitment to reimburse the Department of Defense.

4.5.3. Any commander or official acting under the Immediate Response authority of this Directive shall advise the DoD Executive Agent through command channels, by the most expeditious means available, and shall seek approval or additional authorizations as needed.

4.5.4. Immediate Response may include DoD assistance to civil agencies in meeting the following types of need:

4.5.4.1. Rescue, evacuation, and emergency medical treatment of casualties, maintenance or restoration of emergency medical capabilities, and safeguarding the public health.

4.5.4.2. Emergency restoration of essential public services (including fire-fighting, water, communications, transportation, power, and fuel).

4.5.4.3. Emergency clearance of debris, rubble, and explosive ordnance from public facilities and other areas to permit rescue or movement of people and restoration of essential services.

4.5.4.4. Recovery, identification, registration, and disposal of the dead.

4.5.4.5. Monitoring and decontaminating radiological, chemical, and biological effects; controlling contaminated areas; and reporting through national warning and hazard control systems.

4.5.4.6. Roadway movement control and planning.

4.5.4.7. Safeguarding, collecting, and distributing food, essential supplies, and materiel on the basis of critical priorities.

4.5.4.8. Damage assessment.

4.5.4.9. Interim emergency communications.

4.5.4.10. Facilitating the reestablishment of civil government functions.

4.6. Military Cooperation With Civil Agencies

4.6.1. Under E.O. 12148 (reference (n)) and E.O. 12656 (reference (d)), FEMA is responsible for coordinating Federal plans and programs for response to civil emergencies at the national and regional levels, and for Federal assistance to the States in civil emergencies. Other Federal Departments and Agencies have specific responsibilities for emergency planning and response under reference (d), and under statutory authorities not listed in this Directive. The DoD Executive Agent shall ensure:

4.6.1.1. Coordination of MSCA plans and procedures with FEMA, and with other civil agencies as appropriate, at the national and Federal Region level.

4.6.1.2. Facilitation of direct planning for MSCA by DoD facilities and installations with their local communities, and with their respective STARCs, as appropriate.

4.6.2. The DoD Executive Agent also shall provide appropriate guidance to facilitate MSCA planning and response with the American Red Cross and other civilian disaster and emergency assistance organizations where authorized by law.

4.7. Response Under Other Authorities. DoD response to emergencies under authorities not cited in this Directive also may be directed, coordinated, or supplemented by the DoD Executive Agent, as circumstances require. For example:

4.7.1. The U.S. Coast Guard (USCG) or the U.S. Environmental Protection Agency (EPA) will coordinate Federal response to oil or hazardous material spills, other than those occurring within DoD jurisdictions. The DoD Executive Agent will provide MSCA to the USCG or the EPA; but responsibilities of DoD Components in areas under DoD jurisdiction are covered by DoD Directive 5030.41 (reference (o)).

4.7.2. Emergencies or other incidents involving radiological materials shall be handled in accordance with DoD Directive 5100.52 (reference (p)).

4.7.3. The Secretary of the Army shall ensure the implementation of DoD responsibilities for emergency water requirements, as specified in E.O. 12656 (reference (d)), and response to flooding, as provided in Pub. L. No. 84-99 (1941), as amended (reference (q)).

4.7.4. Forest fire emergencies are responsibilities of the U.S. Department of Agriculture or Interior. The Boise Interagency Fire Center (BIFC) may request DoD assistance; and specific details regarding DoD support are covered by agreements between the Department of Defense and the BIFC that are administered by the DoD Executive Agent.

4.7.5. The DoD Executive Agent is delegated the authority to direct DoD Components in planning for and responding to any civil emergency that may arise out of any mass immigration by aliens into the land territory of the United States, its territories, or possessions, consistent with applicable law and this Directive. The DoD Executive Agent should ensure appropriate coordination with Federal law enforcement authorities in exercising this authority.

4.7.6. Use of DoD transportation resources in response to a non-declared civil emergency shall be directed by the DoD Executive Agent under this Directive. (See also DoD Directive 4500.9 (reference (r)).)

4.8. Non-Declared Emergencies. The DoD Executive Agent may direct DoD Components to respond to any emergency, based on authority that is provided by this Directive or obtained from the Secretary or Deputy Secretary of Defense. If an emergency of any kind or size requires a response on behalf of the Department of Defense, where there has not been any declaration of major disaster or emergency by the President, or if reimbursement of funds to the Department of Defense is otherwise not certain, the DoD Executive Agent shall ascertain the authority necessary to commit DoD resources for response to requests from civil authorities.

4.8.1. Authorizations by the DoD Executive Agent under this subsection (4.7.) shall include (but not be limited to) commitment of funds from the Defense Emergency Response Fund (reference (m)) in anticipation of reimbursements to that fund.

4.8.2. The DoD Executive Agent shall obtain authorization from the

Secretary of Defense or Deputy Secretary of Defense to provide support in those cases in which DoD response is not clearly required by Federal law or by DoD plans approved by the DoD Executive Agent.

4.9. Emergency Priorities. When guidance cannot be obtained from higher headquarters on a timely basis, due to attack on the United States or other emergency circumstances, the DoD Components should apply DoD resources to MSCA in the following order of priority:

4.9.1. To save human life and mitigate human suffering, and to protect essential U.S. Government capabilities, including:

4.9.1.1. Continuity of the U.S. Government.

4.9.1.2. Protection of U.S. Government officials.

4.9.1.3. Prevention of loss or destruction to Federal property.

4.9.1.4. Restoration of essential Federal functions.

4.9.2. To preserve or restore services of State and local government.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Exercise policy oversight of MSCA for the Secretary of Defense, and ensure compatibility of MSCA with National Security Emergency Preparedness, in accordance with DoD Directive 3020.36 (reference (s)) and E.O. 12656 (reference (d)).

5.1.2. Coordinate DoD policy governing plans and operations with FEMA; and assist the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, and others, as appropriate, in their coordination with FEMA.

5.2. The Assistant Secretary of Defense (Health Affairs) shall coordinate policy for emergency medical support to civil authorities in consonance with this Directive, to include participation by the Department of Defense in the National Disaster Medical System (NDMS).

5.3. The Assistant Secretary of Defense (Reserve Affairs) shall advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff, the USD(P), and the

Secretaries of the Military Departments, as required, on Reserve component matters impacting on MSCA.

5.4. The Comptroller of the Department of Defense shall:

5.4.1. Facilitate accounting procedures that will enable the Department of Defense to respond on a timely basis to all emergency requirements for MSCA; and

5.4.2. In conjunction with the DoD Executive Agent, provide for accounting and other procedures necessary to manage expenditures for MSCA from the Defense Emergency Response Fund (reference (m)).

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

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

5.5.2. In coordination with the DoD Executive Agent, facilitate communications by the DoD Executive Agent with commanders, as appropriate.

5.5.3. Ensure the compatibility of MSCA plans with other military plans.

5.5.4. Facilitate CINCFOR's development of an MSCA database and emergency reporting system, as described in paragraph 5.10.3., below.

5.5.5. Facilitate coordinated evaluation of MSCA plans and capabilities by the Commanders of the Unified and Specified Commands through exercises or other means, as appropriate.

5.6. The Secretaries of the Military Departments shall:

5.6.1. Provide for participation by the Military Services in MSCA planning, in accordance with this Directive and with guidance of the DoD Executive Agent; and ensure readiness of Active and Reserve components to execute plans for MSCA.

5.6.2. Ensure the designation of a principal planning agent and regional planning agents for MSCA for each Military Service, and advise the DoD Executive Agent and the Chairman of the Joint Chiefs of Staff of such agents.

5.6.3. Ensure effective and efficient coordination of MSCA planning by Service installations with Federal Regions, STARCs, and State and local civil authorities, through the DoD Planning Agents, as directed by the DoD Executive

Agent.

5.6.4. Furnish available resources for MSCA when directed by the DoD Executive Agent.

5.6.5. Identify to the DoD Executive Agent the resources of their respective Military Services that are potentially available for MSCA within the parameters of the DoD Resources Data Base (DODRDB) for MSCA, which is described in paragraph 5.10.3., below. Facilitate use of that database to support decentralized management of MSCA in time of emergency, as appropriate.

5.6.6. Prepare to support civil requests for damage and residual capability assessment following civil emergencies or attacks, to include providing aerial reconnaissance as appropriate.

5.6.7. Provide Military Department representatives to serve on RMEC teams, as requested by the DoD Executive Agent.

5.6.8. Based on validated military planning and operational requirements, assign individual Reservists from Military Services to FEMA and other appropriate civil government offices and headquarters to provide liaison for planning and emergency operations for MSCA. (See enclosure 3 in DoD Directive 1215.6 (reference (1)).)

5.6.9. Provide available Military Service personnel for MSCA training, including courses conducted by CINCFOR and FEMA.

5.6.10. Provide for application of critical emergency capabilities of the Services (such as disposal of explosive ordnance and nuclear devices) for MSCA, as required.

5.7. In addition to the responsibilities assigned under subsection 5.6., above, the Secretary of the Army, as DoD Executive Agent, shall:

5.7.1. Coordinate with the Chairman of the Joint Chiefs of Staff, in advance, for the employment of forces assigned to the Unified and Specified Commands in MSCA missions.

5.7.2. Establish a single headquarters element (to be denominated the "Directorate of Military Support (DOMS)") under the Secretary of the Army, through which the Secretary of the Army issues orders necessary to perform the duties of the

DoD Executive Agent under this Directive. The Secretary of the Army shall ensure that the staff element includes specially qualified and trained officers of all Military Services, including those at senior levels in the element.

5.7.3. Manage expenditures for MSCA from the Defense Emergency Response Fund (reference (m)). (See paragraph 4.4.2., above.)

5.7.4. Direct and coordinate the development of both generic and incident specific plans for MSCA through the DoD Planning Agents designated in paragraph 4.4.3., above, and through the DoD Components, as appropriate.

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

5.7.5.1. Resourcing the STARC's for MSCA planning and response tasks.

5.7.5.2. STARC interfaces with commands and installations of all Services, including the DoD Planning Agents, and with State civil agencies.

5.7.5.3. STARC acceptance, support, and utilization of liaison and augmentation from all Military Services, as appropriate.

5.7.6. Provide for the manning and operation of RMEC teams to coordinate the interface between the Defense Components and all Federal regional emergency management structures established by FEMA that may affect MSCA.

5.7.7. Provide for effective utilization in MSCA planning of the U.S. Army Corps of Engineers, the Naval Construction Force, and the U.S. Air Force Civil Engineers, to include all civil works authorities and other unique civil emergency capabilities, as permitted by law.

5.7.8. Delegate as appropriate authority under this Directive to the DoD Planning Agents, to Defense Coordinating Officers (DCOs) appointed for response to civil emergencies under the Stafford Act, as amended (reference (e)), or to other DoD officials to accomplish any requirement for MSCA planning or operations under this Directive.

5.7.9. Provide guidance to CINCFOR for content, dissemination, and use of the DODRDB for MSCA, which is described in paragraph 5.10.3., below; and ensure

opportunity for input by the Chairman of the Joint Chiefs of Staff in the continuing development of that database.

5.7.10. Maintain national-level liaison with FEMA for MSCA.

5.7.11. Provide Army Reserve support to FEMA, on a reimbursable basis, for emergency communications, security operations, and associated management support, at the Federal Regions, as determined by agreement between FEMA and the DoD Executive Agent; and ensure the availability of such support during any time of war or national mobilization.

5.7.12. Provide full-time Army personnel, as required, to manage the Military Support Liaison Office established by agreement between the Secretary of Defense and the Director of FEMA. Utilize that office to facilitate requirements and communications of the DoD Executive Agent under this Directive.

5.7.13. Develop training courses for MSCA, including specialized training for Reserve component emergency preparedness liaison officers of all Military Services who will work with civilian communities and agencies as authorized for MSCA missions.

5.7.14. Provide authorizations to DoD Components to perform emergency work under Section 403(c) of the Stafford Act, as amended (reference (e)). That statute provides that, when authorized by the President at the request of a State Governor, under certain conditions, the Department of Defense may perform on public or private lands emergency work that is essential for the preservation of life or property. Emergency work by the Department of Defense under that provision may be carried out only for a period not to exceed 10 days, and is only 75 percent funded by Federal funds.

5.8. In addition to the responsibilities assigned under subsection 5.6., above, the Secretary of the Navy shall:

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

5.8.2. Furnish technical advice and support for MSCA planning and implementation in areas that are uniquely within the competence of the Navy, Marine Corps, or USCG (e.g., nuclear material disposal for coastal and maritime areas, and emergency protection or restoration of seaport capabilities).

5.9. In addition to the responsibilities assigned under subsection 5.6., above, the Secretary of the Air Force shall:

5.9.1. Establish appropriate guidance, through the National Guard Bureau, for the Adjutants General of the 50 States, District of Columbia, Guam, Puerto Rico, and the Virgin Islands to ensure compliance by the Air National Guard with this Directive.

5.9.2. Facilitate planning by the Civil Air Patrol for participation in MSCA.

5.9.3. Furnish technical advice and support for MSCA planning and implementation in areas that are uniquely within the competence of the Air Force and its wartime augmentation elements (e.g., coordination with the Federal Aviation Administration, the National Aeronautics and Space Administration, and the National Oceanic and Atmospheric Administration).

5.9.4. Facilitate the conduct and coordination of aerial reconnaissance missions to perform damage assessment in support of MSCA.

5.10. In addition to serving as a DoD Planning Agent under subsection 5.11., below, the Commander in Chief Forces Command CINCFOR, subject to the direction of the DoD Executive Agent, shall:

5.10.1. Maintain liaison with FEMA to facilitate cooperative civil and military planning and training for MSCA.

5.10.2. Lead DoD liaison with FEMA and other Federal Agencies at the Federal Regions, including utilization of the RMEC Teams.

5.10.3. Continue to develop, maintain, and disseminate the DODRDB.

5.10.3.1. The DODRDB shall support MSCA planning for civil emergencies or attacks, as well as post-disaster and post-attack damage and residual capability assessment by field elements of the DoD Components. It shall include essential information on resources routinely held by the DoD Components and directly applicable to lifesaving, survival, and immediate recovery aspects of MSCA.

5.10.3.2. Forces to be included in the DODRDB are those that are based in the United States and its territories and most capable of supporting civil emergency functions. Those forces include (but are not limited to) construction, airlift, medical,

signal, transportation, and military police elements, and training base forces of all Services. The DODRDB will not include strategic forces or any other forces identified for exclusion by the Chairman of the Joint Chiefs of Staff, unless otherwise directed by the Secretary of Defense.

5.10.3.3. The DODRDB shall serve as the basis for emergency reports under continuity of operations, damage assessment, and residual capabilities, and shall include (but not be limited to) reports through the STARCs required by subsection 6.2. of DoD Directive 3020.26 (reference (t)).

5.10.4. Plan and conduct civil-military training courses and exercises in conjunction with FEMA.

5.11. The Commander in Chief, Forces Command; the Commander in Chief, U.S. Atlantic Command; and the Commander in Chief, U.S. Pacific Command, shall:

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

5.11.1.1. Serve as DoD Planning Agents for MSCA for the areas specified in paragraph 4.3.3., above; and develop MSCA plans and preparedness measures for their MSCA areas of responsibility.

5.11.1.2. Ensure cooperative planning for MSCA operations between DoD Components, FEMA, and other Federal or State civil agencies, as required.

5.11.1.3. Utilize RMEC teams to assist in plan development.

5.11.1.4. Coordinate with the STARCs through channels established by the Secretary of the Army; and utilize liaison officers provided for in DoD Directive 1215.6 (reference (l)) and others, as appropriate, to facilitate coordination of emergency planning.

5.11.1.5. Plan to perform any designated function of the DoD Executive Agent under this Directive, if ordered by the Secretary of Defense in time of war or attack on the United States.

5.11.1.6. Evaluate MSCA plans, preparedness measures, and training in joint civil military exercises.

5.11.2. Furnish MSCA as directed by the DoD Executive Agent. Employ

RMEC Teams and liaison officers, as appropriate, to coordinate emergency response operations with civil agencies, the National Guard, the Military Departments and the CINCs.

5.11.3. Furnish assistance to civil authorities in non-declared emergency situations when directed by the DoD Executive Agent.

5.12. The Directors of the Defense Agencies shall:

5.12.1. Designate a principal planning agent and regional planning agents for MSCA, and advise the DoD Executive Agent of such designated agents.

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

5.12.3. Furnish resources for MSCA when directed by the DoD Executive Agent.

5.12.4. Make DoD resources available for technical support to the other DoD Components for MSCA, when required.

5.12.5. Respond to requests by the DoD Executive Agent to identify resources for the DODRDB.

5.12.6. Provide representatives to serve on RMEC teams, as requested by the DoD Executive Agent.

6. INFORMATION REQUIREMENTS

The reporting requirements in section 5., above, are exempt from licensing in accordance with paragraph 5.4.2. of DoD 7750.5-M (reference (u)).

7. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. The DoD Executive Agent shall publish DoD 3025.1-M, "DoD Manual for Civil Emergencies," in accordance with this Directive within 120 days; and DoD Components shall revise existing documents or develop implementing documents as necessary to comply with this Directive or supplement that Manual. Forward one copy of implementing documents to the DoD Executive Agent within 120 days of receipt of that Manual.



Donald J. Atwood
Deputy Secretary of Defense

Enclosures - 2

- E1. References, continued
- E2. Definitions

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Sections 5121, et seq., of title 42, United States Code App., "The Robert T. Stafford Disaster Relief and Emergency Assistance Act," as amended (referred to as "the Stafford Act")
- (f) Sections 2251, et seq., of title 50, United States Code App., "The Federal Civil Defense Act of 1950," as amended
- (g) DoD 5025.1-M, "DoD Directives System Procedures," December 1990, authorized by DoD Directive 5025.1, December 23, 1988
- (h) DoD Directive 5100.46, "Foreign Disaster Relief," December 4, 1975
- (i) DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (j) DoD Directive 5160.54, "DoD Key Assets Protection Program (KAPP)," June 26, 1989
- (k) DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (l) DoD Directive 1215.6, "Uniform Reserve, Training and Retirement Categories," December 18, 1990
- (m) Title V of Public Law No. 101-165, "Emergency Response Fund," November 21, 1989
- (n) Executive Order 12148, "Federal Emergency Management," July 20, 1979, as amended
- (o) DoD Directive 5030.41, "Oil and Hazardous Substances Pollution Prevention and Contingency Program," June 1, 1977
- (p) DoD Directive 5100.52, "DoD Response to an Accident or Significant Incident Involving Radioactive Materials," December 21, 1989
- (q) Public Law No. 84-99, "The Flood Control Act of 1941," August 18, 1941, as amended (33 U.S.C. 701n et seq.)
- (r) DoD Directive 4500.9, "Transportation and Traffic Management," January 26, 1989
- (s) DoD Directive 3020.36, "Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components," November 2, 1988
- (t) DoD Directive 3020.26, "Continuity of Operations Policies and Planning," October 24, 1985
- (u) DoD 7750.5-M, "DoD Procedures for Management of Information Requirements," November 1986, authorized by DoD Directive 7750.5, August 7, 1986

- (v) Memorandum, Deputy Secretary of Defense, "DoD Executive Agent for Support to Federal Agencies in Immigration Emergencies," August 20, 1991 (hereby superseded)

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Attack. Any attack or series of attacks by an enemy of the United States causing, or that may cause, substantial damage or injury to civilian property or persons in the United States (or its territories) in any manner, by sabotage or by the use of bombs, shellfire, or nuclear, radiological chemical, bacteriological, or biological means, or other weapons or processes (Federal Civil Defense Act of 1950 (reference (f))).

E2.1.2. Civil Defense. All those activities and measures designed or undertaken to:

E2.1.2.1. Minimize the effects upon the civilian population caused, or that would be caused, by an attack upon the United States or by a natural or technological disaster;

E2.1.2.2. Deal with the immediate emergency conditions that would be created by any such attack or natural or technological disaster; and

E2.1.2.3. Effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack or natural or technological disaster (reference (f)).

E2.1.3. Civil Disturbances. Group acts of violence and disorders prejudicial to public law and order within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof. The term "civil disturbance" includes all domestic conditions requiring the use of Federal Armed Forces, as more specifically defined in DoD Directive 3025.12 (reference (i)).

E2.1.4. Civil Emergency. Any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure. This term can include a "major disaster" or "emergency," as those terms are defined in the Stafford Act, as amended (reference (e)), as well as consequences of an attack or a national security emergency. Under reference (e), the terms "major disaster" and "emergency" are defined substantially by action of the President in declaring that extant circumstances and risks justify his implementation of the legal powers provided by those statutes.

E2.1.5. Civil Emergency Preparedness. The non-military actions taken by Federal Agencies, the private sector, and individual citizens to meet essential human needs, to support the military effort, to ensure continuity of Federal authority at national and regional levels, and to ensure survival as a free and independent nation under all emergency conditions, including a national emergency caused by threatened or actual attack on the United States.

E2.1.6. Civil Government Resources. Civil resources owned by, controlled by, or under the jurisdiction of civilian agencies of the U.S. Government, or of State and local government agencies.

E2.1.7. Civil Resources. Resources that normally are not controlled by the Government, including work force, food and water, health resources, industrial production, housing and construction, telecommunications, energy, transportation, minerals, materials, supplies, and other essential resources and services. Such resources cannot be ordered to support needs of the public except by competent civil government authority.

E2.1.8. Continental United States Airborne Reconnaissance for Damage Assessment (CARDA). A system of aerial reconnaissance of the Continental United States for determining the effects of a nuclear attack. CARDA integrates the combined resources of all Government Agencies and Military Services for the National Command Authority.

E2.1.9. Defense Coordinating Officer (DCO). A military or civilian official of any DoD Component, who has been designated by the DoD Executive Agent to exercise some delegated authority of the DoD Executive Agent to coordinate MSCA activities under this Directive. The authority of each DCO will be defined in documentation issued or authorized by the DoD Executive Agent, and will be limited either to the requirements of a specified interagency planning process or to a specified geographic area or emergency. (The DoD Executive Agent also may delegate authority to designate DCOs to any DoD Planning Agent specified in this Directive.)

E2.1.10. Defense Emergency Response Fund. Established by Pub. L. No. 101-165 (1989) (reference (m)). That law provides that, "The Fund shall be available for providing reimbursement to currently applicable appropriations of the Department of Defense for supplies and services provided in anticipation of requests from other Federal Departments and Agencies and from State and local governments for assistance on a reimbursable basis to respond to natural or manmade disasters. The Fund may be used upon a determination by the Secretary of Defense that immediate action is

necessary before a formal request for assistance on a reimbursable basis is received." The Fund is applicable to Foreign Disaster Assistance under DoD Directive 5100.46 (reference (h)), and to MSCA under the authority of this Directive.

E2.1.11. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in this Directive.

E2.1.12. DoD Planning Agent. An individual designated by position to facilitate and coordinate MSCA contingency planning (and MSCA operations when ordered) by all DoD Components within an assigned geographic area in accordance with the requirements of this Directive.

E2.1.13. DoD Resources. Military and civilian personnel, including Selected and Ready Reservists of the Military Services, and facilities, equipment, supplies, and services owned by, controlled by, or under the jurisdiction of a DoD Component.

E2.1.14. Federal Function. Any function, operation, or action carried out under the laws of the United States by any Department, Agency, or instrumentality of the United States, or by an officer or employee thereof.

E2.1.15. Federal Property. Property that is owned, leased, possessed, or occupied by the Federal Government.

E2.1.16. Federal Region. A grouping of States and territories of the United States, by which FEMA coordinates responsibilities of the State governments with those of Federal Departments and Agencies, for disaster relief, civil defense, and planning for both civil and national security emergencies. These regions are sometimes referred to as "FEMA Regions" to distinguish them from any one of the various regional alignments of other Federal Departments and Agencies, all of which are circumscribed by FEMA's coordination authority. Today, there are ten Federal Regions, but the term is used generally to facilitate MSCA regardless of the number of Federal Regions at any time.

E2.1.17. Federal Response Plan. The inter-departmental planning mechanism, developed under FEMA leadership, by which the Federal Government prepares for and responds to the consequences of catastrophic disasters. Federal planning and response are coordinated on a functional group basis, with designated lead and support agencies for each identified functional area.

E2.1.18. Immediate Response. Any form of immediate action taken by a DoD

Component or military commander, under the authority of this Directive and any supplemental guidance prescribed by the Head of a DoD Component, to assist civil authorities or the public to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions occurring where there has not been any declaration of major disaster or emergency by the President or attack.

E2.1.19. Imminently Serious Conditions. Emergency conditions in which, in the judgment of the military commander or responsible DoD official, immediate and possibly serious danger threatens the public and prompt action is needed to save lives, prevent human suffering, or mitigate great property damage. Under these conditions, timely prior approval from higher headquarters may not be possible before action is necessary for effective response.

E2.1.20. Military Resources. Military and civilian personnel, facilities, equipment, and supplies under the control of a DoD Component.

E2.1.21. Military Support to Civil Authorities (MSCA). Those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

E2.1.22. National Disaster Medical System (NDMS). An inter-departmental national mutual aid system developed by Federal Departments and Agencies to provide for the medical needs of victims of major disasters, and to provide backup support for medical systems of the Departments of Defense and Veterans Affairs in caring for casualties from military conflicts. The Department of Health and Human Services serves as the lead Federal Agency for administering NDMS, and would coordinate NDMS operations in response to civil emergencies. The Department of Defense could activate and coordinate NDMS operations in support of military contingencies.

E2.1.23. National Security Emergency. Any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States (E.O. 12656 (reference (d))).

E2.1.24. Planning Agent. A military or civilian official of any DoD Component, who has been designated by the Head of that Component to exercise delegated authority for MSCA planning for the entire Component (i.e., "principal planning agent") or for certain subordinate elements or a specified geographic area (e.g., "regional planning agents"). Authority and responsibilities of each planning agent will

be defined by the Component, and may include MSCA response as well as planning at the election of any Component. The actual authority of planning agents will be communicated to others, as determined by the DoD Component, or when requested by the DoD Executive Agent.

E2.1.25. Regional Military Emergency Coordinator (RMEC). An individual, designated on behalf of the Secretary of Defense and the DoD Executive Agent, to perform coordination, information exchange, and liaison functions on behalf of the Department of Defense with any Federal emergency management structure established at the Region level. Alternate RMECs are designated by other DoD Components, as required, in accordance with this Directive; and the RMECs and alternates collectively are referred to as "RMEC Teams."

E2.1.26. Residual Capability Assessment (RECA). An assessment of the effects of a nuclear or conventional attack on U.S. resources, or of a major peacetime disaster that results in the declaration of a national security emergency. Such an assessment is made (through all appropriate means) to determine the remaining capabilities of the United States with emphasis on military preparedness.

E2.1.27. Resource Claimancy. The procedure, employed during any period of attack or national security emergency, whereby authorized Federal Agencies determine definitive requirements and justify the allocation of civil government and civil resources needed to support programs under their cognizance. It does not imply procurement activity, nor does it involve the Government as an intermediary in the normal mechanisms of trade other than in expediting essential activities and ensuring equitable distribution of civil resources. Resource claimancy occurs at both the national and regional levels.

E2.1.28. State Area Commands (STARCs). Specific headquarters units of the Army National Guard for each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.



Department of Defense DIRECTIVE

NUMBER 3025.15

February 18, 1997

ASD(SO/LIC)

SUBJECT: Military Assistance to Civil Authorities

- References:
- (a) Secretary of Defense Memorandum, "Military Assistance to Civil Authorities," December 12, 1995 (hereby canceled)
 - (b) Deputy Secretary of Defense Memorandum, "Support of Civil Authorities in Airplane Hijacking Emergencies," July 29, 1972 (hereby canceled)
 - (c) AR 385-70/AFR 55-13/OPNAVINST 3710.18B, "Unmanned Free Balloons and Kites, and Unmanned Rockets," December 13, 1965 (hereby canceled)
 - (d) DoD Directive S-5210.36, "Provision of DoD Sensitive Support to DoD Components and Other Departments and Agencies of the U.S. Government," June 10, 1986
 - (e) through (q), see enclosure 1

1. PURPOSE

This Directive:

- 1.1. Establishes DoD policy and assigns responsibilities for providing military assistance to civil authorities.
- 1.2. Supersedes reference (a).
- 1.3. Cancels references (b) and (c).

2. APPLICABILITY AND SCOPE

This Directive:

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

2.2. Governs all DoD military assistance provided to civil authorities within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof, including sensitive support requests under reference (d), civil disturbances under DoD Directive 3025.12, protection of key assets under DoD Directive 5160.54, DoD responses to civil emergencies under DoD Directive 3025.1, acts or threats of terrorism under DoD Directive 2000.12, and requests for aid to civil law enforcement authorities under DoD Directive 5525.5 (references (e) through (i)).

2.3. Does not apply to military service community affairs programs or innovative readiness training (formerly called "civil-military cooperative action programs").

2.4. Does not apply to the Inspector General of the Department of Defense, the Defense Criminal Investigative Service, or the military criminal investigative organizations (MCIOs) when they are conducting joint investigations with civil law enforcement agencies of matters within their respective jurisdictions, using their own forces and equipment. Support by other components of the Department to such joint investigations is covered by this Directive.

3. DEFINITIONS

Definitions used in this Directive are defined in enclosure 2.

4. POLICY

It is DoD policy that:

4.1. The Department of Defense shall cooperate with and provide military assistance to civil authorities as directed by and consistent with applicable law, Presidential Directives, Executive Orders, and this Directive.

4.2. All requests by civil authorities for DoD military assistance shall be evaluated by DoD approval authorities against the following criteria:

4.2.1. Legality (compliance with laws).

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

4.2.3. Risk (safety of DoD forces).

4.2.4. Cost (who pays, impact on DoD budget).

4.2.5. Appropriateness (whether the requested mission is in the interest of the Department to conduct).

4.2.6. Readiness (impact on the DoD's ability to perform its primary mission).

4.3. The Secretary of the Army is approval authority for emergency support in response to natural or man-made disasters, as specified by this Directive.

4.4. The Secretary of Defense retains approval authority for support to civil authorities involving: use of Commander in Chief (CINC)-assigned forces (personnel, units, and equipment) when required under subsection 4.5., below; DoD support to civil disturbances; DoD responses to acts of terrorism; and DoD support that will result in a planned event with the potential for confrontation with specifically identified individuals and/or groups or will result in the use of lethal force. Nothing in this Directive prevents a commander from exercising his or her immediate emergency response authority as outlined in DoD Directive 3025.1 (reference (g)).

4.5. With the exception of immediate responses under imminently serious conditions, as provided in paragraph 4.7.1., below, any support that requires the deployment of forces or equipment assigned to a Combatant Command by Secretary of Defense Memorandum (reference (j)), must be coordinated with the Chairman of the Joint Chiefs of Staff. The Chairman shall evaluate each request to use Combatant Command forces or equipment to determine if there is a significant issue requiring Secretary of Defense approval. Orders providing assistance to civil authorities that are approved by the Secretary of Defense involving the use of Combatant Command forces or equipment shall be issued through the Chairman of the Joint Chiefs of Staff. Upon Secretary of Defense approval, the Secretary of the Army, when designated "the DoD Executive Agent," shall implement and oversee DoD support in accordance with such

approved orders.

4.6. This Directive does not address non-Federalized National Guard assets in support of local and/or State civil agencies approved by the Governor. However, there exists potential for such deployments to result in confrontation, use of lethal force, or national media attention. Therefore, the Director of Military Support (DOMS) shall keep the Chairman of the Joint Chiefs of Staff and the Secretary of Defense informed of such support.

4.7. Requests for military assistance should be made and approved in the following ways:

4.7.1. Immediate Response. Requests for an immediate response (i.e., any form of immediate action taken by a DoD Component or military commander to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions) may be made to any Component or Command. The DoD Components that receive verbal requests from civil authorities for support in an exigent emergency may initiate informal planning and, if required, immediately respond as authorized in DoD Directive 3025.1 (reference (g)). Civil authorities shall be informed that verbal requests for support in an emergency must be followed by a written request. As soon as practical, the Component or Command rendering assistance shall report the fact of the request, the nature of the response, and any other pertinent information through the chain of command to the DoD Executive Secretary, who shall notify the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and any other appropriate officials. If the report does not include a copy of the civil authorities' written request, that request shall be forwarded to the DoD Executive Secretary as soon as it is available.

4.7.2. Loans of Equipment, Facilities, or Personnel to Law Enforcement. Requests for loans of equipment, facilities, or personnel made by law enforcement agencies, including the Coast Guard when not acting as part of the Navy, other than requests made under paragraph 4.7.1., above, shall be made and approved in accordance with DoD Directive 5525.5 (reference (i)), but at a level no lower than a flag or general officer, or equivalent civilian, with the following exceptions:

4.7.2.1. The Secretary of Defense is the approval authority for any requests for potentially lethal support (i.e., lethal to the public, a member of law enforcement, or a Service member) made by law enforcement agencies. Lethal support includes: loans of arms; combat and tactical vehicles, vessels or aircraft; or ammunition. It also includes: all requests for support under 10 U.S.C. 382 and 18

U.S.C. 831 (references (k) and (l)); all support to counterterrorism operations; and all support to law enforcement when there is a potential for confrontation between law enforcement and specifically identified civilian individuals or groups.

4.7.2.2. The Secretary of Defense is the approval authority for all assistance with the potential for confrontation between Department personnel and civilian individuals or groups.

4.7.2.3. If a DoD Component has a question on the appropriateness or legality of providing requested support, such requests shall be forwarded to the Secretary of Defense for review and approval.

4.7.2.4. Orders approved by the Secretary of Defense under this paragraph shall be processed, as prescribed in paragraph 4.7.3.5., below.

4.7.3. Support for Civil Disasters

4.7.3.1. When the Department of Defense is called upon to respond to civil emergencies (i.e., natural or man-made disasters) other than terrorism, and subject to subsection 4.5., above, the Secretary of the Army, as the DoD Executive Agent for the Secretary of Defense, is the approval authority for emergency support, as provided in DoD Directive 3025.1 (reference (g)).

4.7.3.2. A request for civil disaster support shall be made to the DOMS.

4.7.3.3. The DOMS, in coordination with the Director of Operations of the Joint Staff, shall review a support request to determine recommended courses of action that may be taken in response to the request. If approval of the Secretary of Defense is not required under subsection 4.5. or paragraph 4.7.2., above, or because support can be met by the Military Services or Defense Agency assets, DOMS shall submit the request for assistance, with recommended execute orders, to the Secretary of the Army for approval and subsequent tasking of the appropriate DoD Components, in accordance with DoD Directive 3025.1 (reference (g)). If based on initial coordination with the Director of Operations, Joint Staff, Secretary of Defense approval is required (as provided in subsection 4.5., above), DOMS shall develop and staff recommended execute orders and obtain concurrences or comments from appropriate DoD offices and the Secretary of the Army before forwarding the request, through the Chairman of the Joint Chiefs of Staff, to the Secretary of Defense for approval.

4.7.3.4. Requests for loans of equipment, facilities, or personnel by law

enforcement agencies shall be processed under paragraph 4.7.2., above.

4.7.3.5. All orders approved by the Secretary of Defense shall be issued by DOMS upon the Chairman of the Joint Chiefs of Staff verification of such approval, and all orders approved by the Secretary of the Army acting as Executive Agent for the Secretary of Defense shall be issued through the DOMS to the appropriate DoD Component for execution, in accordance with DoD Directive 3025.1 (reference (g)). Such orders shall provide for post-deployment management of the Department's response by the Secretary of the Army, as the DoD Executive Agent for the Secretary of Defense.

4.7.4. Support for Domestic Civil Disturbances. The employment of active duty military forces in domestic civil disturbances may be requested only by the President or Attorney General and authorized only by the President. When requested by the Attorney General and approved by the Secretary of Defense or when authorized by the President, the Secretary of Defense shall employ active federal military forces under rules of engagement approved by General Counsel of the Department of Defense (GC,DoD) and the Attorney General. The Secretary of the Army, as Executive Agent for the Secretary of Defense, and with the advice and assistance of the Chairman of the Joint Chiefs of Staff, and the DOMS, shall direct the required DoD assistance, in accordance with DoD Directive 3025.12 (reference (e)), DoD Directive 5160.54 (reference (f)), and DoD Directive 3025.1 (reference(g)), unless otherwise directed by the Secretary of Defense. The Secretary of the Army, in coordination with the Chairman of the Joint Chiefs of Staff, shall at all times maintain contingency plans, with rules of engagement approved by the Department of Justice, for use in civil disturbance situations.

4.7.5. Support for Domestic Counterterrorism Operations. The employment of U.S. military forces in response to acts or threats of domestic terrorism may be requested only by the President (or in accordance with Presidential Decision Directives) and must be authorized by the President. All requests for assistance in responding to acts or threats of domestic terrorism must also be approved by the Secretary of Defense.

4.7.5.1. Informal action on counterterrorist support requests shall normally be requested by contacting the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD(SO/LIC)), who shall review such requests or actions from a policy perspective. Following the policy review, the informal request will be passed to the Joint Staff for operational analysis. Any requests requiring consequence management preparation shall be coordinated between

the Joint Staff and DOMS staff.

4.7.5.2. When a formal or informal request for support is made, or the ASD (SO/LIC) determines that such a request is imminent, the ASD (SO/LIC) shall establish a Crisis Coordination Group (consisting of, at a minimum, representatives from the Office of the ASD (SO/LIC), Office of the Under Secretary of Defense (Comptroller) (USD (C)), Department of the Army, Joint Staff, and the office of the GC, DoD, to coordinate and integrate all aspects of the DoD response actions. Before submission of a request to the Secretary of Defense for approval, all crisis management requests shall be coordinated by the ASD (SO/LIC) with the GC, DoD and the USD (C), and shall be submitted to the Under Secretary of Defense for Policy (USD (P)) for a policy review.

4.7.5.3. The Secretary of Defense shall manage the DoD's response to any acts or threats of terrorism.

4.7.5.4. The Chairman of the Joint Chiefs of Staff shall assist the Secretary of Defense when he or she is implementing the DoD operational response to acts or threats of terrorism. The Chairman of the Joint Chiefs of Staff shall at all times maintain contingency plans for use in counterterrorism situations.

4.7.5.5. The Secretary of the Army, as the DoD Executive Agent of the Secretary of Defense for civil emergencies, shall direct and execute DoD consequence management assistance, in accordance with DoD Directive 3025.1 (reference (g)) and applicable Presidential Decision Directives, unless otherwise directed by the Secretary of Defense. The Secretary of the Army shall be assisted by the DOMS.

4.7.6. Sensitive Support Operations. Requests for sensitive support to civil authorities shall be governed by DoD Directive S-5210.36 (reference (d)).

4.7.7. Counterdrug Operational Support. Counterdrug operational support is not covered by this Directive.

4.8. Requests for any support that may require the approval of the Secretary of Defense shall be made in writing to the DoD Executive Secretary. Exceptions to this general rule are, as follows:

4.8.1. Requests made by the Federal Emergency Management Agency for disaster support (other than support required by a response to a terrorist event) shall be made to the DOMS, who shall promptly notify the Executive Secretary.

4.8.2. Requests for sensitive support shall be made in accordance with DoD Directive S-5210.36 (reference (d)).

4.8.3. Requests for immediate support under imminently serious conditions made under paragraph 4.7.1., above may be made to the nearest DoD Component or military commander. Verbal requests shall be reduced to writing, and the DoD Component or military commander who approved the support shall forward that request to the DoD Executive Secretary of the Department of Defense as soon as possible after receipt.

4.9. Requests for support that are received by a DoD Component, other than the approval authority specified in section 4., above, shall be promptly forwarded by the receiving DoD Component to the approval authority or, if the approval authority cannot be determined, to the DoD Executive Secretary of the Department of Defense.

4.10. All requests for support from other Federal Agencies must be in writing. Each request for nonreimbursable support must provide a legal and factual justification for a waiver of reimbursement. All other requests must be accompanied by a fund citation pursuant to the "Economy Act" (reference (m)) or other reimbursement mechanism.

4.11. All requests for nonreimbursable support made by another Federal Agency must be approved by the Secretary of Defense. Upon receipt of such a request, the DoD Executive Secretary shall notify the Secretary of Defense and shall also forward copies to the USD (P), the USD (C), and the GC, DoD.

4.12. All requests for support from State and local agencies must be in writing. Each request for nonreimbursable support must provide a legal and factual justification for a waiver of reimbursement. All other requests must be accompanied by a statement that reimbursement will be made. Requests for nonreimbursable support made by state or local civil authorities shall be approved as provided in DoD Directive 5525.5 (reference (i)).

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Develop, coordinate, and oversee the implementation of policy for DoD assistance to civil authorities; and, in coordination with the GC, DoD, shall

ensure that such assistance is in compliance with applicable law, Presidential Directives, Executive Orders, and DoD Directives and CONPLANS and/or functional plans.

5.1.2. Ensure that the Deputy to the USD (P) for Policy Support shall:

5.1.2.1. Provide policy oversight for DoD responses to civil disturbances and civil emergencies pursuant to DoD Directive 5160.54 (reference (f)) and DoD Directive 3025.1 (reference (g)), respectively.

5.1.2.2. Coordinate with the ASD (SO/LIC) on matters covered by paragraph 5.1.3.1., below, as appropriate.

5.1.3. Ensure that the ASD (SO/LIC) shall:

5.1.3.1. Exercise policy oversight for and make recommendations on the use of U.S. counterterrorism special mission units, pursuant to DoD Directive 3025.12 (reference (e)).

5.1.3.2. Serve as the primary informal DoD entry point and coordination and policy review office for all actions dealing with counterterrorism crisis management, to include DoD responses to terrorism incidents, including weapons of mass destruction (WMD).

5.1.3.3. Serve as the DoD coordination and policy review office for all actions dealing with domestic civil authorities on matters that involve combating terrorism.

5.2. The Under Secretary of Defense for Personnel and Readiness shall:

5.2.1. In coordination with the GC, DoD, develop, coordinate, and oversee the implementation of policy for all DoD noncounterdrug support to civil law enforcement authorities in accordance with DoD Directive 5525.5 (reference (i)) and as prescribed herein.

5.2.2. Coordinate long-range policies and procedures that govern the provision of nonemergency, noncounterdrug support to civilian law enforcement agencies or authorities in order to further DoD cooperation with public safety agencies under reference (i).

5.3. The Under Secretary of Defense (Comptroller) shall issue guidance for the

funding of all DoD training and exercises involving DoD support to civil authorities, and shall designate the appropriate DoD office and/or command to consolidate DoD costs associated with DoD responses under the provisions of this and supporting DoD Directives.

5.4. The General Counsel of the Department of Defense shall coordinate with and advise the USD (P), the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Chairman of the Joint Chiefs of Staff, and other DoD officials, as appropriate, to ensure DoD military assistance to civil authorities is consistent with applicable law, Presidential Directives, Executive Orders, and DoD Directives.

5.5. The Under Secretary of Defense for Acquisition and Technology shall ensure that the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall:

5.5.1. Serve as the technological advisor to the Secretary of Defense, OSD Principal Staff Assistants, and the Secretary of the Army when designated as the DoD Executive Agent, on radiological accidents and WMD incidents, and terrorist incidents involving chemical and biological agents; system characteristics, composition, and safety features; interdepartmental technical responsibilities and the Federal radiological emergency response system; and technical capabilities of the various Federal response elements.

5.5.2. Ensure that all technological support provided under the Joint Chemical and/or Biological Defense Program and by the Defense Special Weapons Agency is coordinated with responsible Federal consequence and crisis management agencies and the GC,DoD, and is in compliance with applicable law, Presidential Directives, Executive Orders, and DoD Directives and CONPLANS and/or functional plans.

5.6. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, shall exercise policy oversight and provide coordination or recommendations concerning the use of DoD intelligence, information systems, and telecommunications assets in response to requests for assistance from civil authorities.

5.7. The DoD Executive Secretary shall be the principal OSD official responsible for keeping the Secretary of Defense and cognizant senior OSD officials informed of emergency and routine DoD military assistance requests from civil authorities, and shall be the DoD office of record for all such assistance, to include all relevant

memoranda of understanding or agreement negotiated between the DoD Components and any external agency under DoD Instruction 4000.19 (reference (n)). The DoD Executive Secretary shall establish specific procedures to carry out those responsibilities.

5.8. The Secretary of the Army shall:

5.8.1. Serve as DoD Executive Agent and act for the Secretary of Defense for the development of planning guidance, implementation, and procedures as delineated in DoD Directives 3025.12, 3025.1 (references (e) and (g)), and this Directive. In the event Combatant Command-assigned forces or equipment are not required, the Secretary of the Army, as the DoD Executive Agent, may task the DoD Components directly to provide support. For requests of forces assigned to the Combatant Commands, DOMS, as directed by the DoD Executive Agent, shall develop an execute order for submission through the Joint Staff to the Chairman of the Joint Chiefs of Staff to the Secretary of Defense, if required under subsection 4.5. or paragraph 4.7.2., above, for approval. Upon such approval, the Secretary of the Army shall direct and implement DoD support, in accordance with such approved orders.

5.8.2. Maintain a dedicated staff, established under the DOMS, to assist in carrying out assigned DoD Executive Agent responsibilities for responding to any of the following: civil disturbances, and civil emergencies, including disasters resulting from terrorism incidents involving WMD. Identify, in coordination with the Chairman of the Joint Chiefs of Staff, full time positions in the DOMS staff that are designated joint critical and necessary augmentation from the Joint Staff to reinforce the DOMS staff in the event such is needed during a crisis.

5.8.3. When forces assigned to the Combatant Commands are required for responses to civil disturbances and civil emergencies (natural or man-made disasters), provide, through the DOMS, to the Chairman of the Joint Chiefs of Staff all initial orders and subsequent orders modifying the forces required or rules of engagement to determine if Secretary of Defense approval is required under subsection 4.5. or paragraph 4.7.2., above. After approval by either the Secretary of Defense or the Secretary of the Army, direct and implement such orders. Nothing in this Directive shall prevent a commander from exercising his or her immediate emergency response authority, as outlined in reference (g).

5.8.4. Approve the deployment and employment of Military Department, Defense Agency, and DoD Field Activity resources, and transmit appropriate orders directing such deployment and employment in DoD responses to natural or man-made

disasters that do not include forces assigned to the Combatant Commands.

5.8.5. Assist the Secretary of Defense as the DoD Executive Agent for civil emergencies (disaster consequence management) during the consequence management phase of terrorist incidents.

5.9. The Secretaries of the Military Departments shall:

5.9.1. Provide military support to civil authorities, in accordance with this Directive.

5.9.2. Ensure internal compliance with the approval authorities and execution procedures contained in this Directive when providing military assistance to civil law enforcement authorities.

5.9.3. Inform the Chairman of the Joint Chiefs of Staff and the USD(P&R) of any military support provided to civil authorities that affects readiness of military forces.

5.9.4. Ensure that all technological support provided to civil authorities is coordinated with responsible DoD offices of primary responsibility within OSD.

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

5.10.1. Advise the Secretary of Defense on operational policies, responsibilities, and programs on the provision of military assistance to civil authorities.

5.10.2. Review all requests or proposals for DoD military assistance to civil authorities that involve the operational deployment and employment of forces (personnel and equipment), assigned to the Combatant Commands, as defined in Secretary of Defense Memorandum (reference (j)).

5.10.3. Forward, if required under subsection 4.5. or paragraph 4.7.2., above, for Secretary of Defense approval, all requests for support, operational deployment and execution orders for the deployment and employment of forces assigned to the Combatant Commands to assist civil authorities.

5.10.4. Assist the Secretary of Defense when he or she is implementing DoD operational responses to threats or acts of terrorism.

5.10.5. Coordinate with the GC, DoD, and the USD(P) to ensure that DoD operational procedures for responding to threats or acts of terrorism comply with applicable law, Presidential Directives, Executive Orders, this Directive and other DoD guidance.

5.10.6. Assist the Secretary of the Army, in his or her DoD Executive Agent responsibilities for civil disturbance and disaster support and management, in developing planning guidance for providing military assistance to civil authorities under all conditions of war or attacks on the United States or its territories. Facilitate communications on such matters with the Commanders of the Combatant Commands, as appropriate; such communications will normally be transmitted through the DOMS, unless the Secretary of Defense directs otherwise.

5.10.7. To the extent feasible, ensure that the plans and operations for military support to civil authorities are compatible with other military plans. Inform the Secretary of Defense when such compatibility cannot be achieved or when plans and operations for military support to civil authorities will adversely affect military readiness. Adverse affects on military readiness shall also be reported to the USD (P&R).

5.10.8. Assist Commanders of the Combatant Commands to meet their operational requirements for providing military assistance to civil authorities that has been approved and directed by the Secretary of Defense.

5.10.9. Assist the Secretary of the Army in identifying select full-time positions as joint critical and designating Joint Staff members to augment the DOMS staff during a crisis to ensure the DOMS staff has adequate joint and Joint Staff expertise. In coordination with the DOMS, establish procedures for gaining approval for and directing the execution of DoD assistance to civil authorities by forces assigned to the Combatant Commands.

5.10.10. As part of the Chairman of the Joint Chiefs of Staff Exercise Evaluation Program, assess combatant command exercises that focus on military operational support for civil authorities to ensure that joint doctrinal and interoperability issues and appropriate lessons learned are captured.

5.11. The Heads of the DoD Components responsible for related DoD issuances, concept plans, and memoranda of understanding or agreement with external agencies shall ensure that such documents are in full compliance with this Directive.

6. INFORMATION REQUIREMENTS

6.1. The USD (C) shall establish procedures to capture financial costs and types and/or amount of support provided to civil authorities. Procedures shall include methods to obtain reimbursement from civil authorities, as appropriate.

6.2. Quarterly reports of support provided or denied shall be forwarded to the Executive Secretary for information. Support provided to civilian law enforcement authorities and agencies by the DoD Criminal Investigative Organizations under DoD Directive 5525.7 (reference (o)) shall be reported annually to the DoD Executive Secretary. Readiness issues shall be forwarded to the Chairman of the Joint Chiefs of Staff and the USD(P&R) for assessment and to the DoD Executive Secretary for information.

6.3. DoD Directive 8910.1 (reference (p)) establishes policy for managing and controlling information requirements. DoD 8910.1-M (reference (q)) provides procedures for establishing, revising, and canceling information requirements; obtaining information from the public, non-DoD Federal Agencies, and the DoD Components; and operating reports management programs.

7. EFFECTIVE DATE

This Directive is effective immediately.



John P. White

Deputy Secretary of Defense

Enclosures - 2

1. References
2. Definitions

E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Directive 3025.12, "Military Assistance for Civil Disturbances (MACDIS)," February 4, 1994
- (f) DoD Directive 5160.54, "DoD Key Assets Protection Program (KAPP)," June 10, 1994
- (g) DoD Directive 3025.1, "Military Support to Civil Authorities (MSCA)," January 15, 1993
- (h) DoD Directive 2000.12 , "DoD Combating Terrorism Program," September 15, 1996
- (i) DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (j) Secretary of Defense Memorandum, "Forces for Unified Command – FY 1996," November 18, 1995
- (k) Sections 382 and 1416 of title 10, United States Code
- (l) Section 831 of title 18, United States Code
- (m) Section 377 of title 10, United States Code, "Economy Act"
- (n) DoD Instruction 4000.19 , "Interservice and Intragovernmental Support," August 9, 1995
- (o) DoD Directive 5525.7, "Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," January 22, 1985
- (p) DoD Directive 8910.1, "Management and Control of Information Requirements," June 11, 1993
- (q) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 1986, authorized by DoD Directive 8910.1, June 11, 1993

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Civil Authorities. Nonmilitary Federal, State, or local government agencies.

E2.1.2. Civil Disturbances. Group acts of violence and disorders prejudicial to public law and order in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof.

E2.1.3. Civil Emergency. Any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure, as defined in DoD Directive 3025.1 (reference (g)).

E2.1.4. CINC-assigned forces. Any and all personnel and equipment of units assigned to the Combatant Commands by the Secretary of Defense Memorandum (reference (j)), or assets determined by the Chairman of the Joint Chiefs of Staff to have an impact on operational requirements or readiness. A list of assets not covered in reference (j) that have an impact on operations or readiness shall be provided by the Chairman of the Joint Chiefs of Staff to the DoD Components and updated on a periodic basis.

E2.1.5. Consequence Management. Comprises those essential services and activities required to manage and mitigate problems resulting from disasters and catastrophes. Such services and activities may include transportation, communications, public works and engineering, fire fighting, information planning, mass care, resources support, health and medical services, urban search and rescue, hazardous materials, food, and energy.

E2.1.6. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in DoD Directive 3025.1 (reference (g)).

E2.1.7. Immediate Response. Any form of immediate action taken by a DoD Component or military commander, under the authorities outlined in DoD Directive 3025.12 (reference (e)), to assist civil authorities or the public to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions occurring where there has not been any declaration of major disaster or emergency by the President or attack.

E2.1.8. Military Assistance to Civil Authorities. Those DoD activities and measures covered under MSCA (natural and manmade disasters, see definition 9.) plus DoD assistance for civil disturbances, counterdrug, sensitive support, counterterrorism, and law enforcement.

E2.1.9. Military Support to Civil Authorities (MSCA). Those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

E2.1.10. Terrorism. The calculated use of violence or threat of violence to inculcate fear; intended to coerce; or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.



Department of Defense DIRECTIVE

NUMBER 5525.5

January 15, 1986

Administrative Reissuance Incorporating Change 1, December 20, 1989

ASD(FM&P)

SUBJECT: DoD Cooperation with Civilian Law Enforcement Officials

References: (a) through (ll), see enclosure E1.

1. REISSUANCE AND PURPOSE

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

2. APPLICABILITY AND SCOPE

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

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

3. DEFINITIONS

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

3.1.1. The United States (other than the Department of Defense, but

including the U.S. Coast Guard). This includes U.S. agencies in international areas dealing with U.S. flag vessels or aircraft in violation of U.S. law.

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

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

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

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

4. POLICY

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

5. RESPONSIBILITIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.6. The Joint Chiefs of Staff shall:

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

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

6. INFORMATION REQUIREMENTS

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

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

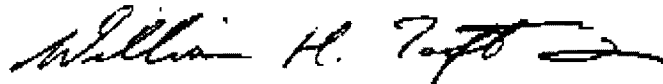
7.1. Release of information to the public concerning law enforcement operations is the primary responsibility of the civilian agency that is performing the law enforcement function. The Military Departments and the Directors of the Defense Agencies may release such information, however, when approved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

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

8. EFFECTIVE DATE AND IMPLEMENTATION

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

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



William H. Taft, IV
Deputy Secretary of Defense

Enclosures - 7

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

E1. ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5525.5, subject as above, March 22, 1982 (hereby canceled)
- (b) DoD Directive 5240.1, "Activities of DoD Intelligence Components that Affect U.S. Persons," December 3, 1982
- (c) DoD Directive 5106.1, "Inspector General of the Department of Defense," March 14, 1983
- (d) Title 10, United States Code (10 U.S.C.), §§331-334, 337, 371-378, 2576, and 2667; and Chapter 47 (Uniform Code of Military Justice)
- (e) DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," January 7, 1980
- (f) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982, authorized by reference (b)
- (g) DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982
- (h) DoD 4515.13-R, "Air Transportation Eligibility," January 1980, authorized by DoD Directive 4515.13, June 26, 1979
- (i) Public Law, "The Economy Act, " (31 U.S.C. §1535)
- (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) Title 5, United States Code, Appendix 3, Section 8(g)
- (y) Title 16, United States Code, §§23, 78, 593, and 1861(a)
- (z) Title 18, United States Code, §§112, 351, 831, 1116, 1751, and 3056; "Presidential Protection Assistance Act of 1976," Public Law 94-524, 90 Stat. 2475
- (aa) Title 22, United States Code, §§408 and 461-462
- (bb) Title 25, United States Code, §180
- (cc) Title 42, United States Code, §§97, 1989, and 3789
- (dd) Title 43, United States Code, §1065
- (ee) Title 48, United States Code, §§1418, 1422, and 1591
- (ff) Title 50, United States Code, §220
- (gg) Public Law, "The Controlled Substances Act," (21 U.S.C. §801 et seq.)
- (hh) Public Law, "The Controlled Substances Import and Export Act," (21 U.S.C. §951 et seq.)
- (ii) Public Law, "The Immigration and Nationality Act," (8 U.S.C. §§1324-1328)
- (jj) Title 19, United States Code §1401 (The Tariff Act of 1930) and §1202 (Tariff Schedules of the United States)
- (kk) Title 21, United States Code §873(b)
- (ll) DoD 7220.9-M, "Department of Defense Accounting Manual," October 1983, authorized by DoD Directive 7220.9

E2. ENCLOSURE 2

USE OF INFORMATION COLLECTED DURING MILITARY OPERATIONS

E2.1. ACQUISITION AND DISSEMINATION

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

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

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

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

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

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

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

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

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

E2.2. MILITARY PREPAREDNESS

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

E2.3. FUNDING

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

E3. ENCLOSURE 3

USE OF MILITARY EQUIPMENT AND FACILITIES

E3.1. EQUIPMENT AND FACILITIES

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

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

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

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

E3.2. LIMITATIONS ON THE USE OF PERSONNEL

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

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

E3.3. MILITARY PREPAREDNESS

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

E3.4. APPROVAL AUTHORITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E3.5. FUNDING

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

E4. ENCLOSURE 4

RESTRICTIONS ON PARTICIPATION OF DoD PERSONNEL IN CIVILIAN LAW ENFORCEMENT ACTIVITIES

E4.1. STATUTORY REQUIREMENTS

E4.1.1. Posse Comitatus Act. The primary restriction on military participation in civilian law enforcement activities is the Posse Comitatus Act (reference (v)), which provides:

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years or both."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E4.1.3.2. A search or seizure.

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

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

E4.1.4. Training

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

basis.

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

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

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

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

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

E4.2. EXCEPTIONS BASED ON STATUS

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

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

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

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

E4.2.4. A member of a Military Service when off duty, and in a private capacity. A member is not acting in a private capacity when assistance to law enforcement

officials is rendered under the direction or control of DoD authorities.

E4.3. EXCEPTIONS BASED ON MILITARY SERVICE

DoD guidance on the Posse Comitatus Act (reference (v)), as stated in enclosure E3., is applicable to the Department of the Navy and the Marine Corps as a matter of DoD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis.

E4.3.1. Such exceptions shall include requests from the Attorney General for assistance under 21 U.S.C. §873(b) (reference (kk)).

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

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

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

E4.4. MILITARY PREPAREDNESS

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

E4.5. APPROVAL AUTHORITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E4.6. FUNDING

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

E5. ENCLOSURE 5

FUNDING

E5.1. ESTABLISHMENT OF GUIDANCE

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

E5.2. PROCEDURAL REQUIREMENTS

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

E5.2.2. If reimbursement is not required by law for a particular form of assistance, the authority to waive reimbursement is delegated to the ASD(FM&P). The ASD(FM&P) may delegate to the Secretaries of the Military Departments and the Directors of the Defense Agencies (or designees) the authority to waive reimbursement on matters within their approval authority. See 10 U.S.C. §377 (reference (d)). The dollar value of a waiver shall be determined in accordance with Chapter 26 of DoD 7220.9-M (reference (II)). A request for waiver may be granted if reimbursement is not otherwise required by law and:

E5.2.2.1. Is provided as an incidental aspect of the activity that is conducted for military purposes.

E5.2.2.2. Involves the use of DoD personnel in an activity that provides DoD training operational benefits that are substantially equivalent to the benefit of DoD training or operations.

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

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

E5.3. MILITARY PREPAREDNESS

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

E6. ENCLOSURE 6

Sample Format for Preparing, "Report on Support
to Civilian Law Enforcement (RCS DD-FM&P (Q) 1595)"

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

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

etc.) (2) Ship services (towing, tactical law enforcement teams TACLETs,

(3) Logistics

(4) Miscellaneous

f. Ground-based Mission Support.

(1) Radar/Sensor Surveillance

(2) Aerostats

(3) Transportation of law enforcement personnel

(4) Border air and ground surveillance

(5) Logistics

(6) Miscellaneous

g. Explosive Ordnance Disposal.

h. Training provided to law enforcement agencies.

i. Personnel.

j. Other support not specifically addressed.

2. The length of time for which assistance is requested, if appropriate (if the request is for information or support for a brief time, enter "NA").

3. Status of the requests:

a. Number approved.

b. Number denied.

c. Number pending.

4. A brief discussion of the reason for any denial.

5. Manhours/mandays expended to support law enforcement agencies.

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

Detections

Aircraft	Region State	Sorties	Flight Hours	Gained	Passed to LEA's	Remarks
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

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

Logistics/Miscellaneous Support

Aircraft	Region State	Sorties	Flight Hours	Remarks
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

1. Aid for Completing Aviation Assistance Portion of Quarterly Report 7-1.

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.

[DOCID:usc18-506] From the U.S. Code Online via GPO Access [wais.access.gpo.gov] [Laws in effect as of January 16, 1996] [Document not affected by Public Laws enacted between January 16, 1996 and August 28, 1996] [CITE: 18USC1385] TITLE 18--CRIMES AND CRIMINAL PROCEDURE PART I--CRIMES CHAPTER 67--MILITARY AND NAVY Sec. 1385. Use of Army and Air Force as **posse comitatus** Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a **posse comitatus** or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both. (Added Aug. 10, 1956, ch. 1041, Sec. 18(a), 70A Stat. 626; amended June 25, 1959, Pub. L. 86-70, Sec. 17(d), 73 Stat. 144; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, Sec. 330016(1)(L), 108 Stat. 2147.) Historical and Revision Note -----

----- Revised Section Source (U.S. Code) Source (Statutes at Large) -----
----- 1 385..... 10:15.

June 18, 1878, ch. 263, Sec. 15, 20 Stat. 152; Mar. 3, 1899, ch. 429, Sec. 363 (proviso); added June 6, 1900, ch. 786, Sec. 29 (less last proviso), 31 Stat. 330. -----

----- This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18. Amendments 1994--Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$10,000". 1959--Pub. L. 86-70 struck out provisions which made section inapplicable in Alaska. Section Referred to in Other Sections This section is referred to in section 831 of this title.

TITLE 31--MONEY AND FINANCE SUBTITLE II--THE BUDGET PROCESS CHAPTER 15--
APPROPRIATION ACCOUNTING SUBCHAPTER III--TRANSFERS AND REIMBURSEMENTS Sec. 1535.

Agency agreements (a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if-- (1) amounts are available; (2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government; (3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and (4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise. (b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided. (c) A condition or limitation applicable to amounts for procurement of an agency or unit placing an order or making a contract under this section applies to the placing of the order or the making of the contract. (d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in-- (1) providing goods or services; or (2) making an authorized contract with another person to provide the requested goods or services. (e) This section does not-- (1) authorize orders to be placed for goods or services to be provided by convict labor; or (2) affect other laws about working funds. (Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 933; Pub. L. 98-216, Sec. 1(2), Feb. 14, 1984, 98 Stat. 3.)