



Department of Defense

INSTRUCTION

NUMBER 5525.13
September 28, 2007

USD(P&R)

SUBJECT: Limitation of Authority to Deputize DoD Uniformed Law Enforcement Personnel by State and Local Governments

- References:
- (a) Attorney General Memorandum, "Guidelines for Legislation Involving Federal Criminal Law Enforcement Authority," June 29, 1984¹
 - (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," October 17, 2006
 - (c) DoD Directive 5210.56, "Use of Deadly Force and the Carrying of Firearms by DoD Personnel Engaged in Law Enforcement and Security Duties," November 1, 2001

1. PURPOSE

This Instruction:

1.1. Establishes policy for the use of deputized State or local law enforcement powers by DoD uniformed law enforcement personnel while on duty consistent with Reference (a) and under the authority of Reference (b).

1.2. Provides guidelines for justification of deputized State or local law enforcement powers and the approval process to request those powers.

2. APPLICABILITY

This Instruction:

2.1. Applies to the Office of the Secretary of Defense, the Military Departments, the Office of 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, the DoD Field

¹ Available from the Director, Law Enforcement Policy and Support, OUSD (P&R), 4040 N. Fairfax Drive, Suite 200, Arlington, VA, 22203

Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the “DoD Components”).

2.2. Does not apply to:

2.2.1. Uniformed law enforcement personnel of the National Security Agency’s Police Department.

2.2.2. Uniformed law enforcement personnel of the Pentagon Force Protection Agency’s Pentagon Police Department.

2.2.3. Special agents of the Defense Criminal Investigative Organizations (DCIOs).

2.2.4. Federal deputization.

3. DEFINITIONS

3.1. Uniformed Law Enforcement Personnel. Military Police (Army and Marine Corps), Security Forces (Air Force), Masters’-at-Arms (Navy), and Civilian Police (GS 083 series – NSPS Pay Schedules YM and YN) of the DoD Components who wear a military uniform with police identification or a civilian police uniform while on duty.

3.2. Accredited Training. A course of instruction offered by a law enforcement agency that meets the accreditation standards of Federal Law Enforcement Training Accreditation (FLETA); a State’s Police Officers Standards of Training (POST); Commission on Accreditation for Law Enforcement Agencies (CALEA); or equivalent accreditation bodies.

4. POLICY

It is DoD policy to:

4.1. NOT expand DoD law enforcement authorities by seeking deputized State or local law enforcement authority unless:

4.1.1. The ability to perform an essential command law enforcement function within the jurisdiction is significantly hindered by a lack of authority to enforce State or local laws;

4.1.2. The need for such law enforcement authority cannot be met effectively by assistance from law enforcement agencies with such authority;

4.1.3. Adequate internal safeguards and management controls exist to ensure proper exercise of the authority; and

4.1.4. The advantages to possessing the authority can reasonably be expected to exceed the disadvantages likely involved in exercising the authority.

4.2. Comply with the deputization justification guidelines in section 6 and the approval process in section 7.

4.3. Not grandfather any existing cases of deputization of DoD uniformed law enforcement personnel by State and local governments, where such cases do not have the approval of the authorities in section 8 and require that these cases be authorized following the procedures in section 7.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall:

5.1.1. Develop overall policy and provide guidance for deputization of DoD uniformed law enforcement personnel by State and local governments.

5.1.2. Act as approval authority for all uniformed law enforcement personnel not under the authority of a Military Department.

5.1.3. Monitor compliance with this Instruction.

5.2. The General Counsel of the Department of Defense shall provide advice and assistance on all legal matters, to include the review and coordination on all proposed policies, DoD Issuances, and proposed exceptions to the DoD policies regarding the deputization of DoD uniformed law enforcement personnel by State and local governments.

5.3. The Secretaries of the Military Departments shall act as approval authority for all uniformed law enforcement personnel under the authority of their respective Military Departments.

5.4. The DoD Components shall:

5.4.1. Ensure compliance with this Instruction.

5.4.2. Provide requests for exceptions to this Instruction to the USD(P&R) or appropriate Military Department Secretary.

6. DEPUTIZATION JUSTIFICATION GUIDELINES

6.1. Authority to Carry a Firearm. DoD uniformed law enforcement personnel are authorized to carry a firearm, in accordance with Reference (c). They shall NOT rely on

deputized State or local law enforcement authority to carry a firearm in performance of their federal duties.

6.2. Authority to Seek and Execute an Arrest or Search Warrant. DoD uniformed law enforcement personnel shall NOT seek or execute an arrest warrant or search warrant under deputized State or local law enforcement authority unless:

6.2.1. There is reason to believe the person to whom the authority would be applied has committed an offense within DoD law enforcement jurisdiction;

6.2.2. The person committed an offense involving resistance to the DoD uniformed law enforcement personnel's law enforcement authority; or

6.2.3. The authority is necessary to search for and seize property related to such offenses; and

6.2.3.1. There is a demonstrated need based on the past year's experience or a future need based on a particularized event or circumstance that supports a reason to believe that while performing the assigned duties, the DoD uniformed law enforcement personnel shall frequently encounter situations in which it is necessary to rely on deputized State or local law enforcement powers to obtain needed arrest or search warrants;

6.2.3.2. It is unlikely that timely and effective assistance would be available from another agency with requisite police powers;

6.2.3.3. The DoD uniformed law enforcement personnel have graduated from an accredited training course in executing arrests and search warrants based on the particular deputized State or local authority; and

6.2.3.4. The requesting senior installation law enforcement official agrees, should deputized authority be granted by authorities identified in section 7, to establish and implement policies and procedures to prevent unauthorized DoD uniformed law enforcement personnel from using the deputized authority to execute arrests or search warrants.

6.3. Authority to Make a Warrantless Arrest. DoD uniformed law enforcement personnel shall NOT make an arrest without a warrant using deputized State or local law enforcement authority unless they have probable cause to believe the person being arrested has committed a felony or such person commits a felony or misdemeanor crime in the presence of DoD uniformed law enforcement personnel; and

6.3.1. There is a demonstrated need based on the past year's experience or a future need based on a particularized event or circumstance that supports a reason to believe that while performing assigned duties, the DoD uniformed law enforcement personnel shall frequently encounter situations in which it is necessary to rely on deputized State or local law enforcement powers to make an arrest promptly;

6.3.2. The conditions of subparagraph 6.2.3.2. exist;

6.3.3. The DoD uniformed law enforcement personnel have graduated from an accredited training course in making arrests based on the particular deputized State or local authority; and

6.3.4. The requesting senior installation law enforcement official agrees, should deputized authority be granted by authorities identified in section 7, to establish and implement policies and procedures to prevent unauthorized DoD uniformed law enforcement personnel from using the deputized authority to make warrantless arrests.

6.4. Authority to Serve a Grand Jury Subpoena or Other Legal Process. DoD uniformed law enforcement personnel shall NOT rely on State or local deputized law enforcement authority to serve a grand jury subpoena, a summons, a court order, or other legal process, unless:

6.4.1. There is a demonstrated need based on the past year's experience or a future need based on a particularized event or circumstance that supports a reason to believe that while performing assigned duties, the DoD uniformed law enforcement personnel shall frequently encounter situations in which it is necessary to rely on deputized State or local law enforcement authority to serve such process;

6.4.2. The conditions of subparagraph 6.2.3.2. exist;

6.4.3. The DoD uniformed law enforcement personnel have been trained in the serving process based on the particular deputized State or local law enforcement authority; and

6.4.4. The requesting senior installation law enforcement official agrees, should deputized authority be granted by authorities identified in section 7, to establish and implement policies and procedures to prevent unauthorized DoD uniformed law enforcement personnel from using the deputized authority to serve a Grand Jury subpoena or other legal process.

6.5. Authority to Administer an Oath or Affirmation. DoD uniformed law enforcement personnel shall NOT rely on State or local deputized law enforcement authority to administer an oath or affirmation, unless:

6.5.1. There is a demonstrated need based on the past year's experience or a future need based on a particularized event or circumstance that supports a reason to believe that while performing assigned duties, the DoD uniformed law enforcement personnel shall frequently encounter situations in which it is necessary or desirable to rely on State or local law enforcement authority to administer an oath or affirmation and take a person's statement or testimony under oath or affirmation;

6.5.2. The conditions of subparagraph 6.2.3.2. exist;

6.5.3. The DoD uniformed law enforcement personnel have been trained in administering oaths and affirmations based on the particular deputized State or local law enforcement authority; and

6.5.4. The requesting senior installation law enforcement official agrees, should deputized authority be granted by authorities identified in section 7, to establish and implement policies and procedures to prevent unauthorized DoD uniformed law enforcement personnel from using the deputized authority to administer oaths or affirmations.

6.6. Authority to Use a Covert Investigative Technique. DoD uniformed law enforcement personnel shall NOT rely on State or local deputized law enforcement authority to use a covert investigative technique unless:

6.6.1. There is a demonstrated need based on the past year's experience or a future need based on a particularized event or circumstance that supports a reason to believe that while performing assigned duties, the DoD uniformed law enforcement personnel shall frequently encounter situations in which it is necessary to rely on deputized State or local law enforcement authority to use such a covert investigative technique;

6.6.2. The conditions of subparagraph 6.2.3.2. exist;

6.6.3. The DoD uniformed law enforcement personnel have graduated from an accredited training course in using the covert investigative technique based on the deputized State or local authority; and

6.6.4. The requesting senior installation law enforcement official agrees, should deputized authority be granted by authorities identified in section 7, to establish and implement policies and procedures to prevent unauthorized DoD uniformed law enforcement personnel from using the deputized authority for the covert investigative technique.

7. APPROVAL PROCESS

7.1. The senior installation law enforcement official (Provost Marshall, Director of Emergency Services, Security Chief, Chief of Security, or similar official) will prepare the request for authority to accept State or local deputization.

7.1.1. The request will be based on the justification guidelines in section 6 of this Instruction.

7.1.2. In addition to addressing the specific items in section 6, the request will include:

7.1.2.1. The number of uniformed law enforcement personnel to be granted the authority and a certification that they have received the requisite training to effect the type of deputization.

7.1.2.2. The time frame envisioned for the authority to be exercised. Blanket time authorizations will not be considered.

7.1.2.3. The policies and procedures to prevent misuse of the authority to be employed by the requesting installation law enforcement official.

7.1.2.4. A copy of the proposed memorandum of understanding with the State or local jurisdiction that will carry out the deputization, to include the signature of the appropriate official representing that State or local jurisdiction.

7.2. The request will be forwarded, through the appropriate chain of command for the respective Military Department, and from the DoD Agency head in non-Military Department components, to the approval authorities listed in section 8.

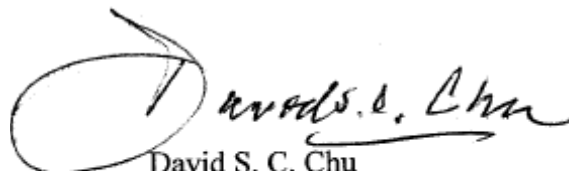
7.3. The approval authorities will consider the requests and return a decision, by the most expeditious means, through the appropriate channels.

8. APPROVAL AUTHORITY

The USD(P&R) (for all uniformed law enforcement personnel not under the authority of a Military Department) and the Secretary of a Military Department (for all uniformed law enforcement personnel under the authority of that Military Department) are the approval authorities for the use of deputized law enforcement powers from State or local governments.

9. EFFECTIVE DATE

This Instruction is effective immediately.



David S. C. Chu
Under Secretary of Defense for
Personnel and Readiness