

## **APPENDIX 2**

# **NATIONAL PLAN FOR INCIDENT MANAGEMENT**

### **APPENDIX 2-1: Executive Order 12241**

#### **Executive Order 12241, September 29, 1980, National Contingency Plan**

By the authority vested in me as President of the United States of America under Section 304 of Public Law 96-295 (94 Stat. 790) and Section 301 of Title 3 of the United States Code, and in order to provide for the publication of a plan to protect the public health and safety in case of accidents at nuclear power facilities, it is hereby ordered as follows:

1-101. The functions vested in the President by Section 304 of Public Law 96-295 (94 Stat. 790) are delegated to the Director, Federal Emergency Management Agency.

1-102. A copy of the National Contingency Plan shall, from time to time, be published in the Federal Register.

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#### **AMENDMENT(S)**

EO 12657, November 18, 1988

### **APPENDIX 2-2: Executive Order 12472**

#### **Executive Order 12742 (1991), National Security Industrial Responsiveness**

Section 101. Policy The United States must have the capability to rapidly mobilize its resources in the interest of national security. Therefore, to achieve prompt delivery of articles, products, and materials to meet national security requirements, the Government may place orders and require priority performance of these orders.

Section 102. Delegation of Authority under 50 U.S.C. App. 468.

Subject to paragraph (b) of this section, the authorities vested in the President, under 50 U.S.C. App. 468, with respect to the placing of orders for prompt delivery of articles or materials, except for the taking authority under 50 U.S.C. App. 468 (c), are hereby delegated to:

- (1) the Secretary of Agriculture with respect to all food resources;
- (2) the Secretary of Energy with respect to all forms of energy;
- (3) the Secretary of Transportation with respect to all forms of civil transportation; and
- (4) the Secretary of Commerce with respect to all other articles and materials, including construction materials.

The authorities delegated by paragraph (a) of this section shall be exercised only after:

- (1) a determination by the Secretary of Defense that prompt delivery of the articles or materials for the exclusive use of the armed forces of the United States in the interest of national security, or
- (2) a determination by the Secretary of Energy that the prompt delivery of the articles or materials for the Department of Energy's atomic energy programs is in the interest of national security.



All determinations of the type described in paragraph (b) of this section and all delegations -- made prior to the effective date of this order under the Defense Production Act of 1950, as amended, and under its implementing rules and regulation

Section 103. Delegation of Authority under 10 U.S.C. 4501 and 9501, and 50 U.S.C. 82.

Subject to paragraph (b) of this section, the authorities vested in the President under 10 U.S.C. 4501 and 9501 with respect to the placing of orders for necessary products or materials, and under 50 U.S.C. 82 with respect to the placing of orders for ships or war materials, except for the taking authority vested in the President by these acts, are hereby delegated to:

- (1) the Secretary of Agriculture with respect to all food resources;
- (2) the Secretary of Energy with respect to all forms of energy;
- (3) the Secretary of Transportation with respect to all forms of civil transportation; and
- (4) the Secretary of Commerce with respect to all other products and materials, including construction materials.

The authorities delegated in paragraph (a) of this section may be exercised only after the President has made the statutorily required determination.

Section 104. Implementation. (a) The authorities delegated under sections 102 and 103 of this order shall include the power to redelegate such authorities, and the power of successive redelegation of such authorities, to departments and agencies, officers, and employees of the Government. The authorities delegated in this order may be implemented by regulations promulgated and administered by the Secretaries of Agriculture, Defense, Energy, Transportation, and Commerce, and the Director of the Federal Emergency Management Agency, as appropriate.

All departments and agencies delegated authority under this order are hereby directed to amend their rules delegated herein that are to be relied upon to carry out their functions. To the extent authorized by law, including 50 U.S.C. App. 486, 10 U.S.C. 4501 and 9501, and 50 U.S.C. 82, all rules and regulations issued under the Defense Production Act of 1950, as amended, with respect to the placing of priority orders for articles, products, ships, and materials, including war materials, shall be deemed, where appropriate, to implement the authorities delegated by section 102 and 103 of this order, and shall remain in effect until amended or revoked by the respective Secretary. All orders, regulations, and other forms of administrative actions pursuant to the Defense Production Act of 1950, as amended, shall, until amended or revoked by the respective Secretaries or the Director of the Federal Emergency Management Agency, as appropriate, remain in full force and effect, to the extent supported by any law or any authority delegated to the respective Secretary or the Director pursuant to this order.

Upon the request of the Secretary of Defense with respect to particular articles, products, or materials that are determined to be needed to meet national security requirements, and other official receiving a delegation of authority under this Executive order to place orders or to enforce precedence of such orders, shall exercise such authority within 10 calendar days of the receipt of the request; provided, that if the head of any department or agency having delegated responsibilities hereunder disagrees with a request of the Secretary of Defense, such department or agency head shall, within 10 calendar days from the receipt of the request, refer the issue to the Assistant to the President for National Security Affairs, who shall ensure expeditious resolution of the issue.

Proposed department and agency regulations and procedures to implement the delegated authority under this order, and any new determinations made under sections 102 (b)(1) or (2), shall be coordinated by the Director of the Federal Emergency Management Agency with all appropriate departments and agencies.

Section 105. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

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## AMENDMENT(S)

**Executive Order 13286 (2003), Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security**

Sec. 36. Executive Order 12742 of January 8, 1991 ("National Security Industrial Responsiveness"), is amended by:  
inserting "Homeland Security," after "Transportation," in section 104(a); and  
striking "the Director of the Federal Emergency Management Agency" in section 104(d) and inserting "the Secretary of Homeland Security" in lieu thereof.

## **APPENDIX 2-3: Executive Order 12580**

### **Executive Order 12580, January 23, 1987, Superfund Implementation**

#### Section 1. National Contingency Plan.

(a)

(1) The National Contingency Plan ('the NCP') shall provide for a National Response Team ('the NRT') composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and regional response teams as the regional counterpart to the NRT for planning and coordination of regional preparedness and response actions.

(2) The following agencies (in addition to other appropriate agencies) shall provide representatives to the National and Regional Response Teams to carry out their responsibilities under the NCP: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, United States Coast Guard, and the Nuclear Regulatory Commission.

(3) Except for periods of activation because of a response action, the representative of the Environmental Protection Agency ("EPA") shall be the chairman and the representative of the United States Coast Guard shall be the vice chairman of the NRT and these agencies' representatives shall be co-chairs of the Regional Response Teams ('the RRTs'). When the NRT or an RRT is activated for a response action, the chairman shall be the EPA or United States Coast Guard representative, based on whether the release or threatened release occurs in the island or coastal zone, unless otherwise agreed upon by the EPA and United States Coast Guard representatives.

(4) The RRTs may include representatives from State governments, local governments (as agreed upon by the States), and Indian tribal governments. Subject to the functions and authorities delegated to Executive departments and agencies in other sections of this Order, the NRT shall provide policy and program direction to the RRTs.

(b)

(1) The responsibility for the revision of the NCP and all of the other functions vested in the President by Sections 105(a), (b), (c), and (g), 125, and 301(f) of the Act is delegated to the Administrator of the Environmental Protection Agency ('the Administrator').

(2) The function vested in the President by Section. II 8(p) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) ('SARA') is delegated to the Administrator.

(c) In accord with Section 107(f)(2)(A) of the Act and Section 31 I (f)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321 (f)(5)), the following shall be among those designated in the NCP as Federal trustees for natural resources:

- (1) Secretary of Defense;
- (2) Secretary of the Interior,
- (3) Secretary of Agriculture;
- (4) Secretary of Commerce;
- (5) Secretary of Energy.

(d) Revisions to the NCP shall be made in consultation with members of the NRT prior to publication for notice and comment. Revisions shall also be made in consultation with the Director of the Federal Emergency Management Agency and the Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.

(e) All revisions to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director of the Office of Management and Budget ("OMB").

Sec. 2. Response and Related Authorities.

(a) The functions vested in the President by the first sentence of Section 104(b)(1) of the Act relating to "illness, disease, or complaints thereof" are delegated to the Secretary of Health and Human Services, who shall, in accord with Section 104(i) of the Act, perform those functions through the Public Health Service.

(b) The functions vested in the President by Sections 104(e)(7)(C), 113(k)(2), 119(c)(7), and 121(f)(1) of the Act, relating to promulgation of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the NRT.

(c)

(1) The functions vested in the President by Sections 104(a) and the second sentence of 126(b) of the Act, to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for, are delegated to the Director of the Federal Emergency Management Agency.

(2) Subject to subsection (b) of this Section, the functions vested in the President by Sections 117(a) and (c) and 119 of the Act, to the extent such authority is needed to carry out the functions delegated under paragraph (1) of this subsection, are delegated to the Director of the Federal Emergency Management Agency.

(d) Subject to subsections (a), (b), and (c) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretaries of Defense and Energy, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated. These functions must be exercised consistent with the requirements of Section 120 of the Act.

(e)

(1) Subject to subsections (a), (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), and 121 of the Act are delegated to the heads of Executive departments and agencies, with respect to remedial actions for releases or threatened releases which are not on the National Priorities List ('the NPL') and removal actions other than emergencies, where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated. The Administrator shall define the term 'emergency,' solely for the purposes of this subsection, either by regulation or by a memorandum of understanding with the head of an Executive department or agency.

(2) Subject to subsections (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(b)(2), 113(k), 117(a) and (c), and 119, of the Act are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated.

(f) Subject to subsections (a), (b), (c), (d), and (e) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretary of the Department in which the Coast Guard is operating ("the Coast Guard"), with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(g) Subject to subsections (a), (b), (c), (d), (e), and (f) of this Section, the functions vested in the President by Sections 101(24), 104(a), (b), (c)(4), and (c)(9), 113(k), 117(a) and (c), 119, 121, and 126(b) of the Act are delegated to the Administrator. The Administrator's authority under Section 119 of the Act is retroactive to the date of enactment of SARA.

(h) The functions vested in the President by Section 104(c)(3) of the Act are delegated to the Administrator, with respect to providing assurances for Indian tribes, to be exercised in consultation with the Secretary of the Interior.

(i) Subject to subsections (d), (e), (f), (g), and (h) of this Section, the functions vested in the President by Section 104(c) and (d) of the Act are delegated to the Coast Guard, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and the Administrator in order to carry out the functions delegated to them by this Section.

(j)

(1) The functions vested in the President by Section 104(e)(5)(A) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or

the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments or agencies, to be exercised with the concurrence of the Attorney General.

(2) Subject to subsection (b) of this Section and paragraph (1) of this subsection, the functions vested in the President by Section 104(e) are delegated to the heads of Executive departments and agencies in order to carry out their functions under this Order or the Act.

(k) The functions vested in the President by Section 104(f), (g), (h), (I)(11), and (j) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Section. The exercise of authority under Section 104(h) of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

#### Sec. 3. Cleanup Schedules.

(a) The functions vested in the President by Sections 116(a) and the first two sentences of 105(d) of the Act are delegated to the heads of Executive departments and agencies with respect to facilities under the jurisdiction, custody or control of those departments and agencies.

(b) Subject to subsection (a) of this Section, the functions vested in the President by Sections 116 and 105(d) are delegated to the Administrator.

#### Sec. 4. Enforcement.

(a) The functions vested in the President by Sections 109(d) and 122(e)(3)(A) of the Act, relating to development of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(b)

(1) Subject to subsection (a) of this Section, the functions vested in the President by Section 122 (except subsection (b)(1)) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases not on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(2) Subject to subsection (a) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 122 of the Act, are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases not on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(c)

(1) Subject to subsection (a) and (b)(1) of this Section, the functions vested in the President by Sections 106(a) and 122 of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(2) Subject to subsection (a) and (b)(2) of this Section, the functions vested in the President by Section 109 of the Act relating to violations of Sections 103 (a) and (b) and 122 of the Act, are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(d)

(1) Subject to subsections (a), (b)(1), and (c)(1) of this Section, the functions vested in the President by Sections 106 and 122 of the Act are delegated to the Administrator.

(2) Subject to subsections (a), (b)(2), and (c)(2) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Sections 103 and 122 of the Act, are delegated to the Administrator.

(e) Notwithstanding any other provision of this Order, the authority under Sections 104(e)(5)(A) and 106(a) of the Act to seek information, entry, inspection, samples, or response actions from Executive departments and agencies may be exercised only with the concurrence of the Attorney General.

#### Sec. 5. Liability.

(a) The function vested in the President by Section 107(c)(1)(C) of the Act is delegated to the Secretary of Transportation.

(b) The functions vested in the President by Section 107(c)(3) of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 107(c)(3) of the Act are delegated to the Administrator.

(d) The functions vested in the President by Section 107(f)(1) of the Act are delegated to each of the Federal trustees for natural resources designated in the NCP for resources under their trusteeship.

(e) The functions vested in the President by Section 107(f)(2)(B) of the Act, to receive notification of the state natural resource trustee designations, are delegated to the Administrator.

#### Sec. 6. Litigation.

(a) Notwithstanding any other provision of this Order, any representation pursuant to or under this Order in any judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Act shall be the responsibility of the Attorney General.

(b) Notwithstanding any other provision of this Order, the authority under the Act to require the Attorney General to commence litigation is retained by the President.

(c) The functions vested in the President by Section 133(g) of the Act, to receive notification of a natural resource trustee's intent to file suit, are delegated to the heads of Executive departments and agencies with respect to response actions for which they have been delegated authority under Section 2 of this Order. The Administrator shall promulgate procedural regulations for providing such notification.

(d) The functions vested in the President by Sections 310 (d) and (e) of the Act, relating to promulgation of regulations, are delegated to the Administrator.

#### Sec. 7. Financial Responsibility.

(a) The functions vested in the President by Section 107(k)(4)(B) of the Act are delegated to the Secretary of the Treasury.

The Administrator will provide the Secretary with such technical information and assistance as the Administrator may have available.

(b)

(1) The functions vested in the President by Section 108(a)(1) of the Act are delegated to the Coast Guard.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the act, relating to violations of Section 108(a)(1) of the Act, are delegated to the Coast Guard.

(c)

(1) The functions vested in the President by Section 108(b) of the Act are delegated to the Secretary of Transportation with respect to all transportation-related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 108(a)(3) of the Act, relating to violations of Section 108(a)(3) of the Act, are delegated to the Secretary of Transportation.

(3) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(b) of the Act, are delegated to the Secretary of Transportation with respect to all transportation-related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(d)

(1) Subject to subsection (c)(1) of this Section, the functions vested in the President by Section 108 (a)(4) and (b) of the Act are delegated to the Administrator.

(2) Subject to Section 4(a) of this Order and subsection (c)(3) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108 (a)(4) and (b) of the Act, are delegated to the Administrator.

#### Sec. 6. Employee Protection and Notice to Injured.

(a) The functions vested in the President by Section 110(e) of the Act are delegated to the Administrator.

(b) The functions vested in the President by Section 111(g) of the Act are delegated to the Secretaries of Defense and Energy with respect to releases from facilities or vessels under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 111(g) of the Act are delegated to the Administrator.

#### Sec. 9. Management of the Hazardous Substance Superfund and Claims.

(a) The functions vested in the President by Section I I I (a) of the Act are delegated to the Administrator, subject to the provisions of this Section and other applicable provisions of this Order.

(b) The Administrator shall transfer to other agencies, from the Hazardous Substance Superfund out of sums appropriated, such amounts as the Administrator may determine necessary to carry out the purposes of the Act. These amounts shall be consistent with the President's Budget, within the total approved by the Congress, unless a revised amount is approved by OMB. Funds appropriated specifically for the Agency

for Toxic Substances and Disease Registry ("ATSDR"), shall be directly transferred to ATSDR, consistent with fiscally responsible investment of trust fund money.

(c) The Administrator shall chair a budget task force composed of representatives of Executive departments and agencies having responsibilities under this Order or the Act. The Administrator shall also, as part of the budget request for the Environmental Protection Agency, submit to OMB a budget for the Hazardous Substance Superfund which is based on recommended levels developed by the budget task force. The Administrator may prescribe reporting and other forms, procedures, and guidelines to be used by the agencies of the Task Force in preparing the budget request, consistent with budgetary reporting requirements issued by OMB. The Administrator shall prescribe forms to agency task force members for reporting the expenditure of funds on a site-specific basis.

(d) The Administrator and each department and agency head to whom funds are provided pursuant to this Section, with respect to funds provided to them, are authorized in accordance with Section 111(f) of the Act to designate Federal officials who may obligate such funds.

(e) The functions vested in the President by Section 112 of the Act are delegated to the Administrator for all claims presented pursuant to Section 111 of the Act.

(f) The functions vested in the President by Section 111 (o) of the Act are delegated to the Administrator.

(g) The functions vested in the President by Section 117(e) of the Act are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(h) The functions vested in the President by Section 123 of the Act are delegated to the Administrator.

(i) Funds from the Hazardous Substance Superfund may be used, at the discretion of the Administrator or the Coast Guard, to pay for removal actions for releases or threatened releases from facilities or vessels under the jurisdiction, custody or control of Executive departments and agencies but must be reimbursed to the Hazardous Substance Superfund by such Executive department or agency.

#### Sec. 10. Federal Facilities.

(a) When necessary, prior to selection of a remedial action by the Administrator under Section 120(e)(4)(A) of the Act, Executive agencies shall have the opportunity to present their views to the Administrator after using the procedures under Section 1-6 of Executive Order No. 12088 of October 13, 1978, or any other mutually acceptable process. Notwithstanding subsection 1-602 of Executive Order No. 12088, the Director of the Office of Management and Budget shall facilitate resolution of any issues.

(b) Executive Order No. 12088 of October 13, 1978, is amended by renumbering the current Section 1-802 as Section 1-803 and inserting the following new Section 1-802:

"1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person."

#### Sec. 11. General Provisions.

(a) The function vested in the President by Section 101(37) of the Act is delegated to the Administrator.

(b)

(1) The function vested in the President by Section 105(f) of the Act, relating to reporting on minority participation in contracts, is delegated to the Administrator.

(2) Subject to paragraph 1 of this subsection, the functions vested in the President by Section 105(f) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Order. Each Executive department and agency shall provide to the Administrator any requested information on minority contracting for inclusion in the Section 105(f) annual report.

(c) The functions vested in the President by Section 126(c) of the Act are delegated to the Administrator, to be exercised in consultation with the Secretary of the Interior.

(d) The functions vested in the President by Section 301(c) of the Act are delegated to the Secretary of the Interior.

(e) Each agency shall have authority to issue such regulations as may be necessary to carry out the functions delegated to them by this Order.

(f) The performance of any function under this Order shall be done in consultation with interested Federal departments and agencies represented on the NRT, as well as with any other interested Federal agency.

(g) The following functions vested in the President by the Act which have been delegated or assigned by this Order may be redelegated to the head of any Executive department or agency with his consent: functions set forth in Sections 2 (except subsection (b)), 3, 4(b), 4(c), 4(d), 5(b), 5(c), and 8(c) of this Order.

(h) Executive Order No. 12316 of August 14, 1981, is revoked.

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## AMENDMENT(S)

### **Executive Order 13016 (1996), Amendment to Executive Order No. 12580, Superfund Implementation**

Section 1. A new subsection (c)(3) is added to read as follows:

"(3) Subject to subsections (a) and (b)(1) of this section, the functions vested in the President by sections 106(a) and 122 (except subsection (b)(1)) of the Act are delegated to the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, and the Secretary of Energy, to be exercised only with the concurrence of the Coast Guard, with respect to any release or threatened release in the coastal zone, Great Lakes waters, ports, and harbors, affecting (1) natural resources under their trusteeship, or (2) a vessel or facility subject to their custody, jurisdiction, or control. Such authority shall not be exercised at any vessel or facility at which the Coast Guard is the lead Federal agency for the conduct or oversight of a response action. Such authority shall not be construed to authorize or permit use of the Hazardous Substance Superfund to implement section 106 or to fund performance of any response action in lieu of the payment by a person who receives but does not comply with an order pursuant to section 106(a), where such order has been issued by the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, or the Secretary of Energy. This subsection shall not be construed to limit any authority delegated by any other section of this order. Authority granted under this subsection shall be exercised in a manner to ensure interagency coordination that enhances efficiency and effectiveness."

Section. 2. A new subsection (d) (3) is added to section 4 to read as follows:

"(3) Subject to subsections (a), (b)(1), and (c)(1) of this section, the functions vested in the President by sections 106(a) and 122 (except subsection (b)(1)) of the Act are delegated to the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, and the Department of Energy, to be exercised only with the concurrence of the Administrator, with respect to any release or threatened release affecting (1) natural resources under their trusteeship, or (2) a vessel or facility subject to their custody, jurisdiction, or control. Such authority shall not be exercised at any vessel or facility at which the Administrator is the lead Federal official for the conduct or oversight of a response action. Such authority shall not be construed to authorize or permit use of the Hazardous Substance Superfund to implement section 106 or to fund performance of any response action in lieu of the payment by a person who receives but does not comply with an order pursuant to section 106(a), where such order has been issued by the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, or the Secretary of Energy. This subsection shall not be construed to limit any authority delegated by any other section of this order. Authority granted under this subsection shall be exercised in a manner to ensure interagency coordination that enhances efficiency and effectiveness."

### **Executive Order 13286 (2003), Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security**

Sec. 43. Executive Order 12580 of January 23, 1987 ("Superfund Implementation"), as amended, is further amended by:

- (a) inserting "Department of Homeland Security," after "Department of Energy," in section 1(a)(2); and
- (b) striking "Federal Emergency Management Agency" in section 1(a)(2)

## **APPENDIX 2-4: Executive Order 12656**

### **Executive Order 12656--Assignment of emergency preparedness responsibilities**

**Source:** The provisions of Executive Order 12656 of Nov. 18, 1988, appear at 53 FR 47491, 3 CFR, 1988 Comp., p. 585, unless otherwise noted.

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

## **Part 1--Preamble**

### **Section 101. National Security Emergency Preparedness Policy.**

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

### **Sec. 102. Purpose.**

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

### **Sec. 103. Scope.**

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedures, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.



(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472.

**Sec. 104. Management of National Security Emergency Preparedness.**

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy.

(b) The National Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Director of the Federal Emergency Management Agency shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedures will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

**Sec. 105. Interagency Coordination.**

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate with those organizations assigned responsibility in, Executive Order No. 12472, to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

**Part 2--General Provisions**

**Sec. 201. General.** The head of each Federal department and agency, as appropriate, shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope, and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

(3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;

(4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:

- (a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies;
  - (b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;
- (5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;
  - (6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;
  - (7) Make policy recommendations to the National Security Council regarding national security emergency preparedness activities and functions of the Federal Government;
  - (8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;
  - (9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;
  - (10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;
  - (11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;
  - (12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the **Federal Register**, or to each agency designated to maintain the **Federal Register** in an emergency;
  - (13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;
  - (14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;
  - (15) Consult and coordinate with the Director of the Federal Emergency Management Agency to ensure that those activities and plans are consistent with current National Security Council guidelines and policies.

**Sec. 202. Continuity of Government.** The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

**Sec. 203. Resource Management.** The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

- (1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;
- (2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;
- (3) Prepare plans and procedures to share between and among the responsible agencies resources such as energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;
- (4) Develop plans to set priorities and allocate resources among civilian and military claimants;
- (5) Identify occupations and skills for which there may be a critical need in the event of a national security emergency.

**Sec. 204. *Protection of Essential Resources and Facilities.*** The head of each Federal department and agency, within assigned areas of responsibility, shall:

- (1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;
- (2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;
- (3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

**Sec. 205. *Federal Benefit, Insurance, and Loan Programs.*** The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

**Sec. 206. *Research.*** The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

**Sec. 207. *Redelegation.*** The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within that department or agency.

**Sec. 208. *Transfer of Functions.*** Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council.

**Sec. 209. *Retention of Existing Authority.*** Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

### **Part 3--Department of Agriculture**

**Sec. 301. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Agriculture shall:

- (1) Develop plans to provide for the continuation of agricultural production, food processing, storage, and distribution through the wholesale level in national security emergencies, and to provide for the domestic distribution of seed, feed, fertilizer, and farm equipment to agricultural producers;
- (2) Develop plans to provide food and agricultural products to meet international responsibilities in national security emergencies;
- (3) Develop plans and procedures for administration and use of Commodity Credit Corporation inventories of food and fiber resources in national security emergencies;
- (4) Develop plans for the use of resources under the jurisdiction of the Secretary of Agriculture and, in cooperation with the Secretaries of Commerce, Defense, and the Interior, the Board of Directors of the Tennessee Valley Authority, and the heads of other government entities, plan for the national security emergency management, production, and processing of forest products;
- (5) Develop, in coordination with the Secretary of Defense, plans and programs for water to be used in agricultural production and food processing in national security emergencies;

- (6) In cooperation with Federal, State, and local agencies, develop plans for a national program relating to the prevention and control of fires in rural areas of the United States caused by the effects of enemy attack or other national security emergencies;
- (7) Develop plans to help provide the Nation's farmers with production resources, including national security emergency financing capabilities;
- (8) Develop plans, in consonance with those of the Department of Health and Human Services, the Department of the Interior, and the Environmental Protection Agency, for national security emergency agricultural health services and forestry, including:
  - (a) Diagnosis and control or eradication of diseases, pests, or hazardous agents (biological, chemical, or radiological) against animals, crops, timber, or products thereof;
  - (b) Protection, treatment, and handling of livestock and poultry, or products thereof, that have been exposed to or affected by hazardous agents;
  - (c) Use and handling of crops, agricultural commodities, timber, and agricultural lands that have been exposed to or affected by hazardous agents; and
  - (d) Assuring the safety and wholesomeness, and minimizing losses from hazards, of animals and animal products and agricultural commodities and products subject to continuous inspection by the Department of Agriculture or owned by the Commodity Credit Corporation or by the Department of Agriculture;
- (9) In consultation with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in agriculture-related international civil emergency preparedness planning and related activities.

**Sec. 302. Support Responsibility.** The Secretary of Agriculture shall assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical agricultural materials.

#### **Part 4--Department of Commerce**

**Sec. 401. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Commerce shall:

- (1) Develop control systems for priorities, allocation, production, and distribution of materials and other resources that will be available to support both national defense and essential civilian programs in a national security emergency;
- (2) In cooperation with the Secretary of Defense and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;
- (3) In cooperation with the Secretary of Defense and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;
- (4) In cooperation with the Secretary of Defense, perform industry analyses to assess capabilities of the commercial industrial base to support the national defense, and develop policy alternatives to improve the international competitiveness of specific domestic industries and their abilities to meet defense program needs;
- (5) In cooperation with the Secretary of the Treasury, develop plans for providing emergency assistance to the private sector through direct or participation loans for the financing of production facilities and equipment;
- (6) In cooperation with the Secretaries of State, Defense, Transportation, and the Treasury, prepare plans to regulate and control exports and imports in national security emergencies;
- (7) Provide for the collection and reporting of census information on human and economic resources, and maintain a capability to conduct emergency surveys to provide information on the status of these resources as required for national security purposes;
- (8) Develop overall plans and programs to ensure that the fishing industry continues to produce and process essential protein in national security emergencies;

(9) Develop plans to provide meteorological, hydrologic, marine weather, geodetic, hydrographic, climatic, seismic, and oceanographic data and services to Federal, State, and local agencies, as appropriate;

(10) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in industry-related international (NATO and allied) civil emergency preparedness planning and related activities.

**Sec. 402. Support Responsibilities.** The Secretary of Commerce shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical materials;

(2) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest and fishery products;

(3) Assist, in consultation with the Secretaries of State and Defense, the Secretary of the Treasury in the formulation and execution of economic measures affecting other nations.

## **Part 5--Department of Defense**

**Sec. 501. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Defense shall:

(1) Ensure military preparedness and readiness to respond to national security emergencies;

(2) In coordination with the Secretary of Commerce, develop, with industry, government, and the private sector, reliable capabilities for the rapid increase of defense production to include industrial resources required for that production;

(3) Develop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between and among the military, civil government, and the private sector;

(4) Develop and maintain damage assessment capabilities and assist the Director of the Federal Emergency Management Agency and the heads of other departments and agencies in developing and maintaining capabilities to assess attack damage and to estimate the effects of potential attack on the Nation;

(5) Arrange, through agreements with the heads of other Federal departments and agencies, for the transfer of certain Federal resources to the jurisdiction and/or operational control of the Department of Defense in national security emergencies;

(6) Acting through the Secretary of the Army, develop, with the concurrence of the heads of all affected departments and agencies, overall plans for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States. This includes:

(a) Coordination of national security emergency water resource planning at the national, regional, State, and local levels;

(b) Development of plans to assure emergency provision of water from public works projects under the jurisdiction of the Secretary of the Army to public water supply utilities and critical defense production facilities during national security emergencies;

(c) Development of plans to assure emergency operation of waterways and harbors; and

(d) Development of plans to assure the provision of potable water;

(7) In consultation with the Secretaries of State and Energy, the Director of the Federal Emergency Management Agency, and others, as required, develop plans and capabilities for identifying, analyzing, mitigating, and responding to hazards related to nuclear weapons, materials, and devices; and maintain liaison, as appropriate, with the Secretary of Energy and the Members of the Nuclear Regulatory Commission to ensure the continuity of nuclear weapons production and the appropriate allocation of scarce resources, including the recapture of special nuclear materials from Nuclear Regulatory Commission licensees when appropriate;

(8) Coordinate with the Administrator of the National Aeronautics and Space Administration and the Secretary of Energy, as appropriate, to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies;

(9) Develop, in coordination with the Secretary of Labor, the Directors of the Selective Service System, the Office of Personnel Management, and the Federal Emergency Management

Agency, plans and systems to ensure that the Nation's human resources are available to meet essential military and civilian needs in national security emergencies;

(10) Develop national security emergency operational procedures, and coordinate with the Secretary of Housing and Urban Development with respect to residential property, for the control, acquisition, leasing, assignment and priority of occupancy of real property within the jurisdiction of the Department of Defense;

(11) Review the priorities and allocations systems developed by other departments and agencies to ensure that they meet Department of Defense needs in a national security emergency; and develop and maintain the Department of Defense programs necessary for effective utilization of all priorities and allocations systems;

(12) Develop, in coordination with the Attorney General of the United States, specific procedures by which military assistance to civilian law enforcement authorities may be requested, considered, and provided;

(13) In cooperation with the Secretary of Commerce and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

(14) In cooperation with the Secretary of Commerce and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(15) With the assistance of the heads of other Federal departments and agencies, provide management direction for the stockpiling of strategic and critical materials, conduct storage, maintenance, and quality assurance operations for the stockpile of strategic and critical materials, and formulate plans, programs, and reports relating to the stockpiling of strategic and critical materials.

**Sec. 502. Support Responsibilities.** The Secretary of Defense shall:

(1) Advise and assist the heads of other Federal departments and agencies in the development of plans and programs to support national mobilization. This includes providing, as appropriate:

(a) Military requirements, prioritized and time-phased to the extent possible, for selected end-items and supporting services, materials, and components;

(b) Recommendations for use of financial incentives and other methods to improve defense production as provided by law; and

(c) Recommendations for export and import policies;

(2) Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(5) In consultation with the Secretaries of State and Commerce, assist the Secretary of the Treasury in the formulation and execution of economic measures that affect other nations;

(6) Support the Secretary of State and the heads of other Federal departments and agencies as appropriate in the formulation and implementation of foreign policy, and the negotiation of contingency and post-emergency plans, intergovernmental agreements, and arrangements with allies and friendly nations, which affect national security;

(7) Coordinate with the Director of the Federal Emergency Management Agency the development of plans for mutual civil-military support during national security emergencies;

(8) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills.

## **Part 6--Department of Education**

**Sec. 601. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Education shall:

- (1) Assist school systems in developing their plans to provide for the earliest possible resumption of activities following national security emergencies;
- (2) Develop plans to provide assistance, including efforts to meet shortages of critical educational personnel, to local educational agencies;
- (3) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, for dissemination of emergency preparedness instructional material through educational institutions and the media during national security emergencies.

**Sec. 602. Support responsibilities.** The Secretary of Education shall:

- (1) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills;
- (2) Support the Secretary of Health and Human Services in the development of human services educational and training materials, including self-help program materials for use by human service organizations and professional schools.

## **Part 7--Department of Energy**

**Sec. 701. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

- (1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy resources, including:
  - (a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;
  - (b) In coordination with appropriate departments and agencies and in consultation with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;
  - (c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;
- (2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;
- (3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;
- (4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;
- (5) In consultation with the Secretaries of State and Defense and the Director of the Federal Emergency Management Agency, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;
- (6) In consultation with the Secretaries of State and Defense, the Director of the Federal Emergency Management Agency, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;
- (7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;
- (8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common defense and security;
- (9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;
- (10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

**Sec. 702. Support Responsibilities.** The Secretary of Energy shall:

- (1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, and local officials and private sector organizations to assess the radiological impact associated with national security emergencies;
- (2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;
- (3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;
- (4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

## **Part 8--Department of Health and Human Services**

**Sec. 801. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Health and Human Services shall:

- (1) Develop national plans and programs to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies;
- (2) Promote the development of State and local plans and programs for provision of health, mental health, and medical services in national security emergencies;
- (3) Develop national plans to set priorities and allocate health, mental health, and medical services' resources among civilian and military claimants;
- (4) Develop health and medical survival information programs and a nationwide program to train health and mental health professionals and paraprofessionals in special knowledge and skills that would be useful in national security emergencies;
- (5) Develop programs to reduce or eliminate adverse health and mental health effects produced by hazardous agents (biological, chemical, or radiological), and, in coordination with appropriate Federal agencies, develop programs to minimize property and environmental damage associated with national security emergencies;
- (6) Develop guidelines that will assure reasonable and prudent standards of purity and/or safety in the manufacture and distribution of food, drugs, biological products, medical devices, food additives, and radiological products in national security emergencies;
- (7) Develop national plans for assisting State and local governments in rehabilitation of persons injured or disabled during national security emergencies;
- (8) Develop plans and procedures to assist State and local governments in the provision of emergency human services, including lodging, feeding, clothing, registration and inquiry, social services, family reunification and mortuary services and interment;
- (9) Develop, in coordination with the Secretary of Education, human services educational and training materials for use by human service organizations and professional schools; and develop and distribute, in coordination with the Director of the Federal Emergency Management Agency, civil defense information relative to emergency human services;
- (10) Develop plans and procedures, in coordination with the heads of Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas.

**Sec. 802. *Support Responsibility.*** The Secretary of Health and Human Services shall support the Secretary of Agriculture in the development of plans related to national security emergency agricultural health services.

## **Part 9--Department of Housing and Urban Development**

**Sec. 901. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Housing and Urban Development shall:

- (1) Develop plans for provision and management of housing in national security emergencies, including:
  - (a) Providing temporary housing using Federal financing and other arrangements;
  - (b) Providing for radiation protection by encouraging voluntary construction of shelters and voluntary use of cost-efficient design and construction techniques to maximize population protection;



(2) Develop plans, in cooperation with the heads of other Federal departments and agencies and State and local governments, to restore community facilities, including electrical power, potable water, and sewage disposal facilities, damaged in national security emergencies.

#### **Part 10--Department of the Interior**

**Sec. 1001. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Interior shall:

- (1) Develop programs and encourage the exploration, development, and mining of strategic and critical and other nonfuel minerals for national security emergency purposes;
- (2) Provide guidance to mining industries in the development of plans and programs to ensure continuity of production during national security emergencies;
- (3) Develop and implement plans for the management, control, allocation, and use of public land under the jurisdiction of the Department of the Interior in national security emergencies and coordinate land emergency planning at the Federal, State, and local levels.

**Sec. 1002. *Support Responsibilities.*** The Secretary of the Interior shall:

- (1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical minerals;
- (2) Cooperate with the Secretary of Commerce in the identification and evaluation of facilities essential for national security emergencies;
- (3) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest products.

#### **Part 11--Department of Justice**

**Sec. 1101. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Attorney General of the United States shall:

- (1) Provide legal advice to the President and the heads of Federal departments and agencies and their successors regarding national security emergency powers, plans, and authorities;
- (2) Coordinate Federal Government domestic law enforcement activities related to national security emergency preparedness, including Federal law enforcement liaison with, and assistance to, State and local governments;
- (3) Coordinate contingency planning for national security emergency law enforcement activities that are beyond the capabilities of State and local agencies;
- (4) Develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for the control of persons entering or leaving the United States;
- (5) Develop plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutions and resources during national security emergencies;
- (6) Provide information and assistance to the Federal Judicial branch and the Federal Legislative branch concerning law enforcement, continuity of government, and the exercise of legal authority during National security emergencies;
- (7) Develop intergovernmental and interagency law enforcement plans and counterterrorism programs to interdict and respond to terrorism incidents in the United States that may result in a national security emergency or that occur during such an emergency;
- (8) Develop intergovernmental and interagency law enforcement plans to respond to civil disturbances that may result in a national security emergency or that occur during such an emergency.

**Sec. 1102. *Support Responsibilities.*** The Attorney General of the United States shall:

- (1) Assist the heads of Federal departments and agencies, State and local governments, and the private sector in the development of plans to physically protect essential resources and facilities;
- (2) Support the Secretaries of State and the Treasury in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel, property, and other assets within the jurisdiction of the United States;
- (3) Support the Secretary of the Treasury in developing plans to control the movement of property entering and leaving the United States;

- (4) Support the heads of other Federal departments and agencies and State and local governments in developing programs and plans for identifying fatalities and reuniting families in national security emergencies;
- (5) Support the intelligence community in the planning of its counterintelligence and counterterrorism programs.

## **Part 12--Department of Labor**

**Sec. 1201. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Labor shall:

- (1) Develop plans and issue guidance to ensure effective use of civilian workforce resources during national security emergencies. Such plans shall include, but not necessarily be limited to:
  - (a) Priorities and allocations, recruitment, referral, training, employment stabilization including appeals procedures, use assessment, and determination of critical skill categories; and
  - (b) Programs for increasing the availability of critical workforce skills and occupations;
- (2) In consultation with the Secretary of the Treasury, develop plans and procedures for wage, salary, and benefit costs stabilization during national security emergencies;
- (3) Develop plans and procedures for protecting and providing incentives for the civilian labor force during national security emergencies;
- (4) In consultation with other appropriate government agencies and private entities, develop plans and procedures for effective labor-management relations during national security emergencies.

**Sec. 1202. Support Responsibilities.** The Secretary of Labor shall:

- (1) Support planning by the Secretary of Defense and the private sector for the provision of human resources to critical defense industries during national security emergencies;
- (2) Support planning by the Secretary of Defense and the Director of Selective Service for the institution of conscription in national security emergencies.

## **Part 13--Department of State**

**Sec. 1301. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of State shall:

- (1) Provide overall foreign policy coordination in the formulation and execution of continuity of government and other national security emergency preparedness activities that affect foreign relations;
- (2) Prepare to carry out Department of State responsibilities in the conduct of the foreign relations of the United States during national security emergencies, under the direction of the President and in consultation with the heads of other appropriate Federal departments and agencies, including, but not limited to:
  - (a) Formulation and implementation of foreign policy and negotiation regarding contingency and post-emergency plans, intergovernmental agreements, and arrangements with United States' allies;
  - (b) Formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral states;
  - (c) Formulation and execution of political strategy toward hostile or enemy states;
  - (d) Conduct of mutual assistance activities;
  - (e) Provision of foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs;
  - (f) Protection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad, in consultation with the Secretaries of Defense and Health and Human Services;
  - (g) Protection of international organizations and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States, in coordination with the Attorney General and the Secretary of the Treasury;

- (h) Formulation of policies and provisions for assistance to displaced persons and refugees abroad;
- (i) Maintenance of diplomatic and consular representation abroad; and
- (j) Reporting of and advising on conditions overseas that bear upon national security emergencies.

**Sec. 1302. Support Responsibilities.** The Secretary of State shall:

- (1) Assist appropriate agencies in developing planning assumptions concerning accessibility of foreign sources of supply;
- (2) Support the Secretary of the Treasury, in consultation, as appropriate, with the Secretaries of Commerce and Defense, in the formulation and execution of economic measures with respect to other nations;
- (3) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;
- (4) Support the Director of the Federal Emergency Management Agency in the coordination and integration of United States policy regarding the formulation and implementation of civil emergency resources and preparedness planning;
- (5) Assist the Attorney General of the United States in the formulation of national security emergency plans for the control of persons entering or leaving the United States.

**Part 14--Department of Transportation**

**Sec. 1401. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Transportation shall:

- (1) Develop plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies;
- (2) Be prepared to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary of Transportation. This direction may include:
  - (a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems;
  - (b) Allocation of transportation resource capacity; and
  - (c) Emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation;
- (3) Develop plans to provide for the smooth transition of the Coast Guard as a service to the Department of the Navy during national security emergencies. These plans shall be compatible with the Department of Defense planning systems, especially in the areas of port security and military readiness;
- (4) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in transportation-related international (including NATO and allied) civil emergency preparedness planning and related activities;
- (5) Coordinate with State and local highway agencies in the management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and publicly owned highway maintenance equipment to assure efficient and safe use of road space during national security emergencies;
- (6) Develop plans and procedures in consultation with appropriate agency officials for maritime and port safety, law enforcement, and security over, upon, and under the high seas and waters subject to the jurisdiction of the United States to assure operational readiness for national security emergency functions;
- (7) Develop plans for the emergency operation of U.S. ports and facilities, use of shipping resources (U.S. and others), provision of government war risks insurance, and emergency construction of merchant ships for military and civil use;
- (8) Develop plans for emergency management and control of the National Airspace System, including provision of war risk insurance and for transfer of the Federal Aviation Administration, in the event of war, to the Department of Defense;

(9) Coordinate the Interstate Commerce Commission's development of plans and preparedness programs for the reduction of vulnerability, maintenance, restoration, and operation of privately owned railroads, motor carriers, inland waterway transportation systems, and public storage facilities and services in national security emergencies.

**Sec. 1402. Support Responsibility.** The Secretary of Transportation shall coordinate with the Secretary of Energy in the planning and management of transportation resources involved in the bulk movement of energy materials.

## **Part 15--Department of the Treasury**

**Sec. 1501. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Treasury shall:

(1) Develop plans to maintain stable economic conditions and a market economy during national security emergencies; emphasize measures to minimize inflation and disruptions; and, minimize reliance on direct controls of the monetary, credit, and financial systems. These plans will include provisions for:

(a) Increasing capabilities to minimize economic dislocations by carrying out appropriate fiscal, monetary, and regulatory policies and reducing susceptibility to manipulated economic pressures;

(b) Providing the Federal Government with efficient and equitable financing sources and payment mechanisms;

(c) Providing fiscal authorities with adequate legal authority to meet resource requirements;

(d) Developing, in consultation with the Board of Governors of the Federal Reserve System, and in cooperation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration Board, the Farm Credit Administration Board and other financial institutions, plans for the continued or resumed operation and liquidity of banks, savings and loans, credit unions, and farm credit institutions, measures for the reestablishment of evidence of assets or liabilities, and provisions for currency withdrawals and deposit insurance;

(2) Provide for the protection of United States financial resources including currency and coin production and redemption facilities, Federal check disbursement facilities, and precious monetary metals;

(3) Provide for the preservation of, and facilitate emergency operations of, public and private financial institution systems, and provide for their restoration during or after national security emergencies;

(4) Provide, in coordination with the Secretary of State, for participation in bilateral and multilateral financial arrangements with foreign governments;

(5) Maintain the Federal Government accounting and financial reporting system in national security emergencies;

(6) Develop plans to protect the President, the Vice President, other officers in the order of presidential succession, and other persons designated by the President;

(7) Develop plans for restoration of the economy following an attack; for the development of emergency monetary, credit, and Federal benefit payment programs of those Federal departments and agencies that have responsibilities dependent on the policies or capabilities of the Department of the Treasury; and for the implementation of national policy on sharing war losses;

(8) Develop plans for initiating tax changes, waiving regulations, and, in conjunction with the Secretary of Commerce or other guaranteeing agency, granting or guaranteeing loans for the expansion of industrial capacity, the development of technological processes, or the production or acquisition of essential materials;

(9) Develop plans, in coordination with the heads of other appropriate Federal departments and agencies, to acquire emergency imports, make foreign barter arrangements, or otherwise provide for essential material from foreign sources using, as appropriate, the resources of the Export-Import Bank or resources available to the Bank;

- (10) Develop plans for encouraging capital inflow and discouraging the flight of capital from the United States and, in coordination with the Secretary of State, for the seizure and administration of assets of enemy aliens during national security emergencies;
- (11) Develop plans, in consultation with the heads of appropriate Federal departments and agencies, to regulate financial and commercial transactions with other countries;
- (12) Develop plans, in coordination with the Secretary of Commerce and the Attorney General of the United States, to control the movement of property entering or leaving the United States;
- (13) Cooperate and consult with the Chairman of the Securities and Exchange Commission, the Chairman of the Federal Reserve Board, the Chairman of the Commodities Futures Trading Commission in the development of emergency financial control plans and regulations for trading of stocks and commodities, and in the development of plans for the maintenance and restoration of stable and orderly markets;
- (14) Develop plans, in coordination with the Secretary of State, for the formulation and execution of economic measures with respect to other nations in national security emergencies.

**Sec. 1502. Support Responsibilities.** The Secretary of the Treasury shall:

- (1) Cooperate with the Attorney General of the United States on law enforcement activities, including the control of people entering and leaving the United States;
- (2) Support the Secretary of Labor in developing plans and procedures for wage, salary, and benefit costs stabilization;
- (3) Support the Secretary of State in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel and property or other assets in the United States.

## **Part 16--Environmental Protection Agency**

**Sec. 1601. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the Environmental Protection Agency shall:

- (1) Develop Federal plans and foster development of State and local plans designed to prevent or minimize the ecological impact of hazardous agents (biological, chemical, or radiological) introduced into the environment in national security emergencies;
- (2) Develop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation, assist in determining acceptable emergency levels of biological agents, and help to provide detection and identification of chemical agents;
- (3) Develop, in coordination with the Secretary of Defense, plans to assure the provision of potable water supplies to meet community needs under national security emergency conditions, including claimancy for materials and equipment for public water systems.

**Sec. 1602. Support Responsibilities.** The Administrator of the Environmental Protection Agency shall:

- (1) Assist the heads of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment;
- (2) Advise the heads of Federal departments and agencies regarding procedures for assuring compliance with environmental restrictions and for expeditious review of requests for essential waivers.

## **Part 17--Federal Emergency Management Agency**

**Sec. 1701. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Federal Emergency Management Agency shall:

- (1) Coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies;
- (2) Coordinate the development and implementation of plans for the operation and continuity of essential domestic emergency functions of the Federal Government during national security emergencies;
- (3) Coordinate the development of plans, in cooperation with the Secretary of Defense, for mutual civil-military support during national security emergencies;

(4) Guide and assist State and local governments and private sector organizations in achieving preparedness for national security emergencies, including development of plans and procedures for assuring continuity of government, and support planning for prompt and coordinated Federal assistance to States and localities in responding to national security emergencies;

(5) Provide the President a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies;

(6) Coordinate the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies;

(7) Develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private sector capabilities for national security emergency crisis management, population protection, and recovery in the event of an attack on the United States;

(8) Develop and support public information, education and training programs to assist Federal, State, and local government and private sector entities in planning for and implementing national security emergency preparedness programs;

(9) Coordinate among the heads of Federal, State, and local agencies the planning, conduct, and evaluation of national security emergency exercises;

(10) With the assistance of the heads of other appropriate Federal departments and agencies, develop and maintain capabilities to assess actual attack damage and residual recovery capabilities as well as capabilities to estimate the effects of potential attacks on the Nation;

(11) Provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs;

(12) Assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning, including the provision of:

(a) advice and assistance to the departments and agencies in alliance civil emergency planning matters;

(b) support to the United States Mission to NATO in the conduct of day-to-day civil emergency planning activities; and

(c) support facilities for NATO Civil Wartime Agencies in cooperation with the Departments of Agriculture, Commerce, Energy, State, and Transportation.

**Sec. 1702. *Support Responsibilities.*** The Director of the Federal Emergency Management Agency shall:

(1) Support the heads of other Federal departments and agencies in preparing plans and programs to discharge their national security emergency preparedness responsibilities, including, but not limited to, such programs as mobilization preparedness, continuity of government planning, and continuance of industry and infrastructure functions essential to national security;

(2) Support the Secretary of Energy, the Secretary of Defense, and the Members of the Nuclear Regulatory Commission in developing plans and capabilities for identifying, analyzing, mitigating, and responding to emergencies related to nuclear weapons, materials, and devices, including mobile and fixed nuclear facilities, by providing, inter alia, off-site coordination;

(3) Support the Administrator of General Services in efforts to promote a government-wide program with respect to Federal buildings and installations to minimize the effects of attack and establish shelter management organizations.

## **Part 18--General Services Administration**

**Sec. 1801. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of General Services shall:

(1) Develop national security emergency plans and procedures for the operation, maintenance, and protection of federally owned and occupied buildings managed by the General Services Administration, and for the construction, alteration, and repair of such buildings;

(2) Develop national security emergency operating procedures for the control, acquisition, leasing, assignment, and priority of occupancy of real property by the Federal Government, and by State and local governments acting as agents of the Federal Government, except for the military facilities and facilities with special nuclear materials within the jurisdiction of the Departments of Defense and Energy;

(3) Develop national security emergency operational plans and procedures for the use of public utility services (other than telecommunications services) by Federal departments and agencies, except for Department of Energy-operated facilities;

(4) Develop plans and operating procedures of government-wide supply programs to meet the requirements of Federal departments and agencies during national security emergencies;

(5) Develop plans and operating procedures for the use, in national security emergencies, of excess and surplus real and personal property by Federal, State, and local governmental entities;

(6) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, with respect to Federal buildings and installations, to minimize the effects of attack and establish shelter management organizations.

**Sec. 1802. Support Responsibility.** The Administrator of General Services shall develop plans to assist Federal departments and agencies in operation and maintenance of essential automated information processing facilities during national security emergencies.

### **Part 19--National Aeronautics and Space Administration**

**Sec. 1901. Lead Responsibility.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the National Aeronautics and Space Administration shall coordinate with the Secretary of Defense to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies.

### **Part 20--National Archives and Records Administration**

**Sec. 2001. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Archivist of the United States shall:

(1) Develop procedures for publication during national security emergencies of the **Federal Register** for as broad public dissemination as is practicable of presidential proclamations and Executive orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress;

(2) Develop emergency procedures for providing instructions and advice on the handling and preservation of records critical to the operation of the Federal Government in national security emergencies.

### **Part 21--Nuclear Regulatory Commission**

**Sec. 2101. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

(1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;

(2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under Section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;

(3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

**Sec. 2102. Support Responsibilities.** The Members of the Nuclear Regulatory Commission shall:

- (1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying usable facilities, and estimating the time and actions necessary to restart inoperative facilities;
- (2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

## **Part 22--Office of Personnel Management**

**Sec. 2201. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Personnel Management shall:

- (1) Prepare plans to administer the Federal civilian personnel system in national security emergencies, including plans and procedures for the rapid mobilization and reduction of an emergency Federal workforce;
- (2) Develop national security emergency work force policies for Federal civilian personnel;
- (3) Develop plans to accommodate the surge of Federal personnel security background and pre-employment investigations during national security emergencies.

**Sec. 2202. *Support Responsibilities.*** The Director of the Office of Personnel Management shall:

- (1) Assist the heads of other Federal departments and agencies with personnel management and staffing in national security emergencies, including facilitating transfers between agencies of employees with critical skills;
- (2) In consultation with the Secretary of Defense and the Director of Selective Service, develop plans and procedures for a system to control any conscription of Federal civilian employees during national security emergencies.

## **Part 23--Selective Service System**

**Sec. 2301. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of Selective Service shall:

- (1) Develop plans to provide by induction, as authorized by law, personnel that would be required by the armed forces during national security emergencies;
- (2) Develop plans for implementing an alternative service program.

## **Part 24--Tennessee Valley Authority**

**Sec. 2401. *Lead Responsibility.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Board of Directors of the Tennessee Valley Authority shall develop plans and maintain river control operations for the prevention or control of floods affecting the Tennessee River System during national security emergencies.

**Sec. 2402. *Support Responsibilities.*** The Board of Directors of the Tennessee Valley Authority shall:

- (1) Assist the Secretary of Energy in the development of plans for the integration of the Tennessee Valley Authority power system into nationwide national security emergency programs;
- (2) Assist the Secretaries of Defense, Interior, and Transportation and the Chairman of the Interstate Commerce Commission in the development of plans for operation and maintenance of inland waterway transportation in the Tennessee River System during national security emergencies.

## **Part 25--United States Information Agency**

**Sec. 2501. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the United States Information Agency shall:

- (1) Plan for the implementation of information programs to promote an understanding abroad of the status of national security emergencies within the United States;
- (2) In coordination with the Secretary of State's exercise of telecommunications functions affecting United States diplomatic missions and consular offices overseas, maintain the



capability to provide television and simultaneous direct radio broadcasting in major languages to all areas of the world, and the capability to provide wireless file to all United States embassies during national security emergencies.

**Sec. 2502. Support Responsibility.** The Director of the United States Information Agency shall assist the heads of other Federal departments and agencies in planning for the use of media resources and foreign public information programs during national security emergencies.

## **Part 26--United States Postal Service**

**Sec. 2601. Lead Responsibility.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Postmaster General shall prepare plans and programs to provide essential postal services during national security emergencies.

**Sec. 2602. Support Responsibilities.** The Postmaster General shall:

- (1) Develop plans to assist the Attorney General of the United States in the registration of nationals of enemy countries residing in the United States;
- (2) Develop plans to assist the Secretary of Health and Human Services in registering displaced persons and families;
- (3) Develop plans to assist the heads of other Federal departments and agencies in locating and leasing privately owned property for Federal use during national security emergencies.

## **Part 27--Veterans' Administration<sup>1</sup>**

**Sec. 2701. Lead Responsibilities.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of Veterans' Affairs<sup>2</sup> shall:

- (1) Develop plans for provision of emergency health care services to veteran beneficiaries in Veterans' Administration medical facilities, to active duty military personnel and, as resources permit, to civilians in communities affected by national security emergencies;
- (2) Develop plans for mortuary services for eligible veterans, and advise on methods for interment of the dead during national security emergencies.

**Sec. 2702. Support Responsibilities.** The Administrator of Veterans' Affairs shall:

- (1) Assist the Secretary of Health and Human Services in promoting the development of State and local plans for the provision of medical services in national security emergencies, and develop appropriate plans to support such State and local plans;
- (2) Assist the Secretary of Health and Human Services in developing national plans to mobilize the health care industry and medical resources during national security emergencies;
- (3) Assist the Secretary of Health and Human Services in developing national plans to set priorities and allocate medical resources among civilian and military claimants.

## **Part 28--Office of Management and Budget**

**Sec. 2801.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Management and Budget shall prepare plans and programs to maintain its functions during national security emergencies. In connection with these functions, the Director of the Office of Management and Budget shall:

- (1) Develop plans to ensure the preparation, clearance, and coordination of proposed Executive orders and proclamations;
- (2) Prepare plans to ensure the preparation, supervision, and control of the budget and the formulation of the fiscal program of the Government;
- (3) Develop plans to coordinate and communicate Executive branch views to the Congress regarding legislation and testimony by Executive branch officials;
- (4) Develop plans for keeping the President informed of the activities of government agencies, continuing the Office of Management and Budget's management functions, and maintaining presidential supervision and direction with respect to legislation and regulations in national security emergencies.

## **Part 29--General**

**Sec. 2901.** Executive Order Nos. 10421 and 11490, as amended, are hereby revoked. This Order shall be effective immediately.

## **APPENDIX 2-5: Executive Order 12657**

### **Executive Order 12656--Assignment of emergency preparedness responsibilities**

**Source:** The provisions of Executive Order 12656 of Nov. 18, 1988, appear at 53 FR 47491, 3 CFR, 1988 Comp., p. 585, unless otherwise noted.

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

### **Part 1--Preamble**

#### **Section 101. National Security Emergency Preparedness Policy.**

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

#### **Sec. 102. Purpose.**

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

**Sec. 103. *Scope.***

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedures, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.

(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472.

**Sec. 104. *Management of National Security Emergency Preparedness.***

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy.

(b) The National Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Director of the Federal Emergency Management Agency shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedures will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

**Sec. 105. *Interagency Coordination.***

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate with those organizations assigned responsibility in, Executive Order No. 12472, to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

**Part 2--General Provisions**

**Sec. 201. *General.*** The head of each Federal department and agency, as appropriate, shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope, and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

- (3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;
- (4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:
  - (a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies;
  - (b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;
- (5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;
- (6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;
- (7) Make policy recommendations to the National Security Council regarding national security emergency preparedness activities and functions of the Federal Government;
- (8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;
- (9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;
- (10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;
- (11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;
- (12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the **Federal Register**, or to each agency designated to maintain the **Federal Register** in an emergency;
- (13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;
- (14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;
- (15) Consult and coordinate with the Director of the Federal Emergency Management Agency to ensure that those activities and plans are consistent with current National Security Council guidelines and policies.

**Sec. 202. *Continuity of Government.*** The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

**Sec. 203. *Resource Management.*** The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

- (1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;
- (2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;
- (3) Prepare plans and procedures to share between and among the responsible agencies resources such as energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;
- (4) Develop plans to set priorities and allocate resources among civilian and military claimants;
- (5) Identify occupations and skills for which there may be a critical need in the event of a national security emergency.

**Sec. 204. *Protection of Essential Resources and Facilities.*** The head of each Federal department and agency, within assigned areas of responsibility, shall:

- (1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;
- (2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;
- (3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

**Sec. 205. *Federal Benefit, Insurance, and Loan Programs.*** The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

**Sec. 206. *Research.*** The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

**Sec. 207. *Redelegation.*** The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within that department or agency.

**Sec. 208. *Transfer of Functions.*** Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council.

**Sec. 209. *Retention of Existing Authority.*** Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

### **Part 3--Department of Agriculture**

**Sec. 301. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Agriculture shall:

- (1) Develop plans to provide for the continuation of agricultural production, food processing, storage, and distribution through the wholesale level in national security emergencies, and to provide for the domestic distribution of seed, feed, fertilizer, and farm equipment to agricultural producers;
- (2) Develop plans to provide food and agricultural products to meet international responsibilities in national security emergencies;
- (3) Develop plans and procedures for administration and use of Commodity Credit Corporation inventories of food and fiber resources in national security emergencies;
- (4) Develop plans for the use of resources under the jurisdiction of the Secretary of Agriculture and, in cooperation with the Secretaries of Commerce, Defense, and the Interior, the Board of Directors of the Tennessee Valley Authority, and the heads of other government entities, plan for the national security emergency management, production, and processing of forest products;
- (5) Develop, in coordination with the Secretary of Defense, plans and programs for water to be used in agricultural production and food processing in national security emergencies;
- (6) In cooperation with Federal, State, and local agencies, develop plans for a national program relating to the prevention and control of fires in rural areas of the United States caused by the effects of enemy attack or other national security emergencies;
- (7) Develop plans to help provide the Nation's farmers with production resources, including national security emergency financing capabilities;

(8) Develop plans, in consonance with those of the Department of Health and Human Services, the Department of the Interior, and the Environmental Protection Agency, for national security emergency agricultural health services and forestry, including:

- (a) Diagnosis and control or eradication of diseases, pests, or hazardous agents (biological, chemical, or radiological) against animals, crops, timber, or products thereof;
- (b) Protection, treatment, and handling of livestock and poultry, or products thereof, that have been exposed to or affected by hazardous agents;
- (c) Use and handling of crops, agricultural commodities, timber, and agricultural lands that have been exposed to or affected by hazardous agents; and
- (d) Assuring the safety and wholesomeness, and minimizing losses from hazards, of animals and animal products and agricultural commodities and products subject to continuous inspection by the Department of Agriculture or owned by the Commodity Credit Corporation or by the Department of Agriculture;

(9) In consultation with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in agriculture-related international civil emergency preparedness planning and related activities.

**Sec. 302. *Support Responsibilities.*** The Secretary of Agriculture shall assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical agricultural materials.

#### **Part 4--Department of Commerce**

**Sec. 401. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Commerce shall:

- (1) Develop control systems for priorities, allocation, production, and distribution of materials and other resources that will be available to support both national defense and essential civilian programs in a national security emergency;
- (2) In cooperation with the Secretary of Defense and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;
- (3) In cooperation with the Secretary of Defense and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;
- (4) In cooperation with the Secretary of Defense, perform industry analyses to assess capabilities of the commercial industrial base to support the national defense, and develop policy alternatives to improve the international competitiveness of specific domestic industries and their abilities to meet defense program needs;
- (5) In cooperation with the Secretary of the Treasury, develop plans for providing emergency assistance to the private sector through direct or participation loans for the financing of production facilities and equipment;
- (6) In cooperation with the Secretaries of State, Defense, Transportation, and the Treasury, prepare plans to regulate and control exports and imports in national security emergencies;
- (7) Provide for the collection and reporting of census information on human and economic resources, and maintain a capability to conduct emergency surveys to provide information on the status of these resources as required for national security purposes;
- (8) Develop overall plans and programs to ensure that the fishing industry continues to produce and process essential protein in national security emergencies;
- (9) Develop plans to provide meteorological, hydrologic, marine weather, geodetic, hydrographic, climatic, seismic, and oceanographic data and services to Federal, State, and local agencies, as appropriate;
- (10) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in industry-related international (NATO and allied) civil emergency preparedness planning and related activities.

**Sec. 402. *Support Responsibilities.*** The Secretary of Commerce shall:

- (1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical materials;
- (2) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest and fishery products;
- (3) Assist, in consultation with the Secretaries of State and Defense, the Secretary of the Treasury in the formulation and execution of economic measures affecting other nations.

#### **Part 5--Department of Defense**

**Sec. 501. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Defense shall:

- (1) Ensure military preparedness and readiness to respond to national security emergencies;
- (2) In coordination with the Secretary of Commerce, develop, with industry, government, and the private sector, reliable capabilities for the rapid increase of defense production to include industrial resources required for that production;
- (3) Develop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between and among the military, civil government, and the private sector;
- (4) Develop and maintain damage assessment capabilities and assist the Director of the Federal Emergency Management Agency and the heads of other departments and agencies in developing and maintaining capabilities to assess attack damage and to estimate the effects of potential attack on the Nation;
- (5) Arrange, through agreements with the heads of other Federal departments and agencies, for the transfer of certain Federal resources to the jurisdiction and/or operational control of the Department of Defense in national security emergencies;
- (6) Acting through the Secretary of the Army, develop, with the concurrence of the heads of all affected departments and agencies, overall plans for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States. This includes:
  - (a) Coordination of national security emergency water resource planning at the national, regional, State, and local levels;
  - (b) Development of plans to assure emergency provision of water from public works projects under the jurisdiction of the Secretary of the Army to public water supply utilities and critical defense production facilities during national security emergencies;
  - (c) Development of plans to assure emergency operation of waterways and harbors; and
  - (d) Development of plans to assure the provision of potable water;
- (7) In consultation with the Secretaries of State and Energy, the Director of the Federal Emergency Management Agency, and others, as required, develop plans and capabilities for identifying, analyzing, mitigating, and responding to hazards related to nuclear weapons, materials, and devices; and maintain liaison, as appropriate, with the Secretary of Energy and the Members of the Nuclear Regulatory Commission to ensure the continuity of nuclear weapons production and the appropriate allocation of scarce resources, including the recapture of special nuclear materials from Nuclear Regulatory Commission licensees when appropriate;
- (8) Coordinate with the Administrator of the National Aeronautics and Space Administration and the Secretary of Energy, as appropriate, to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies;
- (9) Develop, in coordination with the Secretary of Labor, the Directors of the Selective Service System, the Office of Personnel Management, and the Federal Emergency Management Agency, plans and systems to ensure that the Nation's human resources are available to meet essential military and civilian needs in national security emergencies;
- (10) Develop national security emergency operational procedures, and coordinate with the Secretary of Housing and Urban Development with respect to residential property, for the control, acquisition, leasing, assignment and priority of occupancy of real property within the jurisdiction of the Department of Defense;
- (11) Review the priorities and allocations systems developed by other departments and agencies to ensure that they meet Department of Defense needs in a national security emergency; and develop and maintain

the Department of Defense programs necessary for effective utilization of all priorities and allocations systems;

(12) Develop, in coordination with the Attorney General of the United States, specific procedures by which military assistance to civilian law enforcement authorities may be requested, considered, and provided;

(13) In cooperation with the Secretary of Commerce and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

(14) In cooperation with the Secretary of Commerce and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(15) With the assistance of the heads of other Federal departments and agencies, provide management direction for the stockpiling of strategic and critical materials, conduct storage, maintenance, and quality assurance operations for the stockpile of strategic and critical materials, and formulate plans, programs, and reports relating to the stockpiling of strategic and critical materials.

**Sec. 502. *Support Responsibilities.*** The Secretary of Defense shall:

(1) Advise and assist the heads of other Federal departments and agencies in the development of plans and programs to support national mobilization. This includes providing, as appropriate:

(a) Military requirements, prioritized and time-phased to the extent possible, for selected end-items and supporting services, materials, and components;

(b) Recommendations for use of financial incentives and other methods to improve defense production as provided by law; and

(c) Recommendations for export and import policies;

(2) Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(5) In consultation with the Secretaries of State and Commerce, assist the Secretary of the Treasury in the formulation and execution of economic measures that affect other nations;

(6) Support the Secretary of State and the heads of other Federal departments and agencies as appropriate in the formulation and implementation of foreign policy, and the negotiation of contingency and post-emergency plans, intergovernmental agreements, and arrangements with allies and friendly nations, which affect national security;

(7) Coordinate with the Director of the Federal Emergency Management Agency the development of plans for mutual civil-military support during national security emergencies;

(8) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills.

## **Part 6--Department of Education**

**Sec. 601. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Education shall:

(1) Assist school systems in developing their plans to provide for the earliest possible resumption of activities following national security emergencies;

(2) Develop plans to provide assistance, including efforts to meet shortages of critical educational personnel, to local educational agencies;

(3) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, for dissemination of emergency preparedness instructional material through educational institutions and the media during national security emergencies.

**Sec. 602. *Support responsibilities.*** The Secretary of Education shall:

(1) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills;



(2) Support the Secretary of Health and Human Services in the development of human services educational and training materials, including self-help program materials for use by human service organizations and professional schools.

## **Part 7--Department of Energy**

**Sec. 701. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

- (1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy resources, including:
  - (a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;
  - (b) In coordination with appropriate departments and agencies and in consultation with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;
  - (c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;
- (2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;
- (3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;
- (4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;
- (5) In consultation with the Secretaries of State and Defense and the Director of the Federal Emergency Management Agency, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;
- (6) In consultation with the Secretaries of State and Defense, the Director of the Federal Emergency Management Agency, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;
- (7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;
- (8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common defense and security;
- (9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;
- (10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

**Sec. 702. *Support Responsibilities.*** The Secretary of Energy shall:

- (1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, and local officials and private sector organizations to assess the radiological impact associated with national security emergencies;
- (2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;
- (3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;
- (4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

## **Part 8--Department of Health and Human Services**

**Sec. 801. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Health and Human Services shall:

- (1) Develop national plans and programs to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies;
- (2) Promote the development of State and local plans and programs for provision of health, mental health, and medical services in national security emergencies;
- (3) Develop national plans to set priorities and allocate health, mental health, and medical services' resources among civilian and military claimants;
- (4) Develop health and medical survival information programs and a nationwide program to train health and mental health professionals and paraprofessionals in special knowledge and skills that would be useful in national security emergencies;
- (5) Develop programs to reduce or eliminate adverse health and mental health effects produced by hazardous agents (biological, chemical, or radiological), and, in coordination with appropriate Federal agencies, develop programs to minimize property and environmental damage associated with national security emergencies;
- (6) Develop guidelines that will assure reasonable and prudent standards of purity and/or safety in the manufacture and distribution of food, drugs, biological products, medical devices, food additives, and radiological products in national security emergencies;
- (7) Develop national plans for assisting State and local governments in rehabilitation of persons injured or disabled during national security emergencies;
- (8) Develop plans and procedures to assist State and local governments in the provision of emergency human services, including lodging, feeding, clothing, registration and inquiry, social services, family reunification and mortuary services and interment;
- (9) Develop, in coordination with the Secretary of Education, human services educational and training materials for use by human service organizations and professional schools; and develop and distribute, in coordination with the Director of the Federal Emergency Management Agency, civil defense information relative to emergency human services;
- (10) Develop plans and procedures, in coordination with the heads of Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas.

**Sec. 802. *Support Responsibility.*** The Secretary of Health and Human Services shall support the Secretary of Agriculture in the development of plans related to national security emergency agricultural health services.

## **Part 9--Department of Housing and Urban Development**

**Sec. 901. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Housing and Urban Development shall:

- (1) Develop plans for provision and management of housing in national security emergencies, including:
  - (a) Providing temporary housing using Federal financing and other arrangements;
  - (b) Providing for radiation protection by encouraging voluntary construction of shelters and voluntary use of cost-efficient design and construction techniques to maximize population protection;
- (2) Develop plans, in cooperation with the heads of other Federal departments and agencies and State and local governments, to restore community facilities, including electrical power, potable water, and sewage disposal facilities, damaged in national security emergencies.

## **Part 10--Department of the Interior**

**Sec. 1001. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Interior shall:

- (1) Develop programs and encourage the exploration, development, and mining of strategic and critical and other nonfuel minerals for national security emergency purposes;

- (2) Provide guidance to mining industries in the development of plans and programs to ensure continuity of production during national security emergencies;
- (3) Develop and implement plans for the management, control, allocation, and use of public land under the jurisdiction of the Department of the Interior in national security emergencies and coordinate land emergency planning at the Federal, State, and local levels.

**Sec. 1002. *Support Responsibilities.*** The Secretary of the Interior shall:

- (1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical minerals;
- (2) Cooperate with the Secretary of Commerce in the identification and evaluation of facilities essential for national security emergencies;
- (3) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest products.

#### **Part 11--Department of Justice**

**Sec. 1101. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Attorney General of the United States shall:

- (1) Provide legal advice to the President and the heads of Federal departments and agencies and their successors regarding national security emergency powers, plans, and authorities;
- (2) Coordinate Federal Government domestic law enforcement activities related to national security emergency preparedness, including Federal law enforcement liaison with, and assistance to, State and local governments;
- (3) Coordinate contingency planning for national security emergency law enforcement activities that are beyond the capabilities of State and local agencies;
- (4) Develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for the control of persons entering or leaving the United States;
- (5) Develop plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutions and resources during national security emergencies;
- (6) Provide information and assistance to the Federal Judicial branch and the Federal Legislative branch concerning law enforcement, continuity of government, and the exercise of legal authority during National security emergencies;
- (7) Develop intergovernmental and interagency law enforcement plans and counterterrorism programs to interdict and respond to terrorism incidents in the United States that may result in a national security emergency or that occur during such an emergency;
- (8) Develop intergovernmental and interagency law enforcement plans to respond to civil disturbances that may result in a national security emergency or that occur during such an emergency.

**Sec. 1102. *Support Responsibilities.*** The Attorney General of the United States shall:

- (1) Assist the heads of Federal departments and agencies, State and local governments, and the private sector in the development of plans to physically protect essential resources and facilities;
- (2) Support the Secretaries of State and the Treasury in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel, property, and other assets within the jurisdiction of the United States;
- (3) Support the Secretary of the Treasury in developing plans to control the movement of property entering and leaving the United States;
- (4) Support the heads of other Federal departments and agencies and State and local governments in developing programs and plans for identifying fatalities and reuniting families in national security emergencies;
- (5) Support the intelligence community in the planning of its counterintelligence and counterterrorism programs.

#### **Part 12--Department of Labor**

**Sec. 1201. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Labor shall:

- (1) Develop plans and issue guidance to ensure effective use of civilian workforce resources during national security emergencies. Such plans shall include, but not necessarily be limited to:
  - (a) Priorities and allocations, recruitment, referral, training, employment stabilization including appeals procedures, use assessment, and determination of critical skill categories; and
  - (b) Programs for increasing the availability of critical workforce skills and occupations;
- (2) In consultation with the Secretary of the Treasury, develop plans and procedures for wage, salary, and benefit costs stabilization during national security emergencies;
- (3) Develop plans and procedures for protecting and providing incentives for the civilian labor force during national security emergencies;
- (4) In consultation with other appropriate government agencies and private entities, develop plans and procedures for effective labor-management relations during national security emergencies.

**Sec. 1202. *Support Responsibilities.*** The Secretary of Labor shall:

- (1) Support planning by the Secretary of Defense and the private sector for the provision of human resources to critical defense industries during national security emergencies;
- (2) Support planning by the Secretary of Defense and the Director of Selective Service for the institution of conscription in national security emergencies.

### **Part 13--Department of State**

**Sec. 1301. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of State shall:

- (1) Provide overall foreign policy coordination in the formulation and execution of continuity of government and other national security emergency preparedness activities that affect foreign relations;
- (2) Prepare to carry out Department of State responsibilities in the conduct of the foreign relations of the United States during national security emergencies, under the direction of the President and in consultation with the heads of other appropriate Federal departments and agencies, including, but not limited to:
  - (a) Formulation and implementation of foreign policy and negotiation regarding contingency and post-emergency plans, intergovernmental agreements, and arrangements with United States' allies;
  - (b) Formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral states;
  - (c) Formulation and execution of political strategy toward hostile or enemy states;
  - (d) Conduct of mutual assistance activities;
  - (e) Provision of foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs;
  - (f) Protection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad, in consultation with the Secretaries of Defense and Health and Human Services;
  - (g) Protection of international organizations and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States, in coordination with the Attorney General and the Secretary of the Treasury;
  - (h) Formulation of policies and provisions for assistance to displaced persons and refugees abroad;
  - (i) Maintenance of diplomatic and consular representation abroad; and
  - (j) Reporting of and advising on conditions overseas that bear upon national security emergencies.

**Sec. 1302. *Support Responsibilities.*** The Secretary of State shall:

- (1) Assist appropriate agencies in developing planning assumptions concerning accessibility of foreign sources of supply;
- (2) Support the Secretary of the Treasury, in consultation, as appropriate, with the Secretaries of Commerce and Defense, in the formulation and execution of economic measures with respect to other nations;
- (3) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;
- (4) Support the Director of the Federal Emergency Management Agency in the coordination and integration of United States policy regarding the formulation and implementation of civil emergency resources and preparedness planning;

(5) Assist the Attorney General of the United States in the formulation of national security emergency plans for the control of persons entering or leaving the United States.

#### **Part 14--Department of Transportation**

**Sec. 1401. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Transportation shall:

- (1) Develop plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies;
- (2) Be prepared to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary of Transportation. This direction may include:
  - (a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems;
  - (b) Allocation of transportation resource capacity; and
  - (c) Emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation;
- (3) Develop plans to provide for the smooth transition of the Coast Guard as a service to the Department of the Navy during national security emergencies. These plans shall be compatible with the Department of Defense planning systems, especially in the areas of port security and military readiness;
- (4) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in transportation-related international (including NATO and allied) civil emergency preparedness planning and related activities;
- (5) Coordinate with State and local highway agencies in the management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and publicly owned highway maintenance equipment to assure efficient and safe use of road space during national security emergencies;
- (6) Develop plans and procedures in consultation with appropriate agency officials for maritime and port safety, law enforcement, and security over, upon, and under the high seas and waters subject to the jurisdiction of the United States to assure operational readiness for national security emergency functions;
- (7) Develop plans for the emergency operation of U.S. ports and facilities, use of shipping resources (U.S. and others), provision of government war risks insurance, and emergency construction of merchant ships for military and civil use;
- (8) Develop plans for emergency management and control of the National Airspace System, including provision of war risk insurance and for transfer of the Federal Aviation Administration, in the event of war, to the Department of Defense;
- (9) Coordinate the Interstate Commerce Commission's development of plans and preparedness programs for the reduction of vulnerability, maintenance, restoration, and operation of privately owned railroads, motor carriers, inland waterway transportation systems, and public storage facilities and services in national security emergencies.

**Sec. 1402. *Support Responsibility.*** The Secretary of Transportation shall coordinate with the Secretary of Energy in the planning and management of transportation resources involved in the bulk movement of energy materials.

#### **Part 15--Department of the Treasury**

**Sec. 1501. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Treasury shall:

- (1) Develop plans to maintain stable economic conditions and a market economy during national security emergencies; emphasize measures to minimize inflation and disruptions; and, minimize reliance on direct controls of the monetary, credit, and financial systems. These plans will include provisions for:
  - (a) Increasing capabilities to minimize economic dislocations by carrying out appropriate fiscal, monetary, and regulatory policies and reducing susceptibility to manipulated economic pressures;

- (b) Providing the Federal Government with efficient and equitable financing sources and payment mechanisms;
  - (c) Providing fiscal authorities with adequate legal authority to meet resource requirements;
  - (d) Developing, in consultation with the Board of Governors of the Federal Reserve System, and in cooperation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration Board, the Farm Credit Administration Board and other financial institutions, plans for the continued or resumed operation and liquidity of banks, savings and loans, credit unions, and farm credit institutions, measures for the reestablishment of evidence of assets or liabilities, and provisions for currency withdrawals and deposit insurance;
- (2) Provide for the protection of United States financial resources including currency and coin production and redemption facilities, Federal check disbursement facilities, and precious monetary metals;
  - (3) Provide for the preservation of, and facilitate emergency operations of, public and private financial institution systems, and provide for their restoration during or after national security emergencies;
  - (4) Provide, in coordination with the Secretary of State, for participation in bilateral and multilateral financial arrangements with foreign governments;
  - (5) Maintain the Federal Government accounting and financial reporting system in national security emergencies;
  - (6) Develop plans to protect the President, the Vice President, other officers in the order of presidential succession, and other persons designated by the President;
  - (7) Develop plans for restoration of the economy following an attack; for the development of emergency monetary, credit, and Federal benefit payment programs of those Federal departments and agencies that have responsibilities dependent on the policies or capabilities of the Department of the Treasury; and for the implementation of national policy on sharing war losses;
  - (8) Develop plans for initiating tax changes, waiving regulations, and, in conjunction with the Secretary of Commerce or other guaranteeing agency, granting or guaranteeing loans for the expansion of industrial capacity, the development of technological processes, or the production or acquisition of essential materials;
  - (9) Develop plans, in coordination with the heads of other appropriate Federal departments and agencies, to acquire emergency imports, make foreign barter arrangements, or otherwise provide for essential material from foreign sources using, as appropriate, the resources of the Export-Import Bank or resources available to the Bank;
  - (10) Develop plans for encouraging capital inflow and discouraging the flight of capital from the United States and, in coordination with the Secretary of State, for the seizure and administration of assets of enemy aliens during national security emergencies;
  - (11) Develop plans, in consultation with the heads of appropriate Federal departments and agencies, to regulate financial and commercial transactions with other countries;
  - (12) Develop plans, in coordination with the Secretary of Commerce and the Attorney General of the United States, to control the movement of property entering or leaving the United States;
  - (13) Cooperate and consult with the Chairman of the Securities and Exchange Commission, the Chairman of the Federal Reserve Board, the Chairman of the Commodities Futures Trading Commission in the development of emergency financial control plans and regulations for trading of stocks and commodities, and in the development of plans for the maintenance and restoration of stable and orderly markets;
  - (14) Develop plans, in coordination with the Secretary of State, for the formulation and execution of economic measures with respect to other nations in national security emergencies.

**Sec. 1502. Support Responsibilities.** The Secretary of the Treasury shall:

- (1) Cooperate with the Attorney General of the United States on law enforcement activities, including the control of people entering and leaving the United States;
- (2) Support the Secretary of Labor in developing plans and procedures for wage, salary, and benefit costs stabilization;
- (3) Support the Secretary of State in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel and property or other assets in the United States.

## **Part 16--Environmental Protection Agency**

**Sec. 1601. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the Environmental Protection Agency shall:

- (1) Develop Federal plans and foster development of State and local plans designed to prevent or minimize the ecological impact of hazardous agents (biological, chemical, or radiological) introduced into the environment in national security emergencies;
- (2) Develop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation, assist in determining acceptable emergency levels of biological agents, and help to provide detection and identification of chemical agents;
- (3) Develop, in coordination with the Secretary of Defense, plans to assure the provision of potable water supplies to meet community needs under national security emergency conditions, including claimancy for materials and equipment for public water systems.

**Sec. 1602. *Support Responsibilities.*** The Administrator of the Environmental Protection Agency shall:

- (1) Assist the heads of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment;
- (2) Advise the heads of Federal departments and agencies regarding procedures for assuring compliance with environmental restrictions and for expeditious review of requests for essential waivers.

### **Part 17--Federal Emergency Management Agency**

**Sec. 1701. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Federal Emergency Management Agency shall:

- (1) Coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies;
- (2) Coordinate the development and implementation of plans for the operation and continuity of essential domestic emergency functions of the Federal Government during national security emergencies;
- (3) Coordinate the development of plans, in cooperation with the Secretary of Defense, for mutual civil-military support during national security emergencies;
- (4) Guide and assist State and local governments and private sector organizations in achieving preparedness for national security emergencies, including development of plans and procedures for assuring continuity of government, and support planning for prompt and coordinated Federal assistance to States and localities in responding to national security emergencies;
- (5) Provide the President a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies;
- (6) Coordinate the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies;
- (7) Develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private sector capabilities for national security emergency crisis management, population protection, and recovery in the event of an attack on the United States;
- (8) Develop and support public information, education and training programs to assist Federal, State, and local government and private sector entities in planning for and implementing national security emergency preparedness programs;
- (9) Coordinate among the heads of Federal, State, and local agencies the planning, conduct, and evaluation of national security emergency exercises;
- (10) With the assistance of the heads of other appropriate Federal departments and agencies, develop and maintain capabilities to assess actual attack damage and residual recovery capabilities as well as capabilities to estimate the effects of potential attacks on the Nation;
- (11) Provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs;
- (12) Assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning, including the provision of:
  - (a) advice and assistance to the departments and agencies in alliance civil emergency planning matters;
  - (b) support to the United States Mission to NATO in the conduct of day-to-day civil emergency planning activities; and

(c) support facilities for NATO Civil Wartime Agencies in cooperation with the Departments of Agriculture, Commerce, Energy, State, and Transportation.

**Sec. 1702. *Support Responsibilities.*** The Director of the Federal Emergency Management Agency shall:

- (1) Support the heads of other Federal departments and agencies in preparing plans and programs to discharge their national security emergency preparedness responsibilities, including, but not limited to, such programs as mobilization preparedness, continuity of government planning, and continuance of industry and infrastructure functions essential to national security;
- (2) Support the Secretary of Energy, the Secretary of Defense, and the Members of the Nuclear Regulatory Commission in developing plans and capabilities for identifying, analyzing, mitigating, and responding to emergencies related to nuclear weapons, materials, and devices, including mobile and fixed nuclear facilities, by providing, inter alia, off-site coordination;
- (3) Support the Administrator of General Services in efforts to promote a government-wide program with respect to Federal buildings and installations to minimize the effects of attack and establish shelter management organizations.

#### **Part 18--General Services Administration**

**Sec. 1801. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of General Services shall:

- (1) Develop national security emergency plans and procedures for the operation, maintenance, and protection of federally owned and occupied buildings managed by the General Services Administration, and for the construction, alteration, and repair of such buildings;
- (2) Develop national security emergency operating procedures for the control, acquisition, leasing, assignment, and priority of occupancy of real property by the Federal Government, and by State and local governments acting as agents of the Federal Government, except for the military facilities and facilities with special nuclear materials within the jurisdiction of the Departments of Defense and Energy;
- (3) Develop national security emergency operational plans and procedures for the use of public utility services (other than telecommunications services) by Federal departments and agencies, except for Department of Energy-operated facilities;
- (4) Develop plans and operating procedures of government-wide supply programs to meet the requirements of Federal departments and agencies during national security emergencies;
- (5) Develop plans and operating procedures for the use, in national security emergencies, of excess and surplus real and personal property by Federal, State, and local governmental entities;
- (6) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, with respect to Federal buildings and installations, to minimize the effects of attack and establish shelter management organizations.

**Sec. 1802. *Support Responsibility.*** The Administrator of General Services shall develop plans to assist Federal departments and agencies in operation and maintenance of essential automated information processing facilities during national security emergencies.

#### **Part 19--National Aeronautics and Space Administration**

**Sec. 1901. *Lead Responsibility.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the National Aeronautics and Space Administration shall coordinate with the Secretary of Defense to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies.

#### **Part 20--National Archives and Records Administration**

**Sec. 2001. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Archivist of the United States shall:

- (1) Develop procedures for publication during national security emergencies of the **Federal Register** for as broad public dissemination as is practicable of presidential proclamations and Executive orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress;



(2) Develop emergency procedures for providing instructions and advice on the handling and preservation of records critical to the operation of the Federal Government in national security emergencies.

#### **Part 21--Nuclear Regulatory Commission**

**Sec. 2101. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

- (1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;
- (2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under Section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;
- (3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

**Sec. 2102. *Support Responsibilities.*** The Members of the Nuclear Regulatory Commission shall:

- (1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying usable facilities, and estimating the time and actions necessary to restart inoperative facilities;
- (2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

#### **Part 22--Office of Personnel Management**

**Sec. 2201. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Personnel Management shall:

- (1) Prepare plans to administer the Federal civilian personnel system in national security emergencies, including plans and procedures for the rapid mobilization and reduction of an emergency Federal workforce;
- (2) Develop national security emergency work force policies for Federal civilian personnel;
- (3) Develop plans to accommodate the surge of Federal personnel security background and pre-employment investigations during national security emergencies.

**Sec. 2202. *Support Responsibilities.*** The Director of the Office of Personnel Management shall:

- (1) Assist the heads of other Federal departments and agencies with personnel management and staffing in national security emergencies, including facilitating transfers between agencies of employees with critical skills;
- (2) In consultation with the Secretary of Defense and the Director of Selective Service, develop plans and procedures for a system to control any conscription of Federal civilian employees during national security emergencies.

#### **Part 23--Selective Service System**

**Sec. 2301. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of Selective Service shall:

- (1) Develop plans to provide by induction, as authorized by law, personnel that would be required by the armed forces during national security emergencies;
- (2) Develop plans for implementing an alternative service program.

#### **Part 24--Tennessee Valley Authority**

**Sec. 2401. *Lead Responsibility.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Board of Directors of the Tennessee Valley Authority shall develop plans and maintain river control operations for the prevention or control of floods affecting the Tennessee River System during national security emergencies.

**Sec. 2402. *Support Responsibilities.*** The Board of Directors of the Tennessee Valley Authority shall:

- (1) Assist the Secretary of Energy in the development of plans for the integration of the Tennessee Valley Authority power system into nationwide national security emergency programs;
- (2) Assist the Secretaries of Defense, Interior, and Transportation and the Chairman of the Interstate Commerce Commission in the development of plans for operation and maintenance of inland waterway transportation in the Tennessee River System during national security emergencies.

#### **Part 25--United States Information Agency**

**Sec. 2501. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the United States Information Agency shall:

- (1) Plan for the implementation of information programs to promote an understanding abroad of the status of national security emergencies within the United States;
- (2) In coordination with the Secretary of State's exercise of telecommunications functions affecting United States diplomatic missions and consular offices overseas, maintain the capability to provide television and simultaneous direct radio broadcasting in major languages to all areas of the world, and the capability to provide wireless file to all United States embassies during national security emergencies.

**Sec. 2502. *Support Responsibility.*** The Director of the United States Information Agency shall assist the heads of other Federal departments and agencies in planning for the use of media resources and foreign public information programs during national security emergencies.

#### **Part 26--United States Postal Service**

**Sec. 2601. *Lead Responsibility.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Postmaster General shall prepare plans and programs to provide essential postal services during national security emergencies.

**Sec. 2602. *Support Responsibilities.*** The Postmaster General shall:

- (1) Develop plans to assist the Attorney General of the United States in the registration of nationals of enemy countries residing in the United States;
- (2) Develop plans to assist the Secretary of Health and Human Services in registering displaced persons and families;
- (3) Develop plans to assist the heads of other Federal departments and agencies in locating and leasing privately owned property for Federal use during national security emergencies.

#### **Part 27--Veterans' Administration<sup>1</sup>**

**Sec. 2701. *Lead Responsibilities.*** In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of Veterans' Affairs<sup>2</sup> shall:

- (1) Develop plans for provision of emergency health care services to veteran beneficiaries in Veterans' Administration medical facilities, to active duty military personnel and, as resources permit, to civilians in communities affected by national security emergencies;
- (2) Develop plans for mortuary services for eligible veterans, and advise on methods for interment of the dead during national security emergencies.

**Sec. 2702. *Support Responsibilities.*** The Administrator of Veterans' Affairs shall:

- (1) Assist the Secretary of Health and Human Services in promoting the development of State and local plans for the provision of medical services in national security emergencies, and develop appropriate plans to support such State and local plans;
- (2) Assist the Secretary of Health and Human Services in developing national plans to mobilize the health care industry and medical resources during national security emergencies;
- (3) Assist the Secretary of Health and Human Services in developing national plans to set priorities and allocate medical resources among civilian and military claimants.

#### **Part 28--Office of Management and Budget**

**Sec. 2801.** In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Management and Budget shall prepare plans and programs to maintain its functions during national

security emergencies. In connection with these functions, the Director of the Office of Management and Budget shall:

- (1) Develop plans to ensure the preparation, clearance, and coordination of proposed Executive orders and proclamations;
- (2) Prepare plans to ensure the preparation, supervision, and control of the budget and the formulation of the fiscal program of the Government;
- (3) Develop plans to coordinate and communicate Executive branch views to the Congress regarding legislation and testimony by Executive branch officials;
- (4) Develop plans for keeping the President informed of the activities of government agencies, continuing the Office of Management and Budget's management functions, and maintaining presidential supervision and direction with respect to legislation and regulations in national security emergencies.

#### **Part 29--General**

**Sec. 2901.** Executive Order Nos. 10421 and 11490, as amended, are hereby revoked. This Order shall be effective immediately.

#### **Executive Order 12657, November 18, 1988, Federal Emergency Management Agency Assistance In Emergency Preparedness Planning At Commercial Nuclear Power Plants**

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, and Section 301 of Title 3 of the United States Code, and in order to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction, it is hereby ordered as follows:

##### **SEC 1. Scope.**

- (a) This Order applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to satisfy Nuclear Regulatory Commission ("NRC") licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise, or use of such plans.
- (b) In order to request the assistance of the Federal Emergency Management Agency ("FEMA") provided for in this Order, an affected nuclear power plant applicant or licensee ("licensee") shall certify in writing to FEMA that the situation described in Subsection (a) exists.

##### **SEC. 2. Generally Applicable Principles and Directives.**

- (a) Subject to the principles articulated in this Section, the Director of FEMA is hereby authorized and directed to take the actions specified in Sections 3 through 6 of this Order.
- (b) In carrying out any of its responsibilities under this Order, FEMA:
  - (1) shall work actively with the licensee, and, before relying upon its resources or those of any other Department or agency within the Executive branch, shall make maximum feasible use of the licensee's resources;
  - (2) shall take care not to supplant State and local resources. FEMA shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation;
  - (3) is authorized, to the extent permitted by law, to enter into inter-agency Memoranda of Understanding providing for utilization of the resources of other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies of any of the functions and duties assigned to FEMA under this Order; however, any such Memorandum of Understanding shall be subject to ap-

proval by the Director of the Office of Management and Budget ("OMB") and published in final form in the FEDERAL REGISTER; and

(4) shall assume for purposes of Sections 3 and 4 of this Order that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radio-logical emergency preparedness plan.

(c) The Director of OMB shall resolve any issue concerning the obligation of Federal funds arising from the implementation of this Order. In resolving issues under this Subsection, the Director of OMB shall ensure:

(1) that FEMA has utilized to the maximum extent possible the re-sources of the licensee and State and local governments before it relies upon its appropriated and lawfully available resources or those of any Department or agency in the Executive branch;

(2) that FEMA shall use its existing resources to coordinate and manage, rather than duplicate, other available resources;

(3) that implementation of this Order is accomplished with an economy of resources; and

(4) that full reimbursement to the Federal Government is provided, to the extent permitted by law.

### SEC. 3. FEMA Participation in Emergency Preparedness Planning

(a) FEMA assistance in emergency preparedness planning shall include advice, technical assistance, and arrangements for facilities and re-sources as needed to satisfy the emergency planning requirements under the Atomic Energy Act of 1954, as amended, and any other Federal legislation or regulations pertaining to issuance or retention of a con-struction permit or an operating license for a nuclear power plant.

(b) FEMA shall make all necessary plans and arrangements to ensure that the Federal Government is prepared to assume any and all func-tions and undertakings necessary to provide adequate protection to the public in cases within the scope of this Order. In making such plans and arrangements,

(1) FEMA shall focus planning of Federal response activities to ensure that:

(A) adequate resources and arrangements will exist, as of the time when an initial response is needed, given the absence or inadequacy of advance State and local commitments; and

(B) attention has been given to coordinating (including turning over) response functions when State and local governments do exercise their authority, with specific attention to the areas where prior State and local participation has been insufficient or absent;

(2) FEMA's planning for Federal participation in responding to a ra-diological emergency within the scope of this Order shall include, but not be limited to, arrangements for using existing Federal resources to provide prompt notification of the emergency to the general public; to assist in any necessary evacuation; to provide reception centers or shel-ters and related facilities and services for evacuees, to provide emergen-cy medical services at Federal hospitals, including those operated by the military services and by the Veterans' Administration; and to ensure the creation and maintenance of channels of communication from com-mercial nuclear power plant licensees or applicants to State and local governments and to surrounding members of the public.

### SEC. 4. Evaluation of Plans.

(1) FEMA shall consider and evaluate all plans developed under the authority of this Order as though drafted and submitted by a State or local government.

(2) FEMA shall take all actions necessary to carry out the evaluation referred to in the preceding Subsection and to permit the NRC to con-duct its evaluation of radiological emergency preparedness plans includ-ing, but not limited to, planning, participating in, and evaluating exer-cises, drills, and tests, on a timely basis, as necessary to satisfy NRC requirements for demonstrations of off-site radiological emergency pre-paredness.

### SEC. 5. Response to a Radiological Emergency.

(1) In the event of an actual radiological emergency or disaster, FEMA shall take all steps necessary to ensure the implementation of the plans developed under this Order and shall coordinate the actions of other Federal agencies to achieve the maximum effectiveness of Federal efforts in responding to the emergency.

(2) FEMA shall coordinate Federal response activities to ensure that adequate resources are directed, when an initial response is needed, to activities hindered by the absence or inadequacy of advance State and local

commitments. FEMA shall also coordinate with State and local governmental authorities and turn over response functions as appropriate when State and local governments do exercise their authority.

(3) FEMA shall assume any necessary command-and-control function, or delegate such function to another Federal agency, in the event that no competent State and local authority is available to perform such function.

(4) In any instance in which Federal personnel may be called upon to fill a command-and-control function during a radiological emergency, in addition to any other powers it may have, FEMA or its designee is authorized to accept volunteer assistance from utility employees and other nongovernmental personnel for any purpose necessary to implement the emergency response plan and facilitate off-site emergency response.

#### SEC. 6. Implementation of Order.

(a) FEMA shall issue interim and final directives and procedures implementing this Order as expeditiously as is feasible and in any event shall issue interim directives and procedures not more than 90 days following the effective date of this Order and shall issue final directives and procedures not more than 180 days following the effective date of this Order.

(b) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary revisions of, all FEMA regulations, directives, and guidance to conform them to the terms and policies of this Order.

(c) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary renegotiations of, all interagency agreements to which FEMA is a party, so as to conform them to the terms and policies of this Order. This directive shall include, but not be limited to, the Federal Radiological Emergency Response Plan (50 Fed. Reg. 46542 (November 8, 1985)).

(d) To the extent permitted by law, FEMA is directed to obtain full reimbursement, either jointly or severally, for services performed by FEMA or other Federal agencies pursuant to this Order from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

#### SEC. 7. Amendments.

This Executive Order amends Executive Order Nos. 11490 (34 Fed. Reg. 17567 (October 28, 1969)), 12148 (44 Fed. Reg. 43239 (July 20, 1979)), and 12241 (45 Fed. Reg. 64879 (September 29, 1980)), and the same are hereby superseded to the extent that they are inconsistent with this Order.

#### SEC. 8. Judicial Review.

This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

#### SEC. 9. Effective Date.

This Order shall be effective November 18, 1988.

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### AMENDMENT(S)

#### Executive Order 13286

Sec. 41. Executive Order 12657 of November 18, 1988 (“Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants”), is amended by:

(a) striking “Federal Emergency Management Agency” in the title and inserting “Department of Homeland Security” in lieu thereof;

(b) striking “Federal Emergency Management Agency (“FEMA”)” in section 1(b) and inserting “Department of Homeland Security (“DHS”)” in lieu thereof;

(c) striking “FEMA” wherever it appears in sections 1(b), 2(b), 2(c), 3, 4, 5, and 6, and inserting “DHS” in lieu thereof; and

(d) striking “the Director of FEMA” in section 2(a) and inserting “the Secretary of Homeland Security” in lieu thereof.

## APPENDIX 2-6: Executive Order 12777

### Executive Order 12777, October 18, 1991, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990

By authority vested in me as President by the Constitution and the laws of the United States of America, including Section 311 of the Federal Water Pollution Control Act, ("FWPCA") (33 U.S.C. 1321), as amended by the Oil Pollution Act of 1990 (Public Law 101 - 380) ("OPA"), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Sec. 1. National Contingency Plan, Area Committees, and Area Contingency Plans. (a) Section 1 of Executive Order No. 12580 of January 23, 1987, is amended to read as follows:

"Section 1. National Contingency Plan. (a)(1) The National Contingency Plan ("the NCP"), shall provide for a National Response Team ("the NRT") composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and Regional Response Teams as the regional counterparts to the NRT for planning and coordination of regional preparedness and response actions.

"(2) The following agencies (in addition to other appropriate agencies) shall provide representatives to the National and Regional Response Teams to carry out their responsibilities under the NCP: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, United States Coast Guard, and the Nuclear Regulatory Commission.

"(3) Except for periods of activation because of response action, the representative of the Environmental Protection Agency ("EPA") shall be the chairman, and the representative of the United States Coast Guard shall be the vice chairman, of the NRT and these agencies' representatives shall be co-chairs of the Regional Response Teams ("the RRTs"). When the NRT or an RRT is activated for a response action, the EPA representative shall be the chairman when the release or threatened release or discharge or threatened discharge occurs in the inland zone, and the United States Coast Guard representative shall be the chairman when the release or threatened release or discharge or threatened discharge occurs in the coastal zone, unless otherwise agreed upon by the EPA and the United States Coast Guard representatives (inland and coastal zones are defined in the NCP).

"(4) The RRTs may include representatives from State governments, local governments (as agreed upon by the States), and Indian tribal governments. Subject to the functions and authorities delegated to Executive departments and agencies in other sections of this order, the NRT shall provide policy and program direction to the RRTs.

"(b) (1) The responsibility for the revision of the NCP and all the other functions vested in the President by Sections 105 (a), (b), (c), and (g), 125, and 301(f) of the Act, by Section 311(d)(1) of the Federal Water Pollution Control Act, and by Section 4201(c) of the Oil Pollution Act of 1990 is delegated to the Administrator of the Environmental Protection Agency ("the Administrator").

"(2) The function vested in the President by Section 118(p) of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99 - 499) ("SARA") is delegated to the Administrator.

"(c) In accord with Section 107(f)(2)(A) of the Act, Section 311(f)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(f)(5)), and Section 1006(b) (1) and (2) of the Oil Pollution Act of 1990, the following shall be among those designated in the NCP as Federal trustees for natural resources:

- (1) Secretary of Defense;
- (2) Secretary of the Interior;
- (3) Secretary of Agriculture;
- (4) Secretary of Commerce;
- (5) Secretary of Energy.

In the event of a spill, the above named Federal trustees for natural resources shall designate one trustee to act as Lead Administrative Trustee, the duties of which shall be defined in the regulations promulgated

pursuant to Section 1006(e)(1) of OPA. If there are natural resource trustees other than those designated above which are acting in the event of a spill, those other trustees may join with the Federal trustees to name a Lead Administrative Trustee which shall exercise the duties defined in the regulations promulgated pursuant to Section 1006(e)(1) of OPA.

((d) Revisions to the NCP shall be made in consultation with members of the NRT prior to publication for notice and comment.

((e) All revisions to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director of the Office of Management and Budget ("OMB")."

((b) The functions vested in the President by Section 311(j)(4) of FWPCA, and Section 4202(b)(1) of OPA, respecting the designation of Areas, the appointment of Area Committee members, the requiring of information to be included in Area Contingency Plans, and the review and approval of Area Contingency Plans are delegated to the Administrator of the Environmental Protection Agency ("Administrator") for the inland zone and the Secretary of the Department in which the Coast Guard is operating for the coastal zone (inland and coastal zones are defined in the NCP).

Sec. 2. National Response System. (a) The functions vested in the President by Section 311(j)(1)(A) of FWPCA, respecting the establishment of methods and procedures for the removal of discharged oil and hazardous substances, and by Section 311(j)(1)(B) of FWPCA respecting the establishment of criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, are delegated to the Administrator for the inland zone and the Secretary of the Department in which the Coast Guard is operating for the coastal zone.

(b)(1) The functions vested in the President by Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from non-transportation-related onshore facilities, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from vessels and transportation-related onshore facilities and deepwater ports subject to the Deepwater Ports Act of 1974 ("DPA"), are delegated to the Secretary of Transportation.

(3) The functions vested in the President by Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, are delegated to the Secretary of the Interior.

(c) The functions vested in the President by Section 311(j)(1)(D) of FWPCA, respecting the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(d)(1) The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of non-transportation-related onshore facilities to prepare and submit response plans, the approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of non-transportation-related onshore facilities to operate without approved response plans, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of tank vessels, transportation-related onshore facilities and deepwater ports subject to the DPA, to prepare and submit response plans, the approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of tank vessels, transportation-related onshore facilities and deepwater ports subject to the DPA to operate without approved response plans, are delegated to the Secretary of Transportation.

(3) The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, to prepare and submit response plans, the approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of offshore facilities, including associated pipelines,

other than deepwater ports subject to the DPA, to operate without approved response plans, are delegated to the Secretary of the Interior.

(e)(1) The functions vested in the President by Section 311(j)(6)(B) of FWPCA, respecting the requirements for periodic inspections of containment booms and equipment used to remove discharges at non-transportation-related onshore facilities, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(6)(A) of FWPCA, respecting the requirements for periodic inspections of containment booms and equipment used to remove discharges on vessels, and at transportation-related onshore facilities and deepwater ports subject to the DPA, are delegated to the Secretary of Transportation.

(3) The functions vested in the President by Section 311(j)(6)(A) of FWPCA, respecting the requirements for periodic inspections of containment booms and equipment used to remove discharges at offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, are delegated to the Secretary of the Interior.

(f) The functions vested in the President by Section 311(j)(6)(A) of FWPCA, respecting requirements for vessels to carry appropriate removal equipment, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(g)(1) The functions vested in the President by Section 311(j)(7) of FWPCA, respecting periodic drills of removal capability under relevant response plans for onshore and offshore facilities located in the inland zone, and the publishing of annual reports on those drills, are delegated to the Administrator.

(2) The functions vested in the President by Section 311(j)(7) of FWPCA, respecting periodic drills of removal capability under relevant response plans for tank vessels, and for onshore and offshore facilities located in the coastal zone, and the publishing of annual reports on those drills, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(h) No provision of Section 2 of this order, including, but not limited to, any delegation or assignment of any function hereunder, shall in any way affect, or be construed or interpreted to affect the authority of any Department or agency, or the head of any Department or agency under any provision of law other than Section 311(j) of FWPCA or Section 4202(b)(4) of OPA.

(i) The functions vested in the President by Section 311(j) of FWPCA or Section 4202(b)(4) of OPA which have been delegated or assigned by Section 2 of this order may be redelegated to the head of any Executive department or agency with his or her consent.

Sec. 3. Removal. The functions vested in the President by Section 311(c) of FWPCA and Section 1011 of OPA, respecting an effective and immediate removal or arrangement for removal of a discharge and mitigation or prevention of a substantial threat of a discharge of oil or a hazardous substance, the direction and monitoring of all Federal, State and private actions, the removal and destruction of a vessel, the issuance of directions, consulting with affected trustees, and removal completion determinations, are delegated to the Administrator for the inland zone and to the Secretary of the Department in which the Coast Guard is operating for the coastal zone.

Sec. 4. Liability Limit Adjustment. (a) The functions vested in the President by Section 1004(d) of OPA, respecting the establishment of limits of liability, with respect to classes or categories of non-transportation-related onshore facilities, the reporting to Congress on the desirability of adjusting limits of liability with respect to non-transportation-related onshore facilities, and the adjustment of limits of liability to reflect significant increases in the Consumer Price Index with respect to non-transportation-related onshore facilities, are delegated to the Administrator, acting in consultation with the Secretary of Transportation, the Secretary of Energy, and the Attorney General.

(b) The functions vested in the President by Section 1004(d) of OPA, respecting the establishment of limits of liability, with respect to classes or categories of transportation-related onshore facilities, the reporting to Congress on the desirability of adjusting limits of liability, with respect to vessels or transportation-related onshore facilities and deepwater ports subject to the DPA, and the adjustment of limits of liability to reflect significant increases in the Consumer Price Index with respect to vessels or transportation-related onshore facilities and deepwater ports subject to the DPA, are delegated to the Secretary of Transportation.

(c) The functions vested in the President by Section 1004(d) of OPA, respecting the reporting to Congress on the desirability of adjusting limits of liability with respect to offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, and the adjustment of limits of liability to reflect



significant increases in the Consumer Price Index with respect to offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, are delegated to the Secretary of the Interior.

Sec. 5. Financial Responsibility. (a)(1) The functions vested in the President by Section 1016(e) of OPA, respecting (in the case of offshore facilities other than deepwater ports) the issuance of regulations concerning financial responsibility, the determination of acceptable methods of financial responsibility, and the specification of necessary or unacceptable terms, conditions, or defenses, are delegated to the Secretary of the Interior.

(2) The functions vested in the President by Section 1016(e) of OPA, respecting (in the case of deepwater ports) the issuance of regulations concerning financial responsibility, the determination of acceptable methods of financial responsibility, and the specification of necessary or unacceptable terms, conditions, or defenses, are delegated to the Secretary of Transportation.

(b)(1) The functions vested in the President by Section 4303 of OPA, respecting (in cases involving vessels) the assessment of civil penalties, the compromising, modification or remission, with or without condition, and the referral for collection of such imposed penalties, and requests to the Attorney General to secure necessary judicial relief, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(2) The functions vested in the President by Section 4303 of OPA, respecting (in cases involving offshore facilities other than deepwater ports) the assessment of civil penalties, the compromising, modification or remission, with or without condition, and the referral for collection of such imposed penalties, and requests to the Attorney General to secure necessary judicial relief, are delegated to the Secretary of the Interior.

(3) The functions vested in the President by Section 4303 of OPA, respecting (in cases involving deepwater ports) the assessment of civil penalties, the compromising, modification or remission, with or without condition, and the referral for collection of such imposed penalties, and requests to the Attorney General to secure necessary judicial relief, are delegated to the Secretary of Transportation.

Sec. 6. Enforcement. (a) The functions vested in the President by Section 311(m)(1) of FWPCA, respecting the enforcement of Section 311 with respect to vessels, are delegated to the Secretary of the Department in which the Coast Guard is operating.

(b) The functions vested in the President by Section 311(e) of FWPCA, respecting determinations of imminent and substantial threat, requesting the Attorney General to secure judicial relief, and other action including issuing administrative orders, are delegated to the Administrator for the inland zone and to the Secretary of the Department in which the Coast Guard is operating for the coastal zone.

Sec. 7. Management of the Oil Spill Liability Trust Fund and Claims. (a)(1)(A) The functions vested in the President by Section 1012(a)(1), (3), and (4) of OPA respecting payment of removal costs and claims and determining consistency with the National Contingency Plan (NCP) are delegated to the Secretary of the Department in which the Coast Guard is operating.

(B) The functions vested in the President by Section 6002(b) of the OPA respecting making amounts, not to exceed \$50,000,000 and subject to normal budget controls, in any fiscal year, available from the Fund (i) to carry out Section 311(c) of FWPCA, and (ii) to initiate the assessment of natural resources damages required under Section 1006 of OPA are delegated to the Secretary of the Department in which the Coast Guard is operating. Such Secretary shall make amounts available from the Fund to initiate the assessment of natural resources damages exclusively to the Federal trustees designated in the NCP. Such Federal trustees shall allocate such amounts among all trustees required to assess natural resources damages under Section 1006 of OPA.

(2) The functions vested in the President by Section 1012(a)(2) of OPA, respecting the payment of costs and determining consistency with the NCP, are delegated to the Federal trustees designated in the NCP.

(3) The functions vested in the President by Section 1012(a)(5) of OPA, respecting the payment of costs and expenses of departments and agencies having responsibility for the implementation, administration, and enforcement of the Oil Pollution Act of 1990 and subsections (b), (c), (d), (j) and (l) of Section 311 of FWPCA, are delegated to each head of such department and agency.

(b) The functions vested in the President by Section 1012(c) of OPA, respecting designation of Federal officials who may obligate money, are delegated to each head of the departments and agencies to whom functions have been delegated under section 7(a) of this order for the purpose of carrying out such functions.

(c)(1) The functions vested in the President by Section 1012 (d) and (e) of OPA, respecting the obligation of the Trust Fund on the request of a Governor or pursuant to an agreement with a State, entrance into agreements with States, agreement upon terms and conditions, and the promulgation of regulations concerning such obligation and entrance into such agreement, are delegated to the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator.

(2) The functions vested in the President by Section 1013(e) of OPA, respecting the promulgation and amendment of regulations for the presentation, filing, processing, settlement, and adjudication of claims under OPA against the Trust Fund, are delegated to the Secretary of the Department in which the Coast Guard is operating, in consultation with the Attorney General.

(3) The functions vested in the President by Section 1012(a) of OPA, respecting the payment of costs, damages, and claims, delegated herein to the Secretary of the Department in which the Coast Guard is operating, include, inter alia, the authority to process, settle, and administratively adjudicate such costs, damages, and claims, regardless of amount.

(d)(1) The Coast Guard is designated the "appropriate agency" for the purpose of receiving the notice of discharge of oil or hazardous substances required by Section 311(b)(5) of FWPCA, and the Secretary of the Department in which the Coast Guard is operating is authorized to issue regulations implementing this designation.

(2) The functions vested in the President by Section 1014 of OPA, respecting designation of sources of discharges or threats, notification to responsible parties, promulgation of regulations respecting advertisements, the advertisement of designation, and notification of claims procedures, are delegated to the Secretary of the Department in which the Coast Guard is operating.

Sec. 8. Miscellaneous. (a) The functions vested in the President by Section 311(b) (3) and (4) of FWPCA, as amended by the Oil Pollution Act of 1990, respecting the determination of quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare or the environment and the determinations of quantities, time, locations, circumstances, or conditions, which are not harmful, are delegated to the Administrator.

(b) The functions vested in the President by Section 311(d)(2)(G) of FWPCA, respecting schedules of dispersant, chemical, and other spill mitigating devices or substances, are delegated to the Administrator.

(c) The functions vested in the President by Section 1006(b) (3) and (4) of OPA respecting the receipt of designations of State and Indian tribe trustees for natural resources are delegated to the Administrator.

(d) The function vested in the President by Section 3004 of OPA, with respect to encouraging the development of an international inventory of equipment and personnel, is delegated to the Secretary of the Department in which the Coast Guard is operating, in consultation with the Secretary of State.

(e) The functions vested in the President by Section 4113 of OPA, respecting a study on the use of liners or other secondary means of containment for onshore facilities, and the implementation of the recommendations of the study, are delegated to the Administrator.

(f) The function vested in the President by Section 5002(c)(2)(D) of OPA, respecting the designating of an employee of the Federal Government who shall represent the Federal Government on the Oil Terminal Facilities and Oil Tanker Operations Associations, is delegated to the Secretary of Transportation.

(g) The functions vested in the President by Section 5002(o) of OPA, respecting the annual certification of alternative voluntary advisory groups, are delegated to the Secretary of Transportation.

(h) The function vested in the President by Section 7001(a)(3) of OPA, respecting the appointment of Federal agencies to membership on the Interagency Coordinating Committee on Oil Pollution Research, is delegated to the Secretary of Transportation.

(i) Executive Order No. 11735 of August 3, 1973, Executive Order No. 12123 of February 26, 1979, Executive Order No. 12418 of May 5, 1983 and the memorandum of August 24, 1990, delegating certain authorities of the President under the Oil Pollution Act of 1990 are revoked.

Sec. 9. Consultation. Authorities and functions delegated or assigned by this order shall be exercised subject to consultation with the Secretaries of departments and the heads of agencies with statutory responsibilities which may be significantly affected, including, but not limited to, the Department of Justice.

Sec. 10. Litigation. (a) Notwithstanding any other provision of this order, any representation pursuant to or under this order in any judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Oil Pollution Act of 1990 shall be the responsibility of the Attorney General.

(b) Notwithstanding any other provision of this order, the authority under the Oil Pollution Act of 1990 to require the Attorney General to commence litigation is retained by the President.

(c) Notwithstanding any other provision of this order, the Secretaries of the Departments of Transportation, Commerce, Interior, Agriculture, and/or the Administrator of the Environmental Protection Agency may request that the Attorney General commence litigation under the Oil Pollution Act of 1990.

(d) The Attorney General, in his discretion, is authorized to require that, with respect to a particular oil spill, an agency refrain from taking administrative enforcement action without first consulting with the Attorney General.

George Bush  
THE WHITE HOUSE  
October 18, 1991.

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**AMENDMENT(S): None**

## **APPENDIX 2-7: Executive Order 13286**

### **Executive Order 13286, February 28, 2003, Executive Order Amendment of Executive Orders, and Other Actions, in Connection with the Transfer of Certain Functions to the Secretary of Homeland Security**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Homeland Security Act of 2002 (Public Law 107-296) and section 301 of title 3, United States Code, and in order to reflect the transfer of certain functions to, and other responsibilities vested in, the Secretary of Homeland Security, the transfer of certain agencies and agency components to the Department of Homeland Security, and the delegation of appropriate responsibilities to the Secretary of Homeland Security, it is hereby ordered as follows:

Sec 1. Executive Order 13276 of November 15, 2002 ("Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region"), is amended by:

(a) striking "The Attorney General" wherever it appears in section 1 and inserting "The Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Attorney General" wherever it appears in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 2. Executive Order 13274 of September 18, 2002 ("Environmental Stewardship and Transportation Infrastructure Project Reviews"), is amended by inserting "Secretary of Homeland Security," after "Secretary of Defense," in section 3(b).

Sec. 3. Executive Order 13271 of July 9, 2002 ("Establishment of the Corporate Fraud Task Force"), is amended by:

(a) inserting "(b) the Secretary of Homeland Security;" after "(a) the Secretary of the Treasury;" in section 4; and

(b) relettering the subsequent subsections in section 4 appropriately.

Sec. 4. Executive Order 13260 of March 19, 2002 ("Establishing the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security"), is amended by:

- (a) striking "the Assistant to the President for Homeland Security (Assistant)" in section 1(c) and inserting "the Secretary of Homeland Security (Secretary)" in lieu thereof;
  - (b) striking "the Assistant" wherever it appears in sections 2 and 3 and inserting "the Secretary" in lieu thereof;
  - (c) striking "the Office of Administration" in section 3(d) and inserting "the Department of Homeland Security" in lieu thereof;
  - (d) striking "the Administrator of General Services" in section 4(a) and inserting "the Secretary of Homeland Security" in lieu thereof; and
  - (e) inserting "of General Services" after "Administrator" in section 4(a).
- Executive Order 13260 of March 19, 2002, is hereby revoked effective as of March 31, 2003.

Sec. 5. Executive Order 13257 of February 13, 2002 ("President's Interagency Task Force to Monitor and Combat Trafficking in Persons"), is amended by:

- (a) inserting "(v) the Secretary of Homeland Security;" after "(iv) the Secretary of Health and Human Services;" in section 1(b); and
- (b) renumbering the subsequent subsections in section 1(b) appropriately.

Sec. 6. Executive Order 13254 of January 29, 2002 ("Establishing the USA Freedom Corps"), is amended by striking "Director of the Federal Emergency Management Agency;" in section 3(b)(viii) and inserting "Secretary of Homeland Security;" in lieu thereof.

Sec. 7. Executive Order 13231 of October 16, 2001 ("Critical Infrastructure Protection in the Information Age"), as amended, is further amended to read in its entirety as follows:

"Critical Infrastructure Protection in the Information Age

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure protection of information systems for critical infrastructure, including emergency preparedness communications and the physical assets that support such systems, in the information age, it is hereby ordered as follows:

Section 1. Policy. The information technology revolution has changed the way business is transacted, government operates, and national defense is conducted. Those three functions now depend on an interdependent network of critical information infrastructures. It is the policy of the United States to protect against disruption of the operation of information systems for critical infrastructure and thereby help to protect the people, economy, essential human and government services, and national security of the United States, and to ensure that any disruptions that occur are infrequent, of minimal duration, and manageable, and cause the least damage possible. The implementation of this policy shall include a voluntary public-private partnership, involving corporate and nongovernmental organizations.

Sec. 2. Continuing Authorities. This order does not alter the existing authorities or roles of United States Government departments and agencies. Authorities set forth in 44 U.S.C. chapter 35, and other applicable law, provide senior officials with responsibility for the security of Federal Government information systems.

(a) Executive Branch Information Systems Security. The Director of the Office of Management and Budget (OMB) has the responsibility to develop and oversee the implementation of government-wide policies, principles, standards, and guidelines for the security of information systems that support the executive branch departments and agencies, except those noted in section 2(b) of this order. The Director of OMB shall advise the President and the appropriate department or agency head when there is a critical deficiency in the security practices within the purview of this section in an executive branch department or agency.

(b) National Security Information Systems. The Secretary of Defense and the Director of Central Intelligence (DCI) shall have responsibility to oversee, develop, and ensure implementation of policies, principles, standards, and guidelines for the security of information systems that support the operations under their respective control. In consultation with the Assistant to the President for National Security Affairs and the affected departments and agencies, the Secretary of Defense and the DCI shall develop policies, principles, standards, and guidelines for the security of national security information systems that support the operations of other executive branch departments and agencies with national security information.

(i) Policies, principles, standards, and guidelines developed under this subsection may require more stringent protection than those developed in accordance with section 2(a) of this order.

(ii) The Assistant to the President for National Security Affairs shall advise the President and the appropriate department or agency when there is a critical deficiency in the security practices of a department or agency within the purview of this section.

(iii) National Security Systems. The National Security Telecommunications and Information Systems Security Committee, as established by and consistent with NSD-42 and chaired by the Department of Defense, shall be designated as the "Committee on National Security Systems."

(c) Additional Responsibilities. The heads of executive branch departments and agencies are responsible and accountable for providing and maintaining adequate levels of security for information systems, including emergency preparedness communications systems, for programs under their control. Heads of such departments and agencies shall ensure the development and, within available appropriations, funding of programs that adequately address these mission systems, especially those critical systems that support the national security and other essential government programs. Additionally, security should enable, and not unnecessarily impede, department and agency business operations.

Sec. 3. The National Infrastructure Advisory Council. The National Infrastructure Advisory Council (NIAC), established on October 16, 2001, shall provide the President through the Secretary of Homeland Security with advice on the security of information systems for critical infrastructure supporting other sectors of the economy: banking and finance, transportation, energy, manufacturing, and emergency government services.

(a) Membership. The NIAC shall be composed of not more than 30 members appointed by the President. The members of the NIAC shall be selected from the private sector, academia, and State and local government. Members of the NIAC shall have expertise relevant to the functions of the NIAC and generally shall be selected from industry Chief Executive Officers (and equivalently ranked leaders of other organizations) with responsibilities for security of information infrastructure supporting the critical sectors of the economy, including banking and finance, transportation, energy, communications, and emergency government services. Members shall not be full-time officials or employees of the executive branch of the Federal Government. The President shall designate a Chair and Vice Chair from among the members of the NIAC.

(b) Functions of the NIAC. The NIAC will meet periodically to:

(i) enhance the partnership of the public and private sectors in protecting information systems for critical infrastructures and provide reports on this issue to the Secretary of Homeland Security, as appropriate;

(ii) propose and develop ways to encourage private industry to perform periodic risk assessments of critical information and telecommunications systems;

(iii) monitor the development of private sector Information Sharing and Analysis Centers (ISACs) and provide recommendations to the President through the Secretary of Homeland Security on how these organizations can best foster improved cooperation among the ISACs, the Department of Homeland Security, and other Federal Government entities;

(iv) report to the President through the Secretary of Homeland Security, who shall ensure appropriate coordination with the Assistant to the President for Homeland Security, the Assistant to the President for Economic Policy, and the Assistant to the President for National Security Affairs under the terms of this order; and

(v) advise lead agencies with critical infrastructure responsibilities, sector coordinators, the Department of Homeland Security, and the ISACs.

(c) Administration of the NIAC.

(i) The NIAC may hold hearings, conduct inquiries, and establish subcommittees, as appropriate.

(ii) Upon request of the Chair, and to the extent permitted by law, the heads of the executive departments and agencies shall provide the NIAC with information and advice relating to its functions.

(iii) Senior Federal Government officials may participate in the meetings of the NIAC, as appropriate.

(iv) Members shall serve without compensation for their work on the NIAC. However, members may be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Federal Government service (5 U.S.C. 5701-5707).

(v) To the extent permitted by law and subject to the availability of appropriations, the Department of Homeland Security shall provide the NIAC with administrative services, staff, and other support services, and such funds as may be necessary for the performance of the NIAC's functions.

(d) General Provisions.

(i) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the NIAC, the functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Department of Homeland Security in accordance with the guidelines and procedures established by the Administrator of General Services.

(ii) The NIAC shall terminate on October 15, 2003, unless extended by the President.

(iii) Executive Order 13130 of July 14, 1999, was revoked on October 16, 2001.

(iv) Nothing in this order shall supersede any requirement made by or under law.

Sec. 4. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person."

Sec. 8. Executive Order 13228 of October 8, 2001 ("Establishing the Office of Homeland Security and the Homeland Security Council"), as amended, is further amended by:

(a) amending section 3(g) to read "(g) Incident Management. Consistent with applicable law, including the statutory functions of the Secretary of Homeland Security, the Assistant to the President for Homeland Security shall be the official primarily responsible for advising and assisting the President in the coordination of domestic incident management activities of all departments and agencies in the event of a terrorist threat, and during and in the aftermath of terrorist attacks, major disasters, or other emergencies, within the United States. Generally, the Assistant to the President for Homeland Security shall serve as the principal point of contact for and to the President with respect to the coordination of such activities. The Assistant to the President for Homeland Security shall coordinate with the Assistant to the President for National Security Affairs, as appropriate."; and

(b) inserting ", including the Department of Homeland Security" after "Government departments and agencies" in section 7.

Sec. 9. Executive Order 13223 of September 14, 2001 ("Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation"), as amended, is further amended by:

(a) striking "the Secretary of Transportation" in the title and wherever it appears in sections 1, 5, 6, and 7, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Department of Transportation" in section 7 and inserting "the Department of Homeland Security" in lieu thereof.

Sec. 10. Executive Order 13212 of May 18, 2001 ("Actions to Expedite Energy-Related Projects"), is amended by inserting "Homeland Security," after "Veterans Affairs," in section 3.

Sec. 11. Executive Order 13165 of August 9, 2000 ("Creation of the White House Task Force on Drug Use in Sports and Authorization for the Director of the Office of National Drug Control Policy to Serve as the United States Government's Representative on the Board of the World Anti-Doping Agency"), is amended by inserting "the Department of Homeland Security," after "the Department of Transportation," in section 2.

Sec. 12. Executive Order 13154 of May 3, 2000 ("Establishing the Kosovo Campaign Medal"), is amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 13. Executive Order 13133 of August 5, 1999 ("Working Group on Unlawful Conduct on the Internet"), is amended by:

(a) inserting "(6) The Secretary of Homeland Security." after "(5) The Secretary of Education." in section 3(a); and

(b) renumbering the subsequent subsections in section 3(a) appropriately.

Sec. 14. Executive Order 13120 of April 27, 1999 ("Ordering the Selected Reserve and Certain Individual Ready Reserve Members of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 15. Executive Order 13112 of February 3, 1999 ("Invasive Species"), is amended by inserting "the Secretary of Homeland Security," after "Secretary of Transportation," in section 3(a).

Sec. 16. Executive Order 13100 of August 25, 1998 ("President's Council on Food Safety"), is amended by inserting "and Homeland Security," after "Health and Human Services," in section 1(a).

Sec. 17. Executive Order 13076 of February 24, 1998 ("Ordering the Selected Reserve of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 18. Executive Order 13011 of July 16, 1996 ("Federal Information Technology"), as amended, is further amended by:

- (a) striking "17. Federal Emergency Management Agency;" in section 3(b); and
- (b) renumbering the subsequent subsections in section 3(b) appropriately.

Sec. 19. Executive Order 12989 of February 13, 1996 ("Economy and Efficiency in Government Procurement through Compliance with Certain Immigration and Naturalization Act Provisions"), is amended by:

- (a) striking "Naturalization" in the title and inserting "Nationality" in lieu thereof;
- (b) striking ", the Attorney General" in section 3;
- (c) inserting "the Secretary of Homeland Security" before "may" in section 3(a);
- (d) inserting "the Secretary of Homeland Security" before "shall" in section 3(b);
- (e) inserting "the Attorney General" before "shall" in section 3(c);
- (f) inserting "Secretary of Homeland Security or the" before "Attorney General" wherever it appears in section 4;
- (g) striking "The Attorney General's" in section 4(b) and inserting "Such" in lieu thereof;
- (h) striking "the Attorney General" wherever it appears in the first two sentences of section 5(a) and inserting "the Secretary of Homeland Security and Attorney General" in lieu thereof;
- (i) striking "the responsibilities of the Attorney General" in section 5(a) and inserting "their respective responsibilities" in lieu thereof;
- (j) inserting "Secretary of Homeland Security or the" before "Attorney General" wherever in appears in the third sentence of section 5(a);
- (k) inserting "Secretary of Homeland Security and the" before "Attorney General" in section 6;
- (l) striking "the Attorney General's" in section 6 and inserting "their respective" in lieu thereof; and
- (m) inserting "Secretary of Homeland Security, the" before "Attorney General" in section 7.

Sec. 20. Executive Order 12985 of January 11, 1996 ("Establishing the Armed Forces Service Medal"), is amended by striking "the Secretary of Transportation" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 21. Executive Order 12982 of December 8, 1995 ("Ordering the Selected Reserve of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 22. Executive Order 12978 of October 21, 1995 ("Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers"), is amended by inserting ", the Secretary of Homeland Security," after "the Attorney General" wherever it appears in sections 1 and 4.

Sec. 23. Executive Order 12977 of October 19, 1995 ("Interagency Security Committee"), is amended by:

- (a) striking "the Administrator of General Services ("Administrator")" in section 1(a) and inserting "the Secretary of Homeland Security ("Secretary")" in lieu thereof;
- (b) striking "and" after "(16) Central Intelligence Agency;" in section 1(b);
- (c) inserting "and (18) General Services Administration;" after "(17) Office of Management and Budget;" in section 1(b);
- (d) striking section 1(c)(2) and redesignating sections 1(c)(3) and 1(c)(4) as sections 1(c)(2) and 1(c)(3), respectively;
- (e) striking "Administrator" wherever it appears in sections 2, 5(a)(3)(E), 6(a), and 6(c), and inserting "Secretary" in lieu thereof; and
- (f) striking ", acting by and through the Assistant Commissioner," in section 6(c).

Sec. 24. Executive Order 12919 of June 3, 1994 ("National Defense Industrial Resources Preparedness"), is amended by:

- (a) striking "The Director, Federal Emergency Management Agency ("Director, FEMA")" in section 104(b) and inserting "The Secretary of Homeland Security ("the Secretary")" in lieu thereof;
- (b) striking "The Director, FEMA," in sections 201(c) and 601(f) and inserting "The Secretary" in lieu thereof;
- (c) striking "the Director, FEMA," wherever it appears in sections 201(e), 202(c), 305, 501, 701(e), and 802(e), and inserting "the Secretary" in lieu thereof; and
- (d) inserting "the Department of Homeland Security," after "Attorney General," in section 801.

Sec. 25. Executive Order 12906 of April 11, 1994 ("Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure"), is amended by:

- (a) striking "and" in section 7(b)(ii);

(b) striking the period at the end of section 7(b)(iii) and inserting "; and" in lieu thereof; and  
(c) inserting a new section 7(b)(iv) to read "(iv) the national security-related activities of the Department of Homeland Security as determined by the Secretary of Homeland Security."

Sec. 26. Executive Order 12870 of September 30, 1993 ("Trade Promotion Coordinating Committee"), is amended by:

(a) inserting "(j) Department of Homeland Security;" after "(i) Department of the Interior;" in section 1; and  
(b) relettering the subsequent subsections in section 1 appropriately.

Sec. 27. Executive Order 12835 of January 25, 1993 ("Establishment of the National Economic Council"), is amended by:

(a) inserting "(k) Secretary of Homeland Security;" after "(j) Secretary of Energy;" in section 2; and  
(b) relettering the subsequent subsections in section 2 appropriately.

Sec. 28. Executive Order 12830 of January 9, 1993 ("Establishing the Military Outstanding Volunteer Service Medal"), is amended by striking "the Secretary of Transportation" wherever it appears and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 29. Executive Order 12824 of December 7, 1992 ("Establishing the Transportation Distinguished Service Medal"), is amended by:

(a) striking "Transportation" in the title and inserting "Homeland Security" in lieu thereof; and  
(b) striking "Transportation" wherever it appears and inserting "Homeland Security" in lieu thereof.

Sec. 30. Executive Order 12807 of May 24, 1992 ("Interdiction of Illegal Aliens"), is amended by striking "the Attorney General" in section 2(c)(3) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 31. Executive Order 12793 of March 20, 1992 ("Continuing the Presidential Service Certificate and Presidential Service Badge"), is amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 32. Executive Order 12789 of February 10, 1992 ("Delegation of Reporting Functions Under the Immigration Reform and Control Act of 1986"), is amended by striking "The Attorney General" in section 1 and inserting "The Secretary of Homeland Security" in lieu thereof.

Sec. 33. Executive Order 12788 of January 15, 1992 ("Defense Economic Adjustment Program"), is amended by:

(a) inserting "(15) Secretary of Homeland Security;" after "(14) Secretary of Veterans Affairs;" in section 4(a); and

(b) renumbering the subsequent subsections in section 4(a) appropriately.

Sec. 34. Executive Order 12777 of October 18, 1991 ("Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990"), is amended by:

(a) inserting "and the Secretary of the Department in which the Coast Guard is operating" after "the Secretary of Transportation" in sections 2(b)(2) and 2(d)(2);

(b) striking "the Secretary of Transportation" in section 2(e)(2) and wherever it appears in sections 5 and 8 and inserting "the Secretary of the Department in which the Coast Guard is operating" in lieu thereof; and  
(c) inserting "the Secretary of the Department in which the Coast Guard is operating," after "Agriculture," in section 10(c).

Sec. 35. Executive Order 12743 of January 18, 1991 ("Ordering the Ready Reserve of the Armed Forces to Active Duty"), is amended by:

(a) striking "the Department of Transportation" in section 1 and inserting "the Department of Homeland Security" in lieu thereof; and

(b) striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 36. Executive Order 12742 of January 8, 1991 ("National Security Industrial Responsiveness"), is amended by:

(a) inserting "Homeland Security," after "Transportation," in section 104(a); and

(b) striking "the Director of the Federal Emergency Management Agency" in section 104(d) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 37. Executive Order 12733 of November 13, 1990 ("Authorizing the Extension of the Period of Active Duty of Personnel of the Selected Reserve of the Armed Forces"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.



Sec. 38. Executive Order 12728 of August 22, 1990 ("Delegating the President's Authority to Suspend any Provision of Law Relating to the Promotion, Retirement, or Separation of Members of the Armed Forces"), is amended by striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 39. Executive Order 12727 of August 27, 1990 ("Ordering the Selected Reserve of the Armed Forces to Active Duty"), is amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 40. Executive Order 12699 ("Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction"), is amended by:

(a) striking "Federal Emergency Management Agency (FEMA)" in section 3(d) and inserting "Department of Homeland Security" in lieu thereof;

(b) striking "The Director of the Federal Emergency Management Agency" in section 4(a) and inserting "The Secretary of Homeland Security" in lieu thereof; and

(c) striking "The Federal Emergency Management Agency" and "The FEMA" in section 5 and inserting "The Department of Homeland Security" in lieu thereof (in both places).

Sec. 41. Executive Order 12657 of November 18, 1988 ("Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants"), is amended by:

(a) striking "Federal Emergency Management Agency" in the title and inserting "Department of Homeland Security" in lieu thereof;

(b) striking "Federal Emergency Management Agency ("FEMA")" in section 1(b) and inserting "Department of Homeland Security ("DHS")" in lieu thereof;

(c) striking "FEMA" wherever it appears in sections 1(b), 2(b), 2(c), 3, 4, 5, and 6, and inserting "DHS" in lieu thereof; and

(d) striking "the Director of FEMA" in section 2(a) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 42. Executive Order 12656 of November 18, 1988 ("Assignment of Emergency Preparedness Responsibilities"), as amended, is further amended by:

(a) striking "The Director of the Federal Emergency Management Agency" wherever it appears in sections 104(c) and 1702 and inserting "The Secretary of Homeland Security" in lieu thereof;

(b) striking "the Director of the Federal Emergency Management Agency" wherever it appears in sections 104(c), 201(15), 301(9), 401(10), 501(4), 501(7), 502(7), 601(3), 701(5), 801(9), 1302(4), 1401(4), 1701, and 1801(b), and inserting "the Secretary of Homeland Security" in lieu thereof;

(c) striking "consistent with current National Security Council guidelines and policies" in section 201(15) and inserting "consistent with current Presidential guidelines and policies" in lieu thereof;

(d) striking "Secretary" in section 501(9) and inserting "Secretaries" in lieu thereof;

(e) inserting "and Homeland Security" after "Labor" in section 501(9);

(f) striking "and" after "State" in section 701(6) and inserting a comma in lieu thereof;

(g) inserting ", and Homeland Security" after "Defense" in section 701(6);

(h) striking "the Director of the Federal Emergency Management Agency," in section 701(6); and

(i) striking "Federal Emergency Management Agency" in the title of Part 17 and inserting "Department of Homeland Security" in lieu thereof.

Without prejudice to subsections (a) through (i) of this section, all responsibilities assigned to specific Federal officials pursuant to Executive Order 12656 that are substantially the same as any responsibility assigned to, or function transferred to, the Secretary of Homeland Security pursuant to the Homeland Security Act of 2002 (regardless of whether such responsibility or function is expressly required to be carried out through another official of the Department of Homeland Security or not pursuant to such Act), or intended or required to be carried out by an agency or an agency component transferred to the Department of Homeland Security pursuant to such Act, are hereby reassigned to the Secretary of Homeland Security.

Sec. 43. Executive Order 12580 of January 23, 1987 ("Superfund Implementation"), as amended, is further amended by:

(a) inserting "Department of Homeland Security," after "Department of Energy," in section 1(a)(2); and

(b) striking "Federal Emergency Management Agency" in section 1(a)(2).

Sec. 44. Executive Order 12555 of November 15, 1985 ("Protection of Cultural Property"), as amended, is further amended by:

(a) striking "the Secretary of the Treasury" in sections 1, 2, and 3, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "The Department of the Treasury" in the heading of section 3 and inserting "The Department of Homeland Security" in lieu thereof.

Sec. 45. Executive Order 12501 of January 28, 1985 ("Arctic Research"), is amended by:

(a) inserting "(i) Department of Homeland Security;" after "(h) Department of Health and Human Services;" in section 8; and

(b) relettering the subsequent subsections in section 8 appropriately.

Sec. 46. Executive Order 12472 of April 3, 1984 ("Assignment of National Security and Emergency Preparedness Telecommunications Functions"), is amended by:

(a) inserting "the Homeland Security Council," after "National Security Council," in sections 1(b), 1(e)(4), 1(f)(3), and 2(c)(4);

(b) striking "The Secretary of Defense" in section 1(e) and inserting "The Secretary of Homeland Security" in lieu thereof;

(c) striking "Federal Emergency Management Agency" in sections 1(e)(3) and 3(j) and inserting "Department of Homeland Security" in lieu thereof;

(d) inserting ", in consultation with the Homeland Security Council," after "National Security Council" in section 2(b)(1);

(e) inserting ", the Homeland Security Council," after "National Security Council" in sections 2(d) and 2(e);

(f) striking "the Director of the Federal Emergency Management Agency" in section 2(d)(1) and inserting "the Secretary of Homeland Security" in lieu thereof;

(g) striking "Federal Emergency Management Agency. The Director of the Federal Emergency Management Agency shall:" in section 3(b) and inserting "Department of Homeland Security. The Secretary of Homeland Security shall:" in lieu thereof; and

(h) adding at the end of section 3(d) the following new paragraph: "(3) Nothing in this order shall be construed to impair or otherwise affect the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces of the United States under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title."

Sec. 47. Executive Order 12382 of September 13, 1982 ("President's National Security Telecommunications Advisory Committee"), as amended, is further amended by:

(a) inserting "through the Secretary of Homeland Security," after "the President," in sections 2(a) and 2(b);

(b) striking "and to the Secretary of Defense" in section 2(e) and inserting ", through the Secretary of Homeland Security," in lieu thereof; and

(c) striking "the Secretary of Defense" in sections 3(c) and 4(a) and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 48. Executive Order 12341 of January 21, 1982 ("Cuban and Haitian Entrants"), is amended by:

(a) striking "The Attorney General" in section 2 and inserting "The Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Attorney General" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 49. Executive Order 12208 of April 15, 1980 ("Consultations on the Admission of Refugees"), as amended, is further amended by:

(a) striking "the following functions: (a) To" in section 1 101 and inserting "to" in lieu thereof;

(b) striking "the Attorney General" in section 1-101(a) and inserting "the Secretary of Homeland Security" in lieu thereof;

(c) striking sections 1-101(b) and 1-102; and

(d) redesignating sections 1-103 and 1-104 as sections 1-102 and 1-103, respectively.

Sec. 50. Executive Order 12188 of January 2, 1980 ("International Trade Functions"), as amended, is further amended by:

(a) inserting "(12) The Secretary of Homeland Security" after "(11) The Secretary of Energy" in section 1-102(b); and

(b) renumbering the subsequent subsections in section 1 102(b) appropriately.

Sec. 51. Executive Order 12160 of September 26, 1979 ("Providing for Enhancement and Coordination of Federal Consumer Programs"), as amended, is further amended by:

(a) inserting "(m) Department of Homeland Security." after "(l) Department of the Treasury." in section 1-102;

(b) striking "(s) Federal Emergency Management Agency." in section 1-102; and

(c) relettering the subsequent subsections in section 1-102 appropriately.

Sec. 52. Executive Order 12148 of July 20, 1979 ("Federal Emergency Management"), as amended, is further amended by:

(a) striking "the Federal Emergency Management Agency" whenever it appears and inserting "the Department of Homeland Security" in lieu thereof; and

(b) striking "the Director of the Federal Emergency Management Agency" wherever it appears and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 53. Executive Order 12146 of July 18, 1979 ("Management of Federal Legal Resources"), as amended, is further amended by:

(a) striking "15" in section 1-101 and inserting "16" in lieu thereof;

(b) inserting "(n) The Department of Homeland Security." after "(m) The Department of the Treasury." in section 1-102; and

(c) relettering the subsequent subsections in section 1-102 appropriately.

Sec. 54. Executive Order 12002 of July 7, 1977 ("Administration of Export Controls"), as amended, is further amended by inserting ", the Secretary of Homeland Security," after "The Secretary of Energy" in section 3.

Sec. 55. Executive Order 11965 of January 19, 1977 ("Establishing the Humanitarian Service Medal"), is amended by striking "the Secretary of Transportation" wherever it appears in sections 1, 2, and 4, and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 56. Executive Order 11926 of July 19, 1976 ("The Vice Presidential Service Badge"), is amended by striking "the Secretary of Transportation" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 57. Executive Order 11858 of May 7, 1975 ("Foreign Investment in the United States"), as amended, is further amended by:

(a) inserting "(8) The Secretary of Homeland Security." after "(7) The Attorney General." in section 1(a); and

(b) redesignating subsection (8) as subsection (9) in section 1(a).

Sec. 58. Executive Order 11800 of August 17, 1974 ("Delegating Certain Authority Vested in the President by the Aviation Career Incentive Act of 1974"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 59. Executive Order 11645 of February 8, 1972 ("Authority of the Secretary of Transportation to Prescribe Certain Regulations Relating to Coast Guard Housing"), is amended by striking "the Secretary of Transportation" in the title and in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 60. Executive Order 11623 of October 12, 1971 ("Delegating to the Director of Selective Service Authority to Issue Rules and Regulations under the Military Selective Service Act"), as amended, is further amended by:

(a) striking "the Secretary of Transportation" in section 2(a) and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Department of Transportation" in section 2(a) and inserting "the Department of Homeland Security" in lieu thereof.

Sec. 61. Executive Order 11448 of January 16, 1969 ("Establishing the Meritorious Service Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 62. Executive Order 11446 of January 16, 1969 ("Authorizing the Acceptance of Service Medals and Ribbons from Multilateral Organizations Other Than the United Nations"), is amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 63. Executive Order 11438 of December 3, 1968 ("Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces"), as amended, is further amended by:

(a) striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "the Department of Transportation" wherever it appears in sections 2 and 4 and inserting "the Department of Homeland Security" in lieu thereof.

Sec. 64. Executive Order 11366 of August 4, 1967 ("Assigning Authority to Order Certain Persons in the Ready Reserve to Active Duty"), is amended by striking "The Secretary of Transportation" in sections 2 and 3(b) and inserting "The Secretary of Homeland Security" in lieu thereof.

Sec. 65. Executive Order 11239 of July 31, 1965 ("Enforcement of the Convention for Safety of Life at Sea, 1960"), as amended, is further amended, without prejudice to section 1-106 of Executive Order 12234 of September 3, 1980 ("Enforcement of the Convention for the Safety of Life at Sea"), by:

(a) striking "the Secretary of Transportation" in sections 1, 3, and 4, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(b) striking "The Secretary of Transportation" in sections 2 and 3 and inserting "The Secretary of Homeland Security" in lieu thereof.

Sec. 66. Executive Order 11231 of July 8, 1965 ("Establishing the Vietnam Service Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 67. Executive Order 11190 of December 29, 1964 ("Providing for the Screening of the Ready Reserve of the Armed Forces"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 68. Executive Order 11139 of January 7, 1964 ("Authorizing Acceptance of the United Nations Medal and Service Ribbon"), is amended by striking "the Secretary of the Treasury" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 69. Executive Order 11079 of January 25, 1963 ("Providing for the Prescribing of Regulations under which Members of the Armed Forces and Others May Accept Fellowships, Scholarships or Grants"), as amended, is further amended by striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 70. Executive Order 11046 of August 24, 1962 ("Authorizing Award of the Bronze Star Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 1 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 71. Executive Order 11016 of April 25, 1962 ("Authorizing Award of the Purple Heart"), as amended, is further amended by striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 72. Executive Order 10977 of December 4, 1961 ("Establishing the Armed Forces Expeditionary Medal"), as amended, is further amended by striking "the Secretary of Transportation" in section 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 73. Executive Order 10789 of November 14, 1958 ("Authorizing Agencies of the Government To Exercise Certain Contracting Authority in Connection With National-Defense Functions and Prescribing Regulations Governing the Exercise of Such Authority"), as amended, is further amended by:

(a) striking "The Federal Emergency Management Agency" in paragraph 21 and inserting "Department of Homeland Security" in lieu thereof; and

(b) inserting at the end thereof the following new Part:

"Part III -- Coordination with Other Authorities

25. After March 1, 2003, no executive department or agency shall exercise authority granted under paragraph 1A of this order with respect to any matter that has been, or could be, designated by the Secretary of Homeland Security as a qualified anti-terrorism technology as defined in section 865 of the Homeland Security Act of 2002, unless--

(a) in the case of the Department of Defense, the Secretary of Defense has, after consideration of the authority provided under subtitle G of title VIII of the Homeland Security Act of 2002, determined that the exercise of authority under this order is necessary for the timely and effective conduct of United States military or intelligence activities; and

(b) in the case of any other executive department or agency that has authority under this order, (i) the Secretary of Homeland Security has advised whether the use of the authority provided under subtitle G of title VIII of the Homeland Security Act of 2002 would be appropriate, and (ii) the Director of the Office and Management and Budget has approved the exercise of authority under this order."

Sec. 74. Executive Order 10694 of January 10, 1957 ("Authorizing the Secretaries of the Army, Navy, and Air Force to Issue Citations in the Name of the President of the United States to Military and Naval Units for Outstanding Performance in Action"), is amended by adding at the end thereof the following new

section: "5. The Secretary of the Department in which the Coast Guard is operating may exercise the same authority with respect to the Coast Guard under this order as the Secretary of the Navy may exercise with respect to the Navy and the Marine Corps under this order."

Sec. 75. Executive Order 10637 of September 16, 1955 ("Delegating to the Secretary of the Treasury Certain Functions of the President Relating to the United States Coast Guard"), is amended by:

(a) striking "The Secretary of the Treasury" in sections 1 and 2 and inserting "The Secretary of Homeland Security" in lieu thereof;

(b) striking "the Secretary of the Treasury" in the title and in subsections 1(j), 1(k), and 5, and inserting "the Secretary of Homeland Security" in lieu thereof; and

(c) striking subsection 1(r) and redesignating subsection 1(s) as subsection 1(r).

Sec. 76. Executive Order 10631 of August 17, 1955 ("Code of Conduct for Members of the Armed Forces of the United States"), as amended, is further amended by: striking "the Secretary of Transportation" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 77. Executive Order 10554 of August 18, 1954 ("Delegating the Authority of the President to Prescribe Regulations Authorizing Occasions Upon Which the Uniform May Be Worn by Persons Who Have Served Honorably in the Armed Forces in Time of War"), is amended by striking "the Secretary of the Treasury" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 78. Executive Order 10499 of November 4, 1953 ("Delegating Functions Conferred Upon the President by Section 8 of the Uniformed Services Contingency Option Act of 1953"), as amended, is further amended by striking "the Treasury" in sections 1 and 2 and inserting "Homeland Security" in lieu thereof.

Sec. 79. Executive Order 10448 of April 22, 1953 ("Authorizing the National Defense Medal"), as amended, is further amended by striking "the Secretary of Transportation" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 80. Executive Order 10271 of July 7, 1951 ("Delegating the Authority of the President to Order Members and Units of Reserve Components of the Armed Forces into Active Federal service"), is amended by striking "the Secretary of the Treasury" and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 81. Executive Order 10179 of November 8, 1950 ("Establishing the Korean Service Medal"), as amended, is further amended by striking "the Secretary of the Treasury" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 82. Executive Order 10163 of September 25, 1950 ("The Armed Forces Reserve Medal"), as amended, is further amended by striking "the Secretary of the Treasury" in sections 2 and 7 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 83. Executive Order 10113 of February 24, 1950 ("Delegating the Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in lieu thereof, for Enlisted Men in the Armed Forces"), as amended, is further amended by striking "the Secretary of the Treasury" in sections 1 and 2 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 84. Executive Order 4601 of March 1, 1927 ("Distinguished Flying Cross"), as amended, is further amended by:

(a) striking "The Secretary of War, the Secretary of the Navy," in sections 2 and 12 and inserting "The Secretary of Defense" in lieu thereof; and

(b) striking "the Secretary of the Treasury" in sections 2 and 12 and inserting "the Secretary of Homeland Security" in lieu thereof.

Sec. 85. Designation as a Defense Agency of the United States.

I hereby designate the Department of Homeland Security as a defense agency of the United States for the purposes of chapter 17 of title 35 of the United States Code.

Sec. 86. Exception from the Provisions of the Government Employees Training Act.

Those elements of the Department of Homeland Security that are supervised by the Under Secretary of Homeland Security for

Information Analysis and Infrastructure Protection through the Department's Assistant Secretary for Information Analysis are, pursuant to section 4102(b)(1) of title 5, United States Code, and in the public interest, excepted from the following provisions of the Government Employees Training Act as codified in title 5: sections 4103(a)(1), 4108, 4115, 4117, and 4118, and that part of 4109(a) that provides "under the regulations prescribed under section 4118(a)(8) of this title and".

Sec. 87. Functions of Certain Officials in the Coast Guard.

The Commandant and the Assistant Commandant for Intelligence of the Coast Guard each shall be considered a "Senior Official of the Intelligence Community" for purposes of Executive Order 12333 of December 4, 1981, and all other relevant authorities.

Sec. 88. Order of Succession.

Subject to the provisions of subsection (b) of this section, the officers named in subsection (a) of this section, in the order listed, shall act as, and perform the functions and duties of, the office of Secretary of Homeland Security ("Secretary") during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

(a) Order of Succession.

(i) Deputy Secretary of Homeland Security;

(ii) Under Secretary for Border and Transportation Security;

(iii) Under Secretary for Emergency Preparedness and Response;

(iv) Under Secretary for Information Analysis and Infrastructure Protection;

(v) Under Secretary for Management;

(vi) Under Secretary for Science and Technology;

(vii) General Counsel; and

(viii) Assistant Secretaries in the Department in the order of their date of appointment as such.

(b) Exceptions.

(i) No individual who is serving in an office listed in subsection (a) in an acting capacity shall act as Secretary pursuant to this section.

(ii) Notwithstanding the provisions of this section, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 et seq., to depart from this order in designating an acting Secretary.

Sec. 89. Savings Provision.

Except as otherwise specifically provided above or in Executive Order 13284 of January 23, 2003 ("Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security"), references in any prior Executive Order relating to an agency or an agency component that is transferred to the Department of Homeland Security ("the Department"), or relating to a function that is transferred to the Secretary of Homeland Security, shall be deemed to refer, as appropriate, to the Department or its officers, employees, agents, organizational units, or functions.

Sec. 90. Nothing in this order shall be construed to impair or otherwise affect the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces of the United States under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title.

Sec. 91. Nothing in this order shall be construed to limit or restrict the authorities of the Central Intelligence Agency and the Director of Central Intelligence pursuant to the National Security Act of 1947 and the CIA Act of 1949.

Sec. 92. This order shall become effective on March 1, 2003.

Sec. 93. This order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH  
THE WHITE HOUSE,  
February 28, 2003.

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**AMENDMENT(S) : None**

## APPENDIX 2-8: PDD 39

### Presidential Decision Directive 39, June 21, 1995, United States Policy on Counterterrorism

**Purpose.** To provide an unclassified synopsis of the U.S. national policy on terrorism as laid out in Presidential Decision Directive-39 (PDD-39).

**Background.** On June 21, 1995, the President signed PDD-39, U.S. Policy on Counterterrorism. This classified document laid out the national policy and assigned specific missions to designated Federal Departments and agencies. This unclassified synopsis is provided to enable Federal, State, and local emergency response and Consequence Management personnel without appropriate security clearances to have a basic understanding of the provisions of PDD-39.

PDD-39 validates and reaffirms existing Federal Lead Agency responsibilities for counterterrorism, which are assigned to the Department of Justice (DOJ), as delegated to the Federal Bureau of Investigation (FBI), for threats or acts of terrorism within the United States. The FBI as the lead for Crisis Management will involve only those Federal agencies required and designated in classified documents. The Directive further states that the Federal Emergency Management Agency (FEMA), with the support of all agencies in the Federal Response Plan (FRP), will support the FBI in Washington, DC, and on scene until the Attorney General transfers Lead Agency to FEMA. FEMA retains responsibility for Consequence Management throughout the Federal response.

**Definitions.** Crisis Management includes measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, and/or resolve a threat or act of terrorism. The laws of the United States assign primary authority to the Federal Government to prevent and respond to acts of terrorism; State and local governments provide assistance as required. Crisis management is predominantly a law enforcement response.

Consequence Management includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses, and individuals affected by the consequences of terrorism. The laws of the United States assign primary authority to the States to respond to the consequences of terrorism; the Federal Government provides assistance as required.

#### U.S. Policy on Counterterrorism

*General.* Terrorism is both a threat to our national security as well as a criminal act. The Administration has stated that it is the policy of the United States to use all appropriate means to deter, defeat, and respond to all terrorist attacks on our territory and resources, both with people and facilities, wherever they occur. In support of these efforts, the United States will:

- Employ efforts to deter, preempt, apprehend, and prosecute terrorists.
- Work closely with other governments to carry out counterterrorism policy and combat terrorist threats against them.
- Identify sponsors of terrorists, isolate them, and ensure they pay for their actions.
- Make no concessions to terrorists.
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*Measures to Combat Terrorism.* To ensure that the United States is prepared to combat terrorism in all of its forms, a number of measures have been directed. These include reducing vulnerabilities to terrorism, deterring and responding to terrorist attacks, and having capabilities to prevent and manage the consequences of terrorist use of nuclear, biological, or chemical (NBC) weapons, including those of mass destruction.

a. *Reduce Vulnerabilities.* In order to reduce vulnerabilities to terrorism, both at home and abroad, all departmental/agency heads have been directed to ensure that their personnel and facilities are fully protected against terrorism. Specific efforts that will be conducted to ensure our security against terrorist attacks include the following:

- Review the vulnerability of government facilities and critical national infrastructure.
- Expand the program of counterterrorism.
- Reduce vulnerabilities affecting civilian personnel/facilities abroad and military personnel/facilities.
- Exclude/deport persons who pose a terrorist threat.
- Prevent unlawful traffic in firearms and explosives and protect the President and other officials against terrorist attack.
- Reduce U.S. vulnerabilities to international terrorism through intelligence collection/ analysis, counterintelligence, and covert action.

b. *Deter.* To deter terrorism, it is necessary to provide a clear public position that our policies will not be affected by terrorist acts and we will vigorously deal with terrorists/sponsors to reduce terrorist capabilities and support. In this regard, we must make it clear that we will not allow terrorism to succeed and that the pursuit, arrest, and prosecution of terrorists are of the highest priority. Our goals include the disruption of terrorist sponsored activity, including termination of financial support, arrest and punishment of terrorists as criminals, application of U.S. laws and new legislation to prevent terrorist groups from operating in the United States, and application of extraterritorial statutes to counter acts of terrorism and apprehend terrorists outside of the United States. The return of terrorists overseas who are wanted for violation of U.S. law is of the highest priority and a central issue in bilateral relations with any state that harbors or assists them.

c. *Respond.* To respond to terrorism, we must have a rapid and decisive capability to protect Americans, defeat or arrest terrorists, respond against terrorist sponsors, and provide relief to the victims of terrorists. The goal during the immediate response phase of an incident is to terminate terrorist attacks, so the terrorists do not accomplish their objectives or maintain their freedom, while seeking to minimize damage and loss of life and provide emergency assistance. After an incident has occurred, a rapidly deployable interagency Emergency Support Team (EST) will provide required capabilities on scene: a Foreign Emergency Support Team (FEST) for foreign incidents, and a Domestic Emergency Support Team (DEST) for domestic incidents. DEST membership will be limited to those agencies required to respond to the specific incident. Both teams will include elements for specific types of incidents such as nuclear, chemical, and biological threats.

The Director, FEMA will ensure that the FRP is adequate for Consequence Management activities in response to terrorist attacks against large U.S. populations, including those where weapons of mass destruction (WMD) are involved. FEMA will also ensure that State response plans and capabilities are adequate and tested. FEMA, supported by all FRP signatories, will assume the Lead Agency role for consequence management in Washington, DC, and on scene. If large-scale casualties and infrastructure damage occur, the President may appoint a Personal Representative for Consequence Management as the on-scene Federal authority during recovery. A roster of senior and former government officials willing to perform these functions will be created, and the rostered individuals will be provided training and information necessary to allow themselves to be called on short notice.

Agencies will bear the cost of their participation in terrorist incidents and counter-terrorist operations, unless otherwise directed.

d. *NBC Consequence Management.* The development of effective capabilities for preventing and managing the consequence of terrorist use of NBC materials or weapons is of the highest priority. Terrorist acquisition of WMD is not acceptable, and there is no higher priority than preventing the acquisition of such materials/weapons or removing the capability from terrorist groups.

**AMENDMENT(S): None**



## **APPENDIX 2-9: PDD 62**

### **Presidential Decision Directive 62, May 22, 1988, Combating Terrorism**

Since he took office, President Clinton has made the fight against terrorism a top national security objective. The President has worked to deepen our cooperation with our friends and allies abroad, strengthen law enforcement's counterterrorism tools and improve security on airplanes and at airports. These efforts have paid off as major terrorist attacks have been foiled and more terrorists have been apprehended, tried and given severe prison terms.

Yet America's unrivaled military superiority means that potential enemies -- whether nations or terrorist groups -- that choose to attack us will be more likely to resort to terror instead of conventional military assault. Moreover, easier access to sophisticated technology means that the destructive power available to terrorists is greater than ever. Adversaries may thus be tempted to use unconventional tools, such as weapons of mass destruction, to target our cities and disrupt the operations of our government. They may try to attack our economy and critical infrastructure using advanced computer technology.

President Clinton is determined that in the coming century, we will be capable of deterring and preventing such terrorist attacks. The President is convinced that we must also have the ability to limit the damage and manage the consequences should such an attack occur.

To meet these challenges, President Clinton signed Presidential Decision Directive 62. This Directive creates a new and more systematic approach to fighting the terrorist threat of the next century. It reinforces the mission of the many U.S. agencies charged with roles in defeating terrorism; it also codifies and clarifies their activities in the wide range of U.S. counter-terrorism programs, from apprehension and prosecution of terrorists to increasing transportation security, enhancing response capabilities and protecting the computer-based systems that lie at the heart of America's economy. The Directive will help achieve the President's goal of ensuring that we meet the threat of terrorism in the 21st century with the same rigor that we have met military threats in this century.

#### **The National Coordinator**

To achieve this new level of integration in the fight against terror, PDD-62 establishes the office of the National Coordinator for Security, Infrastructure Protection and Counter-Terrorism. The National Coordinator will oversee the broad variety of relevant polices and programs including such areas as counter-terrorism, protection of critical infrastructure, preparedness and consequence management for weapons of mass destruction. The National Coordinator will work within the National Security Council, report to the President through the Assistant to the President for National Security Affairs and produce for him an annual Security Preparedness Report. The National Coordinator will also provide advice regarding budgets for counter-terror programs and coordinate the development of guidelines that might be needed for crisis management.

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**AMENDMENT(S): None**

## **APPENDIX 2-10: PDD 63**

### **Presidential Decision Directive 63, May 22 1998, Protecting America's Critical Infrastructures**

This Presidential Directive builds on the recommendations of the President's Commission on Critical Infrastructure Protection. In October 1997 the Commission issued its report, calling for a national effort to

assure the security of the United States' increasingly vulnerable and interconnected infrastructures, such as telecommunications, banking and finance, energy, transportation, and essential government services. Presidential Decision Directive 63 is the culmination of an intense, interagency effort to evaluate those recommendations and produce a workable and innovative framework for critical infrastructure protection.

The President's policy:

- Sets a goal of a reliable, interconnected, and secure information system infrastructure by the year 2003, and significantly increased security for government systems by the year 2000, by:
  - Immediately establishing a national center to warn of and respond to attacks.
  - Building the capability to protect critical infrastructures from intentional acts by 2003.
- Addresses the cyber and physical infrastructure vulnerabilities of the Federal government by requiring each department and agency to work to reduce its exposure to new threats;
- Requires the Federal government to serve as a model to the rest of the country for how infrastructure protection is to be attained;
- Seeks the voluntary participation of private industry to meet common goals for protecting our critical systems through public-private partnerships;
- Protects privacy rights and seeks to utilize market forces. It is meant to strengthen and protect the nation's economic power, not to stifle it.
- Seeks full participation and input from the Congress.

PDD-63 sets up a new structure to deal with this important challenge:

- a *National Coordinator* whose scope will include not only critical infrastructure but also foreign terrorism and threats of domestic mass destruction (including biological weapons) because attacks on the US may not come labeled in neat jurisdictional boxes;
- The *National Infrastructure Protection Center* (NIPC) at the FBI which will fuse representatives from FBI, DOD, USSS, Energy, Transportation, the Intelligence Community, and the private sector in an unprecedented attempt at information sharing among agencies in collaboration with the private sector. The NIPC will also provide the principal means of facilitating and coordinating the Federal Government's response to an incident, mitigating attacks, investigating threats and monitoring reconstitution efforts;
- An *Information Sharing and Analysis Center* (ISAC) is encouraged to be set up by the private sector, in cooperation with the federal government;
- A *National Infrastructure Assurance Council* drawn from private sector leaders and state/local officials to provide guidance to the policy formulation of a National plan
- The *Critical Infrastructure Assurance Office* will provide support to the National Coordinator's work with government agencies and the private sector in developing a national plan. The office will also help coordinate a national education and awareness program, and legislative and public affairs.

**AMENDMENT(S): None**

## **APPENDIX 2-11: HSPD-5**

### **Homeland Security Presidential Directive (HSPD) 5, February 28, 2003, Management of Domestic Incidents**

Purpose

(1) To enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system.

Definitions

(2) In this directive:

(a) the term "Secretary" means the Secretary of Homeland Security.

(b) the term "Federal departments and agencies" means those executive departments enumerated in 5 U.S.C. 101, together with the Department of Homeland Security; independent establishments as defined by 5 U.S.C. 104(1); government corporations as defined by 5 U.S.C. 103(1); and the United States Postal Service.

(c) the terms "State," "local," and the "United States" when it is used in a geographical sense, have the same meanings as used in the Homeland Security Act of 2002, Public Law 107-296.

#### Policy

(3) To prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies, the United States Government shall establish a single, comprehensive approach to domestic incident management. The objective of the United States Government is to ensure that all levels of government across the Nation have the capability to work efficiently and effectively together, using a national approach to domestic incident management. In these efforts, with regard to domestic incidents, the United States Government treats crisis management and consequence management as a single, integrated function, rather than as two separate functions.

(4) The Secretary of Homeland Security is the principal Federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the Secretary is responsible for coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. The Secretary shall coordinate the Federal Government's resources utilized in response to or recovery from terrorist attacks, major disasters, or other emergencies if and when any one of the following four conditions applies: (1) a Federal department or agency acting under its own authority has requested the assistance of the Secretary; (2) the resources of State and local authorities are overwhelmed and Federal assistance has been requested by the appropriate State and local authorities; (3) more than one Federal department or agency has become substantially involved in responding to the incident; or (4) the Secretary has been directed to assume responsibility for managing the domestic incident by the President.

(5) Nothing in this directive alters, or impedes the ability to carry out, the authorities of Federal departments and agencies to perform their responsibilities under law. All Federal departments and agencies shall cooperate with the Secretary in the Secretary's domestic incident management role.

(6) The Federal Government recognizes the roles and responsibilities of State and local authorities in domestic incident management. Initial responsibility for managing domestic incidents generally falls on State and local authorities. The Federal Government will assist State and local authorities when their resources are overwhelmed, or when Federal interests are involved. The Secretary will coordinate with State and local governments to ensure adequate planning, equipment, training, and exercise activities. The Secretary will also provide assistance to State and local governments to develop all-hazards plans and capabilities, including those of greatest importance to the security of the United States, and will ensure that State, local, and Federal plans are compatible.

(7) The Federal Government recognizes the role that the private and nongovernmental sectors play in preventing, preparing for, responding to, and recovering from terrorist attacks, major disasters, and other emergencies. The Secretary will coordinate with the private and nongovernmental sectors to ensure adequate planning, equipment, training, and exercise activities and to promote partnerships to address incident management capabilities.

(8) The Attorney General has lead responsibility for criminal investigations of terrorist acts or terrorist threats by individuals or groups inside the United States, or directed at United States citizens or institutions abroad, where such acts are within the Federal criminal jurisdiction of the United States, as well as for related intelligence collection activities within the United States, subject to the National Security Act of 1947 and other applicable law, Executive Order 12333, and Attorney General-approved procedures pursuant to that Executive Order. Generally acting through the Federal Bureau of Investigation, the Attorney General, in cooperation with other Federal departments and agencies engaged in activities to protect our national security, shall also coordinate the activities of the other members of the law

enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States. Following a terrorist threat or an actual incident that falls within the criminal jurisdiction of the United States, the full capabilities of the United States shall be dedicated, consistent with United States law and with activities of other Federal departments and agencies to protect our national security, to assisting the Attorney General to identify the perpetrators and bring them to justice. The Attorney General and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

(9) Nothing in this directive impairs or otherwise affects the authority of the Secretary of Defense over the Department of Defense, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures. The Secretary of Defense shall provide military support to civil authorities for domestic incidents as directed by the President or when consistent with military readiness and appropriate under the circumstances and the law. The Secretary of Defense shall retain command of military forces providing civil support. The Secretary of Defense and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

(10) The Secretary of State has the responsibility, consistent with other United States Government activities to protect our national security, to coordinate international activities related to the prevention, preparation, response, and recovery from a domestic incident, and for the protection of United States citizens and United States interests overseas. The Secretary of State and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

(11) The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall be responsible for interagency policy coordination on domestic and international incident management, respectively, as directed by the President. The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall work together to ensure that the United States domestic and international incident management efforts are seamlessly united.

(12) The Secretary shall ensure that, as appropriate, information related to domestic incidents is gathered and provided to the public, the private sector, State and local authorities, Federal departments and agencies, and, generally through the Assistant to the President for Homeland Security, to the President. The Secretary shall provide standardized, quantitative reports to the Assistant to the President for Homeland Security on the readiness and preparedness of the Nation -- at all levels of government -- to prevent, prepare for, respond to, and recover from domestic incidents.

(13) Nothing in this directive shall be construed to grant to any Assistant to the President any authority to issue orders to Federal departments and agencies, their officers, or their employees.

#### Tasking

(14) The heads of all Federal departments and agencies are directed to provide their full and prompt cooperation, resources, and support, as appropriate and consistent with their own responsibilities for protecting our national security, to the Secretary, the Attorney General, the Secretary of Defense, and the Secretary of State in the exercise of the individual leadership responsibilities and missions assigned in paragraphs (4), (8), (9), and (10), respectively, above.

(15) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Incident Management System (NIMS). This system will provide a consistent nationwide approach for Federal, State, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among Federal, State, and local capabilities, the NIMS will include a core set of concepts, principles, terminology, and technologies covering the incident command system; multi-agency coordination systems; unified command; training; identification and management of resources (including systems for classifying types of resources); qualifications and certification; and the collection, tracking, and reporting of incident information and incident resources.

(16) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Response Plan (NRP). The Secretary shall consult with appropriate Assistants to the President (including the Assistant to the President for Economic Policy) and the Director of the Office of Science and Technology Policy, and other such Federal officials as may be appropriate, in developing and implementing the NRP. This plan shall integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan. The NRP shall be unclassified. If certain operational aspects require classification, they shall be included in classified annexes to the NRP.

- (a) The NRP, using the NIMS, shall, with regard to response to domestic incidents, provide the structure and mechanisms for national level policy and operational direction for Federal support to State and local incident managers and for exercising direct Federal authorities and responsibilities, as appropriate.
- (b) The NRP will include protocols for operating under different threats or threat levels; incorporation of existing Federal emergency and incident management plans (with appropriate modifications and revisions) as either integrated components of the NRP or as supporting operational plans; and additional operational plans or annexes, as appropriate, including public affairs and intergovernmental communications.
- (c) The NRP will include a consistent approach to reporting incidents, providing assessments, and making recommendations to the President, the Secretary, and the Homeland Security Council.
- (d) The NRP will include rigorous requirements for continuous improvements from testing, exercising, experience with incidents, and new information and technologies.

(17) The Secretary shall:

- (a) By April 1, 2003, (1) develop and publish an initial version of the NRP, in consultation with other Federal departments and agencies; and (2) provide the Assistant to the President for Homeland Security with a plan for full development and implementation of the NRP.
- (b) By June 1, 2003, (1) in consultation with Federal departments and agencies and with State and local governments, develop a national system of standards, guidelines, and protocols to implement the NIMS; and (2) establish a mechanism for ensuring ongoing management and maintenance of the NIMS, including regular consultation with other Federal departments and agencies and with State and local governments.
- (c) By September 1, 2003, in consultation with Federal departments and agencies and the Assistant to the President for Homeland Security, review existing authorities and regulations and prepare recommendations for the President on revisions necessary to implement fully the NRP.

(18) The heads of Federal departments and agencies shall adopt the NIMS within their departments and agencies and shall provide support and assistance to the Secretary in the development and maintenance of the NIMS. All Federal departments and agencies will use the NIMS in their domestic incident management and emergency prevention, preparedness, response, recovery, and mitigation activities, as well as those actions taken in support of State or local entities. The heads of Federal departments and agencies shall participate in the NRP, shall assist and support the Secretary in the development and maintenance of the NRP, and shall participate in and use domestic incident reporting systems and protocols established by the Secretary.

(19) The head of each Federal department and agency shall:

- (a) By June 1, 2003, make initial revisions to existing plans in accordance with the initial version of the NRP.
- (b) By August 1, 2003, submit a plan to adopt and implement the NIMS to the Secretary and the Assistant to the President for Homeland Security. The Assistant to the President for Homeland Security shall advise the President on whether such plans effectively implement the NIMS.

(20) Beginning in Fiscal Year 2005, Federal departments and agencies shall make adoption of the NIMS a requirement, to the extent permitted by law, for providing Federal preparedness assistance through grants, contracts, or other activities. The Secretary shall develop standards and guidelines for determining whether a State or local entity has adopted the NIMS.

Technical and Conforming Amendments to National Security Presidential Directive-1 (NSPD-1)

(21) NSPD-1 ("Organization of the National Security Council System") is amended by replacing the fifth sentence of the third paragraph on the first page with the following: "The Attorney General, the Secretary

of Homeland Security, and the Director of the Office of Management and Budget shall be invited to attend meetings pertaining to their responsibilities."

Technical and Conforming Amendments to National Security Presidential Directive-8 (NSPD-8)

(22) NSPD-8 ("National Director and Deputy National Security Advisor for Combating Terrorism") is amended by striking "and the Office of Homeland Security," on page 4, and inserting "the Department of Homeland Security, and the Homeland Security Council" in lieu thereof.

Technical and Conforming Amendments to Homeland Security Presidential Directive-2 (HSPD-2)

(23) HSPD-2 ("Combating Terrorism Through Immigration Policies") is amended as follows:

- (a) striking "the Commissioner of the Immigration and Naturalization Service (INS)" in the second sentence of the second paragraph in section 1, and inserting "the Secretary of Homeland Security" in lieu thereof ;
- (b) striking "the INS," in the third paragraph in section 1, and inserting "the Department of Homeland Security" in lieu thereof;
- (c) inserting ", the Secretary of Homeland Security," after "The Attorney General" in the fourth paragraph in section 1;
- (d) inserting ", the Secretary of Homeland Security," after "the Attorney General" in the fifth paragraph in section 1;
- (e) striking "the INS and the Customs Service" in the first sentence of the first paragraph of section 2, and inserting "the Department of Homeland Security" in lieu thereof;
- (f) striking "Customs and INS" in the first sentence of the second paragraph of section 2, and inserting "the Department of Homeland Security" in lieu thereof;
- (g) striking "the two agencies" in the second sentence of the second paragraph of section 2, and inserting "the Department of Homeland Security" in lieu thereof;
- (h) striking "the Secretary of the Treasury" wherever it appears in section 2, and inserting "the Secretary of Homeland Security" in lieu thereof;
- (i) inserting ", the Secretary of Homeland Security," after "The Secretary of State" wherever the latter appears in section 3;
- (j) inserting ", the Department of Homeland Security," after "the Department of State," in the second sentence in the third paragraph in section 3;
- (k) inserting "the Secretary of Homeland Security," after "the Secretary of State," in the first sentence of the fifth paragraph of section 3;
- (l) striking "INS" in the first sentence of the sixth paragraph of section 3, and inserting "Department of Homeland Security" in lieu thereof;
- (m) striking "the Treasury" wherever it appears in section 4 and inserting "Homeland Security" in lieu thereof;
- (n) inserting ", the Secretary of Homeland Security," after "the Attorney General" in the first sentence in section 5; and
- (o) inserting ", Homeland Security" after "State" in the first sentence of section 6.

Technical and Conforming Amendments to Homeland Security Presidential Directive-3 (HSPD-3)

(24) The Homeland Security Act of 2002 assigned the responsibility for administering the Homeland Security Advisory System to the Secretary of Homeland Security. Accordingly, HSPD-3 of March 11, 2002 ("Homeland Security Advisory System") is amended as follows:

- (a) replacing the third sentence of the second paragraph entitled "Homeland Security Advisory System" with "Except in exigent circumstances, the Secretary of Homeland Security shall seek the views of the Attorney General, and any other federal agency heads the Secretary deems appropriate, including other members of the Homeland Security Council, on the Threat Condition to be assigned."
- (b) inserting "At the request of the Secretary of Homeland Security, the Department of Justice shall permit and facilitate the use of delivery systems administered or managed by the Department of Justice for the purposes of delivering threat information pursuant to the Homeland Security Advisory System." as a new paragraph after the fifth paragraph of the section entitled "Homeland Security Advisory System."
- (c) inserting ", the Secretary of Homeland Security" after "The Director of Central Intelligence" in the first sentence of the seventh paragraph of the section entitled "Homeland Security Advisory System".

(d) striking "Attorney General" wherever it appears (except in the sentences referred to in subsections (a) and (c) above), and inserting "the Secretary of Homeland Security" in lieu thereof; and  
(e) striking the section entitled "Comment and Review Periods."

GEORGE W. BUSH

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**AMENDMENT(S): None**

## **APPENDIX 2-12 : HSPD-8**

**SUBJECT: National Preparedness**

### **Purpose**

1. This directive establishes policies to strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a national domestic all-hazards preparedness goal, establishing mechanisms for improved delivery of Federal preparedness assistance to State and local governments, and outlining actions to strengthen preparedness capabilities of Federal, State, and local entities.

### **Definitions**

2. For the purposes of this directive:
  - a. The term "all-hazards preparedness" refers to preparedness for domestic terrorist attacks, major disasters, and other emergencies.
  - b. The term "Federal departments and agencies" means those executive departments enumerated in 5 U.S.C. 101, and the Department of Homeland Security; independent establishments as defined by 5 U.S.C. 104(1); Government corporations as defined by 5 U.S.C. 103(1); and the United States Postal Service.
  - c. The term "Federal preparedness assistance" means Federal department and agency grants, cooperative agreements, loans, loan guarantees, training, and/or technical assistance provided to State and local governments and the private sector to prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. Unless noted otherwise, the term "assistance" will refer to Federal assistance programs.
  - d. The term "first responder" refers to those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations.
  - e. The terms "major disaster" and "emergency" have the meanings given in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).
  - f. The term "major events" refers to domestic terrorist attacks, major disasters, and other emergencies.
  - g. The term "national homeland security preparedness-related exercises" refers to homeland security-related exercises that train and test national decision makers and utilize resources of multiple Federal departments and agencies. Such exercises may involve State and local

first responders when appropriate. Such exercises do not include those exercises conducted solely within a single Federal department or agency.

- h. The term "preparedness" refers to the existence of plans, procedures, policies, training, and equipment necessary at the Federal, State, and local level to maximize the ability to prevent, respond to, and recover from major events. The term "readiness" is used interchangeably with preparedness.
- i. The term "prevention" refers to activities undertaken by the first responder community during the early stages of an incident to reduce the likelihood or consequences of threatened or actual terrorist attacks. More general and broader efforts to deter, disrupt, or thwart terrorism are not addressed in this directive.
- j. The term "Secretary" means the Secretary of Homeland Security.
- k. The terms "State," and "local government," when used in a geographical sense, have the same meanings given to those terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

### **Relationship to HSPD-5**

- 3. This directive is a companion to HSPD-5, which identifies steps for improved coordination in response to incidents. This directive describes the way Federal departments and agencies will prepare for such a response, including prevention activities during the early stages of a terrorism incident.

### **Development of a National Preparedness Goal**

- 4. The Secretary is the principal Federal official for coordinating the implementation of all-hazards preparedness in the United States. In cooperation with other Federal departments and agencies, the Secretary coordinates the preparedness of Federal response assets, and the support for, and assessment of, the preparedness of State and local first responders.
- 5. To help ensure the preparedness of the Nation to prevent, respond to, and recover from threatened and actual domestic terrorist attacks, major disasters, and other emergencies, the Secretary, in coordination with the heads of other appropriate Federal departments and agencies and in consultation with State and local governments, shall develop a national domestic all-hazards preparedness goal. Federal departments and agencies will work to achieve this goal by:
  - a. providing for effective, efficient, and timely delivery of Federal preparedness assistance to State and local governments; and
  - b. supporting efforts to ensure first responders are prepared to respond to major events, especially prevention of and response to threatened terrorist attacks.
- 6. The national preparedness goal will establish measurable readiness priorities and targets that appropriately balance the potential threat and magnitude of terrorist attacks, major disasters, and other emergencies with the resources required to prevent, respond to, and recover from them. It will also include readiness metrics and elements that support the national preparedness goal including standards for preparedness assessments and strategies, and a system for assessing the Nation's overall preparedness to respond to major events, especially those involving acts of terrorism.
- 7. The Secretary will submit the national preparedness goal to me through the Homeland Security Council (HSC) for review and approval prior to, or concurrently with, the Department of Homeland Security's Fiscal Year 2006 budget submission to the Office of Management and Budget.

### **Federal Preparedness Assistance**

- 8. The Secretary, in coordination with the Attorney General, the Secretary of Health and Human Services (HHS), and the heads of other Federal departments and agencies that provide assistance for first responder preparedness, will establish a single point of access to Federal preparedness



assistance program information within 60 days of the issuance of this directive. The Secretary will submit to me through the HSC recommendations of specific Federal department and agency programs to be part of the coordinated approach. All Federal departments and agencies will cooperate with this effort. Agencies will continue to issue financial assistance awards consistent with applicable laws and regulations and will ensure that program announcements, solicitations, application instructions, and other guidance documents are consistent with other Federal preparedness programs to the extent possible. Full implementation of a closely coordinated interagency grant process will be completed by September 30, 2005.

9. To the extent permitted by law, the primary mechanism for delivery of Federal preparedness assistance will be awards to the States. Awards will be delivered in a form that allows the recipients to apply the assistance to the highest priority preparedness requirements at the appropriate level of government. To the extent permitted by law, Federal preparedness assistance will be predicated on adoption of Statewide comprehensive all-hazards preparedness strategies. The strategies should be consistent with the national preparedness goal, should assess the most effective ways to enhance preparedness, should address areas facing higher risk, especially to terrorism, and should also address local government concerns and Citizen Corps efforts. The Secretary, in coordination with the heads of other appropriate Federal departments and agencies, will review and approve strategies submitted by the States. To the extent permitted by law, adoption of approved Statewide strategies will be a requirement for receiving Federal preparedness assistance at all levels of government by September 30, 2005.
10. In making allocations of Federal preparedness assistance to the States, the Secretary, the Attorney General, the Secretary of HHS, the Secretary of Transportation, the Secretary of Energy, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, and the heads of other Federal departments and agencies that provide assistance for first responder preparedness will base those allocations on assessments of population concentrations, critical infrastructures, and other significant risk factors, particularly terrorism threats, to the extent permitted by law.
11. Federal preparedness assistance will support State and local entities' efforts including planning, training, exercises, interoperability, and equipment acquisition for major events as well as capacity building for prevention activities such as information gathering, detection, deterrence, and collaboration related to terrorist attacks. Such assistance is not primarily intended to support existing capacity to address normal local first responder operations, but to build capacity to address major events, especially terrorism.
12. The Attorney General, the Secretary of HHS, the Secretary of Transportation, the Secretary of Energy, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, and the heads of other Federal departments and agencies that provide assistance for first responder preparedness shall coordinate with the Secretary to ensure that such assistance supports and is consistent with the national preparedness goal.
13. Federal departments and agencies will develop appropriate mechanisms to ensure rapid obligation and disbursement of funds from their programs to the States, from States to the local community level, and from local entities to the end users to derive maximum benefit from the assistance provided. Federal departments and agencies will report annually to the Secretary on the obligation, expenditure status, and the use of funds associated with Federal preparedness assistance programs.

### **Equipment**

14. The Secretary, in coordination with State and local officials, first responder organizations, the private sector and other Federal civilian departments and agencies, shall establish and implement streamlined procedures for the ongoing development and adoption of appropriate first responder equipment standards that support nationwide interoperability and other capabilities consistent with the national preparedness goal, including the safety and health of first responders.
15. To the extent permitted by law, equipment purchased through Federal preparedness assistance for first responders shall conform to equipment standards in place at time of purchase. Other Federal departments and agencies that support the purchase of first responder equipment will coordinate their programs with the Department of Homeland Security and conform to the same standards.

16. The Secretary, in coordination with other appropriate Federal departments and agencies and in consultation with State and local governments, will develop plans to identify and address national first responder equipment research and development needs based upon assessments of current and future threats. Other Federal departments and agencies that support preparedness research and development activities shall coordinate their efforts with the Department of Homeland Security and ensure they support the national preparedness goal.

### **Training and Exercises**

17. The Secretary, in coordination with the Secretary of HHS, the Attorney General, and other appropriate Federal departments and agencies and in consultation with State and local governments, shall establish and maintain a comprehensive training program to meet the national preparedness goal. The program will identify standards and maximize the effectiveness of existing Federal programs and financial assistance and include training for the Nation's first responders, officials, and others with major event preparedness, prevention, response, and recovery roles. Federal departments and agencies shall include private organizations in the accreditation and delivery of preparedness training as appropriate and to the extent permitted by law.
18. The Secretary, in coordination with other appropriate Federal departments and agencies, shall establish a national program and a multi-year planning system to conduct homeland security preparedness-related exercises that reinforces identified training standards, provides for evaluation of readiness, and supports the national preparedness goal. The establishment and maintenance of the program will be conducted in maximum collaboration with State and local governments and appropriate private sector entities. All Federal departments and agencies that conduct national homeland security preparedness-related exercises shall participate in a collaborative, interagency process to designate such exercises on a consensus basis and create a master exercise calendar. The Secretary will ensure that exercises included in the calendar support the national preparedness goal. At the time of designation, Federal departments and agencies will identify their level of participation in national homeland security preparedness-related exercises. The Secretary will develop a multi-year national homeland security preparedness-related exercise plan and submit the plan to me through the HSC for review and approval.
19. The Secretary shall develop and maintain a system to collect, analyze, and disseminate lessons learned, best practices, and information from exercises, training events, research, and other sources, including actual incidents, and establish procedures to improve national preparedness to prevent, respond to, and recover from major events. The Secretary, in coordination with other Federal departments and agencies and State and local governments, will identify relevant classes of homeland-security related information and appropriate means of transmission for the information to be included in the system. Federal departments and agencies are directed, and State and local governments are requested, to provide this information to the Secretary to the extent permitted by law.

### **Federal Department and Agency Preparedness**

20. The head of each Federal department or agency shall undertake actions to support the national preparedness goal, including adoption of quantifiable performance measurements in the areas of training, planning, equipment, and exercises for Federal incident management and asset preparedness, to the extent permitted by law. Specialized Federal assets such as teams, stockpiles, and caches shall be maintained at levels consistent with the national preparedness goal and be available for response activities as set forth in the National Response Plan, other appropriate operational documents, and applicable authorities or guidance. Relevant Federal regulatory requirements should be consistent with the national preparedness goal. Nothing in this directive shall limit the authority of the Secretary of Defense with regard to the command and control, training, planning, equipment, exercises, or employment of Department of Defense forces, or the allocation of Department of Defense resources.
21. The Secretary, in coordination with other appropriate Federal civilian departments and agencies, shall develop and maintain a Federal response capability inventory that includes the performance

parameters of the capability, the timeframe within which the capability can be brought to bear on an incident, and the readiness of such capability to respond to domestic incidents. The Department of Defense will provide to the Secretary information describing the organizations and functions within the Department of Defense that may be utilized to provide support to civil authorities during a domestic crisis.

#### **Citizen Participation**

22. The Secretary shall work with other appropriate Federal departments and agencies as well as State and local governments and the private sector to encourage active citizen participation and involvement in preparedness efforts. The Secretary shall periodically review and identify the best community practices for integrating private citizen capabilities into local preparedness efforts.

#### **Public Communication**

23. The Secretary, in consultation with other Federal departments and agencies, State and local governments, and non-governmental organizations, shall develop a comprehensive plan to provide accurate and timely preparedness information to public citizens, first responders, units of government, the private sector, and other interested parties and mechanisms for coordination at all levels of government.

#### **Assessment and Evaluation**

24. The Secretary shall provide to me through the Assistant to the President for Homeland Security an annual status report of the Nation's level of preparedness, including State capabilities, the readiness of Federal civil response assets, the utilization of mutual aid, and an assessment of how the Federal first responder preparedness assistance programs support the national preparedness goal. The first report will be provided within 1 year of establishment of the national preparedness goal.
25. Nothing in this directive alters, or impedes the ability to carry out, the authorities of the Federal departments and agencies to perform their responsibilities under law and consistent with applicable legal authorities and presidential guidance.
26. Actions pertaining to the funding and administration of financial assistance and all other activities, efforts, and policies in this directive shall be executed in accordance with law. To the extent permitted by law, these policies will be established and carried out in consultation with State and local governments.
27. This directive is intended only to improve the internal management of the executive branch of the Federal Government, and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

## **APPENDIX 2-13 : HSPD-8 ANNEX I**

### **Homeland Security Presidential Directive-8 Annex 1**

#### **Purpose**

28. This Annex is intended to further enhance the preparedness of the United States by formally establishing a standard and comprehensive approach to national planning. It is meant to provide guidance for conducting planning in accordance with the Homeland Security Management System in the National Strategy for Homeland Security of 2007.

## Background

29. The National Preparedness Guidelines designates planning as one of eight national priorities and as a target capability common across all homeland security mission areas. The capability to plan and a standard planning process are essential for the effective implementation and assessment of homeland security initiatives to prevent, protect against, respond to, and recover from terrorist attacks or natural disasters. The security of the Nation requires that all levels of government possess the ability to conduct planning, to develop standard, coordinated plans, and to identify and dedicate resources to the development of those plans. It is further imperative that such plans be regularly tested and improved through an inclusive and open process.

## Definitions

30. In this Annex:
- a. The phrase "Federal agencies with a role in homeland security" refers to those departments and agencies as set forth in
    - i. National Security Presidential Directive-1 (NSPD-1), (Organization of the National Security Council System) of February 13, 2001,
    - ii. Homeland Security Presidential Directive-1 (HSPD- 1) (Organization and Operation of the Homeland Security Council) of October 29, 2001,
    - iii. the National Response Plan as directed by Homeland Security Presidential Directive-5 (HSPD-5) (Management of Domestic Incidents) of February 28, 2003,
    - iv. the National Infrastructure Protection Plan as directed by Homeland Security Presidential Directive-7 (HSPD-7) (Critical Infrastructure Identification, Prioritization, and Protection) of December 17, 2003, and
    - v. the National Implementation Plan for the War on Terror.
  - b. The term "National Planning Scenario" means an event or threat scenario appropriate for national planning by and among all levels and jurisdictions of government, and in coordination with private, non-profit, and volunteer organizations.
  - c. The term "strategic guidance statement" refers to a document that outlines strategic priorities, broad national strategic objectives, and basic assumptions; describes the envisioned end-state; and establishes the general means necessary to accomplish that end.
  - d. The term "strategic plan" refers to a plan that defines the mission, identifies authorities, delineates roles and responsibilities, establishes mission essential tasks, determines required and priority capabilities, and develops performance and effectiveness measures.
  - e. The term "concept plan" or "CONPLAN" refers to a plan that briefly describes the concept of operations for integrating and synchronizing existing Federal capabilities to accomplish the mission essential tasks, and describes how Federal capabilities will be integrated into and support regional, State, local, and tribal plans.
  - f. The term "operations plan" or "OPLAN" refers to a plan that identifies detailed resource, personnel and asset allocations in order to execute the objectives of the strategic plan and turn strategic priorities into operational execution. An operations plan contains a full description of the concept of operations, to include specific roles and responsibilities, tasks, integration, and actions required, with supporting support function annexes as appropriate.
  - g. The term "tactical plan" refers to the detailed development and identification of individual tasks, actions, and objectives tailored to specific situations and fact patterns at an operational level. Tactical planning is meant to support and achieve the objectives of the operations plan.

## **Policy**

31. It is the policy of the United States Government to enhance the preparedness of the Nation by developing and maintaining a standardized approach to national planning to integrate and effect policy and operational objectives to prevent, protect against, respond to, and recover from all hazards, and comprises:
- a. a standardized Federal planning process;
  - b. national planning doctrine;
  - c. resourced operational and tactical planning capabilities at each Federal department and agency with a role in homeland security;
  - d. strategic guidance, strategic plans, concepts of operations, and operations plans and as appropriate, tactical plans; and
  - e. a system for integrating plans among all levels of government.

## **Development of a Standardized National Planning Process and Integration System**

32. There is established a planning process involving three levels of planning:
- a. strategic;
  - b. operational; and
  - c. tactical.

The planning process will result in the development of a family of related planning documents to include strategic guidance statements, strategic plans, concepts of operations, operations plans, and as appropriate, tactical plans.

33. No later than 2 months after the issuance of this Annex, the Secretary of Homeland Security (Secretary) shall submit to the President for approval, through the Assistant to the President for Homeland Security and Counterterrorism, an Integrated Planning System (IPS) that is developed in coordination with the heads of Federal agencies with a role in homeland security and that
- a. provides common processes for developing plans,
  - b. serves to implement phase one of the Homeland Security Management System, and
  - c. includes the following:
    - i. national planning doctrine and planning guidance, instruction, and process to ensure consistent planning across the Federal Government;
    - ii. a mechanism that provides for concept development to identify and analyze the mission and potential courses of action;
    - iii. a description of the process that allows for plan refinement and proper execution to reflect developments in risk, capabilities, or policies, as well as to incorporate lessons learned from exercises and actual events;
    - iv. a description of the process that links regional, State, local, and tribal plans, planning cycles, and processes and allows these plans to inform the development of Federal plans;
    - v. a process for fostering vertical and horizontal integration of Federal, State, local, and tribal plans that allows for State, local, and tribal capability assessments to feed into Federal plans; and
    - vi. a guide for all-hazards planning, with comprehensive, practical guidance and instruction on fundamental planning principles that can be used at Federal, State, local, and tribal levels to assist the planning process.

## **Development of National Planning Scenarios**

34. National Planning Scenarios shall be developed, updated, or amended as necessary by the Secretary, in coordination with the heads of Federal agencies with a role in homeland security, and shall be informed by a risk-based analysis intended to focus planning efforts on the most likely or most dangerous threats to the homeland. The Secretary shall update the National Planning Scenarios on a biennial basis, or more frequently if necessary, and notify the Assistant to the President for Homeland Security and Counterterrorism of any updates.

## **Federal Roles and Responsibilities**

35. After the approval of the IPS, the Secretary shall develop, in coordination with the heads of Federal agencies with a role in homeland security, a strategic guidance statement for each National Planning Scenario developed under section 34. A strategic guidance statement shall be effective upon its approval by the Secretary.
36. No later than 90 days after the approval of each strategic guidance statement, the Secretary shall develop, in coordination with the heads of Federal agencies with a role in homeland security and the Director of the National Counterterrorism Center (consistent with section 119 of the National Security Act of 1947, as amended (50 U.S.C. 404o)), a corresponding strategic plan. A strategic plan shall be effective upon its approval by the Secretary.
37. No later than 180 days after the approval of each strategic plan under section 36, the Secretary, in coordination with the heads of Federal agencies with a role in homeland security and in consultation with appropriate State, local, and tribal governments, shall develop a concept of operations plan (CONPLAN). A CONPLAN shall be effective upon its approval by the Secretary.
38. No later than 120 days after approval of each CONPLAN under section 37, the head of each Federal agency with a role in homeland security shall develop an operations plan (OPLAN) and, at his or her discretion, a tactical plan to execute the roles and responsibilities assigned to that agency in each CONPLAN. The development of an OPLAN (and any tactical plan) may begin before the commensurate strategic plan and CONPLAN are completed.
39. As part of regular budget submissions to the Director of the Office of Management and Budget, each Federal agency with a role in homeland security shall incorporate into its overall mission priorities and guidance constraints the following elements:
  - a. the estimated costs, if any, of its role in Federal strategic, operational, and tactical planning; and
  - b. the estimated costs of executing its responsibilities under any approved OPLAN.
40. The Secretary, in coordination with Federal agencies with a role in homeland security, shall develop a National Homeland Security Plan (Plan) that is an overarching strategic plan to guide national efforts to execute the National Strategy for Homeland Security of 2007. This Plan is intended to facilitate Federal homeland security coordination, establish priorities, and define roles and responsibilities for preventing, protecting against, responding to, and recovering from man-made or natural disasters. The Plan shall be submitted to the President for approval through the Assistant to the President for Homeland Security and Counterterrorism within 120 days of the approval of this Annex.

## **State and Local Planning**

41. Developing a synchronized and coordinated planning capability at all levels of government is of paramount national importance. To that end, the Secretary shall:

- a. expand opportunities for education, training, and professional development for planning communities at all levels, consistent with Executive Order 13434, National Security Professional Development, of May 17, 2007;
- b. identify opportunities within Federal homeland security preparedness programs, to foster effective synchronization of Federal, State, local, and tribal plans; and
- c. expand opportunities in the National Exercise Program to rigorously test and validate plans for a broader spectrum of the national planning community.

### **General Provisions**

42. All general provisions of HSPD-8 apply to this Annex.
43. This Annex is intended only to require Federal agencies with a role in homeland security to standardize their plans, participate in the broader Federal planning system for the purposes of interagency coordination, and participate in the development of formal plans as needed.

### **Conforming Amendments to HSPD-5**

44. HSPD-5 (Management of Domestic Incidents) of February 28, 2003 is amended as follows:
  - a. Striking "prevent, prepare for, respond to, and recover from" in section 3 and inserting "prevent, protect against, respond to, and recover from";
  - b. After "coordinating Federal" in section 4, inserting "preparedness activities and", and striking "prepare for";
  - c. Striking "preventing, preparing for, responding to, and recovering from" in section 7 and inserting "preparedness and activities to prevent, protect against, respond to, and recover from";
  - d. Striking "prevention, preparation, response, and recovery from" in section 10 and inserting "preparedness and activities to prevent, protect against, respond to, and recover from";
  - e. Striking "prepare for," in section 12 and inserting "protect against,";
  - f. Striking "prevention, preparedness, response, and recovery plans" in section 16 and inserting "prevention, protection, response, and recovery plans for use during an impending or actual incident"; and
  - g. Striking "prevention, preparedness," in section 18 and inserting "preparedness and operational prevention, protection,".

### **Conforming Amendments to HSPD-8**

45. HSPD-8 (National Preparedness) of December 17, 2003 is amended as follows:
  - a. Striking "prevent and respond to" in section 1 and inserting "prevent, protect against, respond to, and recover from";
  - b. After "prevent," in section 2(h), inserting "protect against,";
  - c. After "prevention" in section 3, inserting "and protection";
  - d. After "prevent" in section 6, inserting "protect against";
  - e. After "prevention" in section 17, inserting "protection"; and
  - f. After "prevent" in section 19, inserting "protect against".

## APPENDIX 2-14: 42 U.S.C. §9605 (NATIONAL CONTINGENCY PLAN)

### § 9605. National contingency plan

*Release date: 2003-07-24*

#### **(a) Revision and republication**

Within one hundred and eighty days after December 11, 1980, the President shall, after notice and opportunity for public comments, revise and republish the national contingency plan for the removal of oil and hazardous substances, originally prepared and published pursuant to section 1321 of title 33, to reflect and effectuate the responsibilities and powers created by this chapter, in addition to those matters specified in section 1321 (c)(2) <sup>[1]</sup> of title 33. Such revision shall include a section of the plan to be known as the national hazardous substance response plan which shall establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants, which shall include at a minimum:

- (1)** methods for discovering and investigating facilities at which hazardous substances have been disposed of or otherwise come to be located;
- (2)** methods for evaluating, including analyses of relative cost, and remedying any releases or threats of releases from facilities which pose substantial danger to the public health or the environment;
- (3)** methods and criteria for determining the appropriate extent of removal, remedy, and other measures authorized by this chapter;
- (4)** appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effectuating the plan;
- (5)** provision for identification, procurement, maintenance, and storage of response equipment and supplies;
- (6)** a method for and assignment of responsibility for reporting the existence of such facilities which may be located on federally owned or controlled properties and any releases of hazardous substances from such facilities;
- (7)** means of assuring that remedial action measures are cost-effective over the period of potential exposure to the hazardous substances or contaminated materials;
- (8)**
  - (A)** criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Criteria and priorities under this paragraph shall be based upon relative risk or danger to public health or welfare or the environment, in the judgment of the President, taking into account to the extent possible the population at risk, the hazard potential of the hazardous substances at such facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, the damage to natural resources which may affect the human food chain and which is associated with any release or threatened release, the contamination or potential contamination of the ambient air which is associated with the release or threatened release, State preparedness to assume State costs and responsibilities, and other appropriate factors;
  - (B)** based upon the criteria set forth in subparagraph (A) of this paragraph, the President shall list as part of the plan national priorities among the known releases or



threatened releases throughout the United States and shall revise the list no less often than annually. Within one year after December 11, 1980, and annually thereafter, each State shall establish and submit for consideration by the President priorities for remedial action among known releases and potential releases in that State based upon the criteria set forth in subparagraph (A) of this paragraph. In assembling or revising the national list, the President shall consider any priorities established by the States. To the extent practicable, the highest priority facilities **shall be designated individually and shall be referred to as the "top priority among known response targets", and, to the extent practicable, shall include among the one hundred highest priority facilities one such facility from each State which shall be the facility designated by the State as presenting the greatest danger to public health or welfare or the environment among the known facilities in such State. A State shall be allowed to designate its highest priority facility only once. Other priority facilities or incidents may be listed singly or grouped for response priority purposes;**

**(9)** specified roles for private organizations and entities in preparation for response and in responding to releases of hazardous substances, including identification of appropriate qualifications and capacity therefor and including consideration of minority firms in accordance with subsection (f) of this section; and

**(10)** standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this chapter.

The plan shall specify procedures, techniques, materials, equipment, and methods to be employed in identifying, removing, or remedying releases of hazardous substances comparable to those required under section 1321 (c)(2)(F) and (G) and (j)(1) of title 33. Following publication of the revised national contingency plan, the response to and actions to minimize damage from hazardous substances releases shall, to the greatest extent possible, be in accordance with the provisions of the plan. The President may, from time to time, revise and republish the national contingency plan.

#### **(b) Revision of plan**

Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986 [October 17, 1986], the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such **Plan known as "the National Hazardous Substance Response Plan"** shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this chapter which are consistent with amendments made by the Superfund Amendments and Reauthorization Act of 1986 relating to the selection of remedial action.

#### **(c) Hazard ranking system**

##### **(1) Revision**

Not later than 18 months after October 17, 1986, and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than 24 months after October 17, 1986. Such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priorities List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in

effect on September 1, 1984, shall continue in full force and effect.

**(2) Health assessment of water contamination risks**

In carrying out this subsection, the President shall ensure that the human health risks associated with the contamination or potential contamination (either directly or as a result of the runoff of any hazardous substance or pollutant or contaminant from sites or facilities) of surface water are appropriately assessed where such surface water is, or can be, used for recreation or potable water consumption. In making the assessment required pursuant to the preceding sentence, the President shall take into account the potential migration of any hazardous substance or pollutant or contaminant through such surface water to downstream sources of drinking water.

**(3) Reevaluation not required**

The President shall not be required to reevaluate, after October 17, 1986, the hazard ranking of any facility which was evaluated in accordance with the criteria under this section before the effective date of the amendments to the hazard ranking system under this subsection and which was assigned a national priority under the National Contingency Plan.

**(4) New information**

Nothing in paragraph (3) shall preclude the President from taking new information into account in undertaking response actions under this chapter.

**(d) Petition for assessment of release**

Any person who is, or may be, affected by a release or threatened release of a hazardous substance or pollutant or contaminant, may petition the President to conduct a preliminary assessment of the hazards to public health and the environment which are associated with such release or threatened release. If the President has not previously conducted a preliminary assessment of such release, the President shall, within 12 months after the receipt of any such petition, complete such assessment or provide an explanation of why the assessment is not appropriate. If the preliminary assessment indicates that the release or threatened release concerned may pose a threat to human health or the environment, the President shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in paragraph (8)(A) of subsection (a) of this section to determine the national priority of such release or threatened release.

**(e) Releases from earlier sites**

Whenever there has been, after January 1, 1985, a significant release of hazardous substances or pollutants or contaminants from a site which is listed by the President as a "Site Cleaned Up To Date" on the National Priorities List (revised edition, December 1984) the site shall be restored to the National Priorities List, without application of the hazard ranking system.

**(f) Minority contractors**

In awarding contracts under this chapter, the President shall consider the availability of qualified minority firms. The President shall describe, as part of any annual report submitted to the Congress under this chapter, the participation of minority firms in contracts carried out under this chapter. Such report shall contain a brief description of the contracts which have been awarded to minority firms under this chapter and of the efforts made by the President to encourage the participation of such firms in programs carried out under this chapter.

**(g) Special study wastes**

**(1) Application**

This subsection applies to facilities—

**(A)** which as of October 17, 1986, were not included on, or proposed for inclusion on, the National Priorities List; and

**(B)** at which special study wastes described in paragraph (2), (3)(A)(ii) or (3)(A)(iii) of section 6921 (b) of this title are present in significant quantities, including any such facility from which there has been a release of a special study waste.

**(2) Considerations in adding facilities to NPL**

Pending revision of the hazard ranking system under subsection (c) of this section, the President shall consider each of the following factors in adding facilities covered by this section to the National Priorities List:

**(A)** The extent to which hazard ranking system score for the facility is affected by the presence of any special study waste at, or any release from, such facility.

**(B)** Available information as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or released from such facility, the extent of or potential for release of such hazardous constituents, the exposure or potential exposure to human population and the environment, and the degree of hazard to human health or the environment posed by the release of such hazardous constituents at such facility. This subparagraph refers only to available information on actual concentrations of hazardous substances and not on the total quantity of special study waste at such facility.

**(3) Savings provisions**

Nothing in this subsection shall be construed to limit the authority of the President to remove any facility which as of October 17, 1986, is included on the National Priorities List from such List, or not to list any facility which as of such date is proposed for inclusion on such list.

**(4) Information gathering and analysis**

Nothing in this chapter shall be construed to preclude the expenditure of monies from the Fund for gathering and analysis of information which will enable the President to consider the specific factors required by paragraph (2).

**(h) NPL deferral**

**(1) Deferral to State voluntary cleanups**

At the request of a State and subject to paragraphs (2) and (3), the President generally shall defer final listing of an eligible response site on the National Priorities List if the President determines that—

**(A)** the State, or another party under an agreement with or order from the State, is conducting a response action at the eligible response site—

**(i)** in compliance with a State program that specifically governs response actions for the protection of public health and the environment; and

**(ii)** that will provide long-term protection of human health and the environment; or

**(B)** the State is actively pursuing an agreement to perform a response action described in subparagraph (A) at the site with a person that the State has reason to believe is capable of conducting a response action that meets the requirements of subparagraph (A).

**(2) Progress toward cleanup**

If, after the last day of the 1-year period beginning on the date on which the President proposes to list an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

**(3) Cleanup agreements**

With respect to an eligible response site under paragraph (1)(B), if, after the last day of the 1-year period beginning on the date on which the President proposes to list the eligible response site on the National Priorities List, an agreement described in paragraph (1)(B) has not been reached, the President may defer the listing of the

eligible response site on the National Priorities List for an additional period of not to exceed 180 days if the President determines deferring the listing would be appropriate based on—

- (A) the complexity of the site;
- (B) substantial progress made in negotiations; and
- (C) other appropriate factors, as determined by the President.

**(4) Exceptions**

The President may decline to defer, or elect to discontinue a deferral of, a listing of an eligible response site on the National Priorities List if the President determines that—

- (A) deferral would not be appropriate because the State, as an owner or operator or a significant contributor of hazardous substances to the facility, is a potentially responsible party;
  - (B) the criteria under the National Contingency Plan for issuance of a health advisory have been met; or
  - (C) the conditions in paragraphs (1) through (3), as applicable, are no longer being met.
- 

[1] See References in Text note below.

Source: <http://www4.law.cornell.edu/uscode/42/9605.html>

**APPENDIX 2-15: 42 U.S.C. §5121, *ET SEQ.*, (THE STAFFORD ACT)**

# Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and Related Authorities

FEMA 592, June 2007





**Robert T. Stafford Disaster Relief and Emergency Assistance Act,  
Public Law 93-288, as amended, 42 U.S.C. 5121-5207,  
and Related Authorities**

**UNITED STATES CODE  
TITLE 42. THE PUBLIC HEALTH AND WELFARE  
CHAPTER 68. DISASTER RELIEF**

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*\* This section of the Stafford Act has been amended by either the Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295, 120 Stat.1355 (2006), signed on October 4, 2006, the Pets Evacuation and Transportation Standards Act of 2006, Pub. L. No 109-308, 120 Stat. 1725 (2006), signed on October 6, 2006, or the Security and Accountability for Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884 (2006), signed on October 13, 2006. The changes are effective for emergencies or major disasters declared on or after October 4, 6, or 13, 2006. For events before those dates, please consult an earlier version of the Stafford Act.*

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## **Title I -- Findings, Declarations and Definitions**

### **Sec. 101. Congressional Findings and Declarations (42 U.S.C. 5121)**

(a) The Congress hereby finds and declares that -

- (1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and
- (2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity; special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by -

- (1) revising and broadening the scope of existing disaster relief programs;
- (2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;
- (3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;
- (4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;
- (5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations; and
- (6) providing Federal assistance programs for both public and private losses sustained in disasters

**Sec. 102. Definitions (42 U.S.C. 5122)\***

As used in this Act -

- (1) "Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.
- (2) "Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.
- (3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
- (4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
- (5) "Governor" means the chief executive of any State.
- (6) "Individual with a Disability"- The term "individual with a disability" means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).
- (7) The term "local government" means –
  - (A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;
  - (B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization; and
  - (C) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.
- (8) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government,

including the United States Postal Service, but shall not include the American National Red Cross.

(9) "Public facility" means the following facilities owned by a State or local government:

- (A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.
- (B) Any non-Federal-aid street, road, or highway.
- (C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.
- (D) Any park.

(10) Private nonprofit facility -

- (A) In General - The term "private nonprofit facility" means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.
- (B) Additional Facilities - In addition to the facilities described in subparagraph (A), the term "private nonprofit facility" includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.

## **Title II -- Disaster Preparedness and Mitigation Assistance**

### **Sec. 201. Federal and State Disaster Preparedness Programs (42 U.S.C. 5131)**

(a) Utilization of services of other agencies - The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes -

- (1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;
- (2) training and exercises;
- (3) postdisaster critiques and evaluations;
- (4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) Technical assistance for the development of plans and programs - The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damages or destroyed public and private facilities.

(c) Grants to States for development of plans and programs - Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State \$250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from May 22, 1974. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) Grants for improvement, maintenance, and updating of State plans - The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards; except that no such grant shall exceed \$50,000 per annum to any State.

#### **Sec. 202. Disaster Warnings (42 U.S.C. 5132)**

(a) Readiness of Federal agencies to issue warnings to state and local officials - The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) Technical assistance to State and local governments for effective warnings - The President shall direct appropriate Federal agencies to provide technical assistance

to State and local governments to insure that timely and effective disaster warning is provided.

- (c) Warnings to governmental authorities and public endangered by disaster - The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 5196(c) of this title or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.
- (d) Agreements with commercial communications systems for use of facilities - The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

**Sec. 203. Predisaster Hazard Mitigation (42 U.S.C. 5133)**

- (a) Definition of Small Impoverished Community - In this section, the term “small impoverished community” means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.
- (b) Establishment of Program - The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.
- (c) Approval by President - If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National Predisaster Mitigation Fund established under subsection (i) (referred to in this section as the “Fund”), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (e).
- (d) State Recommendations -
  - (1) In general -
    - (A) Recommendations -The Governor of each State may recommend to the President not fewer than five local governments to receive assistance under this section.

- (B) Deadline for submission -The recommendations under subparagraph (A) shall be submitted to the President not later than October 1, 2001, and each October 1st thereafter or such later date in the year as the President may establish.
- (C) Criteria - In making recommendations under subparagraph (A), a Governor shall consider the criteria specified in subsection (g).

(2) Use -

- (A) In general - Except as provided in subparagraph (B), in providing assistance to local governments under this section, the President shall select from local governments recommended by the Governors under this subsection.
- (B) Extraordinary circumstances - In providing assistance to local governments under this section, the President may select a local government that has not been recommended by a Governor under this subsection if the President determines that extraordinary circumstances justify the selection and that making the selection will further the purpose of this section.

- (3) Effect of failure to nominate - If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President may select, subject to the criteria specified in subsection (g), any local governments of the State to receive assistance under this section.

(e) Uses of Technical and Financial Assistance -

(1) In general - Technical and financial assistance provided under this section

- (A) shall be used by States and local governments principally to implement predisaster hazard mitigation measures that are cost-effective and are described in proposals approved by the President under this section; and
- (B) may be used -
  - (i) to support effective public-private natural disaster hazard mitigation partnerships;
  - (ii) to improve the assessment of a community's vulnerability to natural hazards; or
  - (iii) to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community

- (2) Dissemination - A State or local government may use not more than 10 percent of the financial assistance received by the State or local government under this section for a fiscal year to fund activities to disseminate information regarding cost-effective mitigation technologies.

(f) Allocation of Funds - The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year -

(1) shall be not less than the lesser of -

(A) \$500,000; or

(B) the amount that is equal to 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

(2) shall not exceed 15 percent of the total funds described in paragraph (1)(B); and

(3) shall be subject to the criteria specified in subsection (g).

(g) Criteria for Assistance Awards - In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall take into account -

(1) the extent and nature of the hazards to be mitigated;

(2) the degree of commitment by the State or local government to reduce damages from future natural disasters;

(3) the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;

(4) the extent to which the hazard mitigation measures to be carried out using the technical and financial assistance contribute to the mitigation goals and priorities established by the State;

(5) the extent to which the technical and financial assistance is consistent with other assistance provided under this Act;

(6) the extent to which prioritized, cost-effective mitigation activities that produce meaningful and definable outcomes are clearly identified;

(7) if the State or local government has submitted a mitigation plan under section 5165 of this title, the extent to which the activities identified under paragraph (6) are consistent with the mitigation plan;

(8) the opportunity to fund activities that maximize net benefits to society;

(9) the extent to which assistance will fund mitigation activities in small impoverished communities; and

(10) such other criteria as the President establishes in consultation with State and local governments.

(h) Federal Share -

- (1) In general - Financial assistance provided under this section may contribute up to 75 percent of the total cost of mitigation activities approved by the President.
- (2) Small impoverished communities - Notwithstanding paragraph (1), the President may contribute up to 90 percent of the total cost of a mitigation activity carried out in a small impoverished community.

(i) National Predisaster Mitigation Fund -

- (1) Establishment - The President may establish in the Treasury of the United States a fund to be known as the "National Predisaster Mitigation Fund", to be used in carrying out this section.
- (2) Transfers to fund - There shall be deposited in the Fund -
  - (A) amounts appropriated to carry out this section, which shall remain available until expended; and
  - (B) sums available from gifts, bequests, or donations of services or property received by the President for the purpose of predisaster hazard mitigation.
- (3) Expenditures from fund - Upon request by the President, the Secretary of the Treasury shall transfer from the Fund to the President such amounts as the President determines are necessary to provide technical and financial assistance under this section.
- (4) Investment of amounts -
  - (A) In general - The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.
  - (B) Acquisition of obligations - For the purpose of investments under subparagraph (A), obligations may be acquired -
    - (i) on original issue at the issue price; or
    - (ii) by purchase of outstanding obligations at the market price.
  - (C) Sale of obligations - Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.
  - (D) Credits to fund - The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.



- (E) Transfers of amounts -
  - (i) In general - The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.
  - (ii) Adjustments - Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.
- (j) Limitation on Total Amount of Financial Assistance - The President shall not provide financial assistance under this section in an amount greater than the amount available in the Fund.
- (k) Multihazard Advisory Maps -
  - (1) Definition of multihazard advisory map - In this subsection, the term "multihazard advisory map" means a map on which hazard data concerning each type of natural disaster is identified simultaneously for the purpose of showing areas of hazard overlap.
  - (2) Development of maps - In consultation with States, local governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than five States, that are subject to commonly recurring natural hazards (including flooding, hurricanes and severe winds, and seismic events).
  - (3) Use of technology - In developing multihazard advisory maps under this subsection, the President shall use, to the maximum extent practicable, the most cost-effective and efficient technology available.
  - (4) Use of maps -
    - (A) Advisory nature - The multihazard advisory maps shall be considered to be advisory and shall not require the development of any new policy by, or impose any new policy on, any government or private entity.
    - (B) Availability of maps - The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of -
      - (i) informing the general public about the risks of natural hazards in the areas described in paragraph (2);
      - (ii) supporting the activities described in subsection (e); and
      - (iii) other public uses.

- (l) Report on Federal and State Administration - Not later than Oct. 30, 2000, the President, in consultation with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for transferring greater authority and responsibility for administering the assistance program established under this section to capable States.
- (m) Termination of Authority - The authority provided by this section terminates September 30, 2008.

**Sec. 204. Interagency Task Force (42 U.S.C. 5134)**

- (a) In General - The President shall establish a Federal interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.
- (b) Chairperson - The Director of the Federal Emergency Management Agency shall serve as the chairperson of the task force.
- (c) Membership - The membership of the task force shall include representatives of
  - (1) relevant Federal agencies;
  - (2) State and local government organizations (including Indian tribes); and
  - (3) the American Red Cross.

**Title III -- Major Disaster and Emergency Assistance Administration**

**Sec. 301. Waiver of Administrative Conditions (42 U.S.C. 5141)**

Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

**Sec. 302. Coordinating Officers (42 U.S.C. 5143)\***

- (a) Appointment of Federal coordinating officer - Immediately upon his declaration of a major disaster or emergency, the President shall appoint a Federal coordinating officer to operate in the affected area.

- (b) Functions of Federal coordinating officer - In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall
  - (1) make an initial appraisal of the types of relief most urgently needed;
  - (2) establish such field offices as he deems necessary and as are authorized by the President;
  - (3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599) and
  - (4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.
- (c) State Coordinating officer - When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.
- (d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.

**Sec. 303. Emergency Support and Response Teams (42 U.S.C. 5144)\***

- (a) Emergency Support Teams – The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

(b) Emergency Response Teams-

- (1) Establishment - In carrying out subsection (a), the President, acting through the Director of the Federal Emergency Management Agency, shall establish-
  - (A) at a minimum 3 national response teams; and
  - (B) sufficient regional response teams, including Regional Office strike teams under section 507 of the Homeland Security Act of 2002; and
  - (C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.
- (2) Target Capability Level - The Director shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.
- (3) Personnel - The President, acting through the Director, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.
- (4) Readiness Reporting - The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.

**Sec. 304. Reimbursement of Federal Agencies (42 U.S.C. 5147)**

Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

**Sec. 305. Nonliability of Federal Government (42 U.S.C. 5148)**

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

**Sec. 306. Performance of Services (42 U.S.C. 5149)**

- (a) Utilization of services or facilities of State and local governments - In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.
- (b) Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies - In performing any services under this Act, any Federal agency is authorized
  - (1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, governing appointments in competitive service;
  - (2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and
  - (3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

**Sec. 307. Use of Local Firms and Individuals (42 U.S.C. 5150)\***

- (a) Contracts or Agreements With Private Entities-
  - (1) In General - In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.
  - (2) Construction - This section shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.
  - (3) Specific Geographic Area - In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

(b) Implementation-

- (1) Contracts not to entities in area - Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.
  - (2) Transition - Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.
  - (3) Formation of Requirements – The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.
- (c) Prior Contracts - Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.

**Sec. 308. Nondiscrimination in Disaster Assistance (42 U.S.C. 5151)\***

- (a) Regulations for equitable and impartial relief operations - The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.
- (b) Compliance with regulations as prerequisite to participation by other bodies in relief operations - As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

**Sec. 309. Use and Coordination of Relief Organizations (42 U.S.C. 5152)**

- (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.
- (b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

**Sec. 310. Priority to Certain Applications for Public Facility and Public Housing Assistance (42 U.S.C. 5153)**

- (a) Priority - In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:
  - (1) The United States Housing Act of 1937 for the provision of low-income housing.
  - (2) Section 702 of the Housing Act of 1954 for assistance in public works planning.
  - (3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.
  - (4) Section 306 of the Consolidated Farm and Rural Development Act.
  - (5) The Public Works and Economic Development Act of 1965.
  - (6) The Appalachian Regional Development Act of 1965.
  - (7) The Federal Water Pollution Control Act.

- (b) Obligation of certain discretionary funds - In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.

**Sec. 311. Insurance (42 U.S.C. 5154)**

- (a) Applicants for replacement of damaged facilities
  - (1) Compliance with certain regulations - An applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure) or section 3149(c)(2) of this title shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.
  - (2) Determination - In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.
- (b) Maintenance of insurance - No applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure), or section 3149(c)(2) of this title may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 5141 of this title.
- (c) State acting as self-insurer - A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 5172 or 5189 of this title or section 3149(c)(2) of this title) or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 5172 or 5189 of this title for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.



**Prohibited Flood Disaster Assistance (42 U.S.C. 5154a)**

- (a) General prohibition - Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.
- (b) Transfer of property -
  - (1) Duty to notify - In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to -
    - (A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and
    - (B) maintain flood insurance in accordance with applicable Federal law with respect to such property. Such written notification shall be contained in documents evidencing the transfer of ownership of the property.
  - (2) Failure to notify - If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property -
    - (A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,
    - (B) the property is damaged by a flood disaster, and
    - (C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage, the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.
  - (3) Property described - For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.
- (c) [Omitted]

(d) Definition - For purposes of this section, the term "flood disaster area" means an area with respect to which -

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 1961(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) Effective date - This section and the amendments made by this section [adding this section and amending 42 U.S.C. 4012a(a)] shall apply to disasters declared after September 23, 1994.

### **Sec. 312. Duplication of Benefits (42 U.S.C. 5155)**

(a) General prohibition - The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) Special rules -

(1) Limitation - This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

(2) Procedures - The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

(3) Effect of partial benefits - Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

(c) Recovery of duplicative benefits - A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose

- (d) Assistance not income - Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

**Sec. 313. Standard of Review (42 U.S.C. 5156)**

The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this Act. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this Act.

**Sec. 314. Penalties (42 U.S.C. 5157)**

- (a) Misuse of funds - Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.
- (b) Civil enforcement - Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.
- (c) Referral to Attorney General - The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.
- (d) Civil penalty - Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than \$5,000 for each violation.

**Sec. 315. Availability of Materials (42 U.S.C. 5158)**

The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

**Sec. 316. Protection of Environment (42 U.S.C. 5159)**

An action which is taken or assistance which is provided pursuant to section 5170a , 5170b, 5172, 5173, or 5192 of this title, including such assistance provided pursuant to the procedures provided for in section 5189 of this title , which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. §4321 et seq.]. Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 [42 U.S.C. §4321 et seq.] to other Federal actions taken under this Act or under any other provisions of law.

**Sec. 317. Recovery of Assistance (42 U.S.C. 5160)**

- (a) Party liable - Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought in an appropriate United States district court.
- (b) Rendering of care - A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

**Sec. 318. Audits and Investigations (42 U.S.C. 5161)**

- (a) In general - Subject to the provisions of chapter 75 of title 31, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.
- (b) Access to records - For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this Act.
- (c) State and local audits - The President may require audits by State and local governments in connection with assistance under this Act when necessary to assure compliance with this Act or related regulations.

**Sec. 319. Advance of Non-Federal Share (42 U.S.C. 5162)**

- (a) In general - The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this Act in any case in which--
  - (1) the State is unable to assume its financial responsibility under such cost-sharing provisions—
    - (A) with respect to concurrent, multiple major disasters in a jurisdiction, or
    - (B) after incurring extraordinary costs as a result of a particular disaster; and
  - (2) the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.
- (b) Terms of loans and advances -
  - (1) In general - Any loan or advance under this section shall be repaid to the United States.
  - (2) Interest - Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

- (c) Regulations - The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

**Sec. 320. Limitation on Use of Sliding Scale (42 U.S.C. 5163)**

No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.

**Sec. 321. Rules and Regulations (42 U.S.C. 5164)**

The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this Act, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this Act.

**Sec. 322. Mitigation Planning (42 U.S.C. 5165)**

- (a) Requirement of Mitigation Plan - As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.
- (b) Local and Tribal Plans - Each mitigation plan developed by a local or tribal government shall -
  - (1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and
  - (2) establish a strategy to implement those actions.
- (c) State Plans - The State process of development of a mitigation plan under this section shall -
  - (1) identify the natural hazards, risks, and vulnerabilities of areas in the State;
  - (2) support development of local mitigation plans;
  - (3) provide for technical assistance to local and tribal governments for mitigation planning; and
  - (4) identify and prioritize mitigation actions that the State will support, as resources become available.

(d) Funding -

- (1) In general - Federal contributions under section 5170c of this title may be used to fund the development and updating of mitigation plans under this section.
- (2) Maximum federal contribution - With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 5170c of this title not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) Increased Federal Share for Hazard Mitigation Measures -

- (1) In general - If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster, the maximum percentage specified in the last sentence of section 5170c(a) of this title.
- (2) Factors for consideration -In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established -
  - (A) eligibility criteria for property acquisition and other types of mitigation measures;
  - (B) requirements for cost effectiveness that are related to the eligibility criteria;
  - (C) a system of priorities that is related to the eligibility criteria; and
  - (D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

**Sec. 323. Standards for Public and Private Structures (42 U.S.C. 5165a)**

(a) In General - As a condition of receipt of a disaster loan or grant under this Act -

- (1) the recipient shall carry out any repair or construction to be financed with the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and
- (2) the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.

(b) Evidence of Compliance - A recipient of a disaster loan or grant under this Act shall provide such evidence of compliance with this section as the President may require by regulation.

*Note: Section 324 becomes effective when FEMA has promulgated a management cost rate regulation. Until then subsection 406(f) of the Stafford Act is used to establish management cost rates.*

**Sec. 324. Management Costs (42 U.S.C. 5165b)**

- (a) Definition of Management Cost - In this section, the term “management cost” includes any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.
- (b) Establishment of Management Cost Rates - Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation establish management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this Act for management costs.
- (c) Review - The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

**Sec. 325. Public Notice, Comment, and Consultation Requirements (42 U.S.C. 5165c)**

- (a) Public Notice and Comment Concerning New or Modified Policies -
  - (1) In general - The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that -
    - (A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this Act; and
    - (B) could result in a significant reduction of assistance under the program.
  - (2) Application - Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.
- (b) Consultation Concerning Interim Policies -
  - (1) In general - Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this Act, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely -



- (A) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or
- (B) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.

(2) No legal right of action - Nothing in this subsection confers a legal right of action on any party.

(c) Public Access - The President shall promote public access to policies governing the implementation of the public assistance program.

**Sec. 326. Designation of Small State and Rural Advocate (42 U.S.C. 5165d)\***

(a) In General - The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

(b) Responsibilities - The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this Act.

(c) Duties - The Small State and Rural Advocate shall

- (1) participate in the disaster declaration process under section 401 and the emergency declaration process under section 501, to ensure that the needs of rural communities are being addressed;
- (2) assist small population States in the preparation of requests for major disasters or emergency declarations; and
- (3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.

## **Title IV -- Major Disaster Assistance Programs**

### **Sec. 401. Procedure for Declaration (42 U.S.C. 5170)**

All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.

### **Sec. 402. General Federal Assistance (42 U.S.C. 5170a)\***

In any major disaster, the President may -

- (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response and recovery efforts, including precautionary evacuations;
- (2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments, including precautionary evacuations and recovery;
- (3) provide technical and advisory assistance to affected State and local governments for -
  - (A) the performance of essential community services;
  - (B) issuance of warnings of risks and hazards;
  - (C) public health and safety information, including dissemination of such information;
  - (D) provision of health and safety measures;
  - (E) management, control, and reduction of immediate threats to public health and safety; and
  - (F) recovery activities, including disaster impact assessments and planning;

- (4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and
- (5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President
  - (A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and
  - (B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.

**Sec. 403. Essential Assistance (42 U.S.C. 5170b)\***

- (a) In general - Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:
  - (1) Federal resources, generally - Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.
  - (2) Medicine, durable medical equipment, food, and other consumables - Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, durable medical equipment, food, and other consumable supplies, and other services and assistance to disaster victims.
  - (3) Work and services to save lives and protect property - Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including -
    - (A) debris removal;
    - (B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, durable medical equipment, and other essential needs, including movement of supplies or persons;
    - (C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;
    - (D) provision of temporary facilities for schools and other essential community services;
    - (E) demolition of unsafe structures which endanger the public;
    - (F) warning of further risks and hazards;

- (G) dissemination of public information and assistance regarding health and safety measures;
- (H) provision of technical advice to State and local governments on disaster management and control;
- (I) reduction of immediate threats to life, property, and public health and safety; and
- (J) provision of rescue, care, shelter, and essential needs -
  - (i) to individuals with household pets and service animals; and
  - (ii) to such pets and animals.

(4) Contributions - Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

(b) Federal share - The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

(c) Utilization of DOD resources -

(1) General rule - During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal - Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title, relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds - The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

(4) Federal share - The Federal share of assistance under this subsection shall be not less than 75 percent.

(5) Guidelines - Not later than 180 days after the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988 [enacted Nov. 23, 1988], the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under

this subsection will have on the availability of other forms of assistance under this Act.

(6) Definitions - For purposes of this section

- (A) Department of Defense - The term "Department of Defense" has the meaning the term "department" has under section 101 of title 10.
- (B) Emergency work - The term "emergency work" includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

**Sec. 404. Hazard Mitigation (42 U.S.C. 5170c)\***

(a) In General - The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 5165 of this title and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster shall not exceed 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

(b) Property acquisition and relocation assistance -

- (1) General authority - In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).
- (2) Terms and conditions - An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if -
  - (A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and
  - (B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Director that provides assurances that -
    - (i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

- (ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than--
  - (I) a public facility that is open on all sides and functionally related to a designated open space;
  - (II) a rest room; or
  - (III) a structure that the Director approves in writing before the commencement of the construction of the structure; and
- (iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program--
  - (I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and
  - (II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

(3) Statutory construction - Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

(c) Program Administration by States -

- (1) In general - A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.
- (2) Criteria - The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). The criteria shall include, at a minimum -
  - (A) the demonstrated ability of the State to manage the grant program under this section;
  - (B) there being in effect an approved mitigation plan under section 5165 of this title; and
  - (C) a demonstrated commitment to mitigation activities.
- (3) Approval - The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).
- (4) Withdrawal of approval - If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this

section in a manner satisfactory to the President, the President shall withdraw the approval.

(5) Audits - The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

**Sec. 405. Federal Facilities (42 U.S.C. 5171)**

- (a) Repair, reconstruction, restoration or replacement of United States facilities - The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.
- (b) Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities - In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.
- (c) Steps for mitigation of hazards - In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

**Sec. 406. Repair, Restoration, and Replacement of Damaged Facilities (42 U.S.C. 5172)\***

(a) Contributions -

(1) In general -The President may make contributions -

- (A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and
- (B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

(2) Associated expenses - For the purposes of this section, associated expenses shall include -

- (A) the costs of mobilizing and employing the National Guard for performance of eligible work;
- (B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; and
- (C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster.

(3) Conditions for assistance to private nonprofit facilities -

- (A) In general - The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if -
  - (i) the facility provides critical services (as defined by the President) in the event of a major disaster; or
  - (ii) the owner or operator of the facility -
    - (I) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)); and
    - (II)(aa) has been determined to be ineligible for such a loan; or
    - (bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.
- (B) Definition of critical services - In this paragraph, the term "critical services" includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications, education, and emergency medical care.

(4) Notification to Congress - Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify

- (A) the Committee on Environment and Public Works of the Senate;
- (B) the Committee on Transportation and Infrastructure of the House of Representatives;
- (C) the Committee on Appropriations of the Senate; and
- (D) the Committee on Appropriations of the House of Representatives.

(b) Federal Share -

(1) Minimum federal share - Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.



*Note: Paragraph (2) takes effect after FEMA has promulgated an implementing regulation.*

(2) Reduced federal share - The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster -

(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

(c) Large In-Lieu Contributions -

(1) For public facilities -

(A) In general - In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds - Funds contributed to a State or local government under this paragraph may be used -

(i) to repair, restore, or expand other selected public facilities;

(ii) to construct new facilities; or

(iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(C) Limitations - Funds made available to a State or local government under this paragraph may not be used for -

(i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured public facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) For private nonprofit facilities -

- (A) In general - In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.
- (B) Use of funds - Funds contributed to a person under this paragraph may be used -
  - (i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;
  - (ii) to construct new private nonprofit facilities to be owned or operated by the person; or
  - (iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.
- (C) Limitations - Funds made available to a person under this paragraph may not be used for--
  - (i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
  - (ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) Flood insurance -

- (1) Reduction of Federal assistance - If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

- (2) Amount of reduction - The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of -
- (A) the value of such facility on the date of the flood damage or destruction, or
  - (B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.
- (3) Exception - Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.
- (4) Dissemination of information - The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

*Note: The following version of subsection (e) remains in effect until the cost estimation procedures established under paragraph (3) of the revised version of subsection 406(e) – see next subsection – take effect.*

(e) Net Eligible Cost –

- (1) General Rule – For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.
- (2) Special Rule – In any case in which the facility being repaired, restored, reconstructed, or replaced, under this section was under construction on the dated of the major disaster, the cost of repairing, restoring, reconstruction, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner's responsibility and not the contractor's responsibility.

*Note: The following version of subsection 406(e)(1) and (2) becomes effective when the procedures established by paragraph (3) of this subsection take effect. Subsection 406(e)(4) is currently in effect.*

( e ) Eligible Cost -

(1) Determination -

- (A) In general - For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility--
  - (i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and
  - (ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.
- (B) Cost estimation procedures -
  - (i) In general - Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.
  - (ii) Applicability - The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title.

(2) Modification of eligible cost -

- (A) Actual cost greater than ceiling percentage of estimated cost - In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).
- (B) Actual cost less than estimated cost -
  - (i) Greater than or equal to floor percentage of estimated cost - In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds

to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

- (ii) Less than floor percentage of estimated cost - In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.
- (C) No effect on appeals process - Nothing in this paragraph affects any right of appeal under section 5189a of this title.

(3) Expert panel -

- (A) Establishment - Not later than 18 months after October 30, 2000, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.
- (B) Duties - The expert panel shall develop recommendations concerning
  - (i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and
  - (ii) the ceiling and floor percentages referred to in paragraph (2).
- (C) Regulations - Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish
  - (i) cost estimation procedures described in subparagraph (B)(i); and
  - (ii) the ceiling and floor percentages referred to in paragraph (2).
- (D) Review by President - Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.
- (E) Report to Congress - Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

- (4) Special rule - In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only

*Note: The following Subsection 406(f) will be repealed when the regulation to implement section 324 has been promulgated.*

- (f) Associated Expenses – For purposes of this section, associated expenses include the following –
- (1) Necessary costs – Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:
    - (A) For an applicant whose net eligible costs equal \$100,000, 3 percent of such net eligible costs.
    - (B) For an applicant whose net eligible cost equal \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such net eligible costs in excess of \$100,000.
    - (C) For an applicant whose net eligible costs equal \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such net eligible costs in excess of \$1,000,000.
    - (D) For an applicant whose net eligible costs equal \$5,000,000 or more, \$61,000 plus 1/2 percent of such eligible costs in excess of \$5,000,000.
  - (2) Extraordinary Costs – Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expense of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under section 403, 404, 406, 407, 502, and 503 in such State in connection with the major disaster as follows.
    - (A) If such total amount is less than \$100,000, 3 percent of such total amount.
    - (B) If such total amount is \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such total amount in excess of \$100,000.
    - (C) If such total amount is \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such total amount in excess of \$1,000,000.
    - (D) If such total amount is \$5,000,000 or more, \$61,000 plus 1/2 per cent of such total amount in excess of \$5,000,000.
  - (3) Costs of National Guard – The costs of mobilizing and employing the National Guard for performance of eligible work.

- (4) Costs of Prison Labor – The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.
- (5) Other Labor Costs – Base and overtime wages for an applicant’s employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.

**Sec. 407. Debris Removal (42 U.S.C. 5173)\***

- (a) Presidential Authority - The President, whenever he determines it to be in the public interest, is authorized -
  - (1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and
  - (2) to make grants to any State or local government or owner or operator of a private non-profit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.
- (b) Authorization by State or local government; indemnification agreement - No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.
- (c) Rules relating to large lots - The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.
- (d) Federal share - The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.
- (e) Expedited Payments -
  - (1) Grant Assistance – In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President’s initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).
  - (2) Date of Payment – Not later than 60 days after the date of the estimate described in paragraph (1) and not later than 90 days after the date on which

the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.

**Sec. 408. Federal Assistance to Individuals and Households (42 U.S.C. 5174)\***

(a) In General -

- (1) Provision of assistance - In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.
- (2) Relationship to other assistance - Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

(b) Housing Assistance -

- (1) Eligibility - The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.
- (2) Determination of appropriate types of assistance -
  - (A) In general - The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.
  - (B) Multiple types of assistance - One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.



(c) Types of Housing Assistance -

(1) Temporary housing -

(A) Financial assistance -

(i) In general - The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.

(ii) Amount - The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hookups, security deposits, or unit installation not provided directly by the President.

(B) Direct assistance -

(i) In general - The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

(ii) Period of assistance - The President may not provide direct assistance under clause (i) with respect to a major disaster after the end of the 18-month period beginning on the date of the declaration of the major disaster by the President, except that the President may extend that period if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iii) Collection of rental charges - After the end of the 18-month period referred to in clause (ii), the President may charge fair market rent for each temporary housing unit provided.

(2) Repairs -

(A) In general - The President may provide financial assistance for -

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.

(B) Relationship to other assistance - A recipient of assistance provided under this paragraph shall not be required to show that the assistance can be met through other means, except insurance proceeds.

(3) Replacement -

- (A) In general - The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.
- (B) Applicability of flood insurance requirement - With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

(4) Permanent or semi-permanent housing construction - The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing in insular areas outside the continental United States and in other locations in cases in which

- (A) no alternative housing resources are available; and
- (B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.

(d) Terms and Conditions Relating to Housing Assistance -

(1) Sites -

- (A) In general - Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that -
  - (i) is complete with utilities;
  - (ii) meets the physical accessibility requirements for individuals with disabilities; and
  - (iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.
- (B) Sites provided by the President - A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.

(2) Disposal of units -

- (A) Sale to occupants -
  - (i) In general - Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.
  - (ii) Sale price - A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.

- (iii) Deposit of proceeds - Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.
  - (iv) Hazard and flood insurance - A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.
  - (v) Use of GSA services - The President may use the services of the General Services Administration to accomplish a sale under clause (i).
- (B) Other methods of disposal - If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims -
- (i) may be sold to any person; or
  - (ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees -
    - (a) to comply with the nondiscrimination provisions of section 5151 of this title; and
    - (b) to obtain and maintain hazard and flood insurance on the housing unit.

(e) Financial Assistance To Address Other Needs -

- (1) Medical, dental, and funeral expenses - The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, and funeral expenses.
- (2) Personal property, transportation, and other expenses - The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) State Role -

(1) Financial assistance to address other needs -

- (A) Grant to state - Subject to subsection (g), a Governor may request a grant from the President to provide financial assistance to individuals and households in the State under subsection (e).
- (B) Administrative costs - A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing financial assistance to individuals and households in the State under subsection (e).

(2) Access to records - In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(g) Cost Sharing -

(1) Federal share - Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

(2) Financial assistance to address other needs - In the case of financial assistance provided under subsection (e) -

- (A) the Federal share shall be 75 percent; and
- (B) the non-Federal share shall be paid from funds made available by the State.

(h) Maximum Amount of Assistance -

(1) In general - No individual or household shall receive financial assistance greater than \$25,000 under this section with respect to a single major disaster.

(2) Adjustment of limit - The limit established under paragraph (1) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(i) Verification Measures - In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to

- (1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;
  - (2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;
  - (3) collect any duplicative payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;
  - (4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and
  - (5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.
- (j) Rules and Regulations - The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

**Sec. 410. Unemployment Assistance (42 U.S.C. 5177)**

- (a) Benefit assistance - The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or a waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.
- (b) Reemployment assistance
- (1) State assistance - A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

- (2) Federal assistance - The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

**Sec. 412. Food Coupons and Distribution (42 U.S.C. 5179)**

- (a) Persons eligible; terms and conditions - Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91-671; 84 Stat. 2048), 7 U.S.C. 2011 *et seq.*, and to make surplus commodities available pursuant to the provisions of this Act.
- (b) Duration of assistance; factors considered - The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.
- (c) Food Stamp Act provisions unaffected - Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, 7 U.S.C. 2011 *et seq.*, except as they relate to the availability of food stamps in an area affected by a major disaster.

**Sec. 413. Food Commodities (42 U.S.C. 5180)**

- (a) Emergency mass feeding - The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.
- (b) Funds for purchase of food commodities - The Secretary of Agriculture shall utilize funds appropriated under section 612c of title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

**Sec. 414. Relocation Assistance (42 U.S.C. 5181)**

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, 42 U.S.C. 4601 *et seq.*, shall be denied such

eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

**Sec. 415. Legal Services (42 U.S.C. 5182)**

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

**Sec. 416. Crisis Counseling Assistance and Training (42 U.S.C. 5183)**

The President is authorized to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

**Sec. 417. Community Disaster Loans (42 U.S.C. 5184)\***

(a) In General - The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.

(b) Amount - The amount of any such loan shall be based on need, shall not exceed

(1) 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000; or

(2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000.

(c) Repayment -

(1) Cancellation - Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(2) Condition on continuing eligibility - A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.

(d) Effect on Other Assistance - Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

**Sec. 418. Emergency Communications (42 U.S.C. 5185)**

The President is authorized during, or in anticipation of an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

**Sec. 419. Emergency Public Transportation (42 U.S.C. 5186)**

The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

**Sec. 420. Fire Management Assistance (42 U.S.C. 5187)**

(a) In General - The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

(b) Coordination with State and Tribal Departments of Forestry - In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) Essential Assistance - In providing assistance under this section, the President may use the authority provided under section 5170b of this title.

(d) Rules and Regulations - The President shall prescribe such rules and regulations as are necessary to carry out this section.

**Sec. 421. Timber Sale Contracts (42 U.S.C. 5188)**

(a) Cost-sharing arrangement - Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major



physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than \$ 1,000 for sales under one million board feet, (2) of more than \$1 per thousand board feet for sales of one to three million board feet, or (3) of more than \$3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

- (b) Cancellation of authority - If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.
- (c) Public notice of sale - The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.
- (d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber - The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

#### **Sec. 422. Simplified Procedures (42 U.S.C. 5189)**

If the Federal estimate of the cost of -

- (1) repairing, restoring, reconstructing, or replacing under section 5172 of this title any damaged or destroyed public facility or private nonprofit facility,
- (2) emergency assistance under section 5170b or 5192 of this title, or
- (3) debris removed under section 5173 of this title, is less than \$35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 5170b, 5172, 5173, or 5192 of this title, as the case may be, on the basis of such Federal estimate. Such \$35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

**Sec. 423. Appeals of Assistance Decisions (42 U.S.C. 5189a)**

- (a) Right of appeal - Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.
- (b) Period for decision - A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.
- (c) Rules - The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

**Sec. 424. Date of Eligibility; Expenses Incurred Before Date of Disaster (42 U.S.C. 5189b)**

Eligibility for Federal assistance under this title shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this Act.

**Sec. 425. Transportation Assistance to Individuals and Households (42 U.S.C. 5189c)\***

The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 403(a)(3) or 502, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

**Sec. 426. Case Management Services (42 U.S.C. 5189d)\***

The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.

**Sec. 427. Essential Service Providers (42 U.S.C. 5189e)\***

- (a) Definition - In this section, the term 'essential service provider' means an entity that
  - (1) provides -
    - (A) telecommunications service;

- (B) electrical power;
- (C) natural gas;
- (D) water and sewer services; or
- (E) any other essential service, as determined by the President;

(2) is -

- (A) a municipal entity;
- (B) a nonprofit entity; or
- (C) a private, for profit entity; and

(3) is contributing to efforts to respond to an emergency or major disaster.

(b) Authorization for accessibility - Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not -

(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

(2) impede the restoration or repair of the services described in subsection (a)(1).

(c) Implementation - In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulation, and policies.

## **Title V -- Emergency Assistance Programs**

### **Sec. 501. Procedure for Declaration (42 U.S.C. 5191)**

- (a) Request and declaration - All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.
- (b) Certain emergencies involving Federal primary responsibility - The President may exercise any authority vested in him by section 502 or section 503 with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency

involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a).

**Sec. 502. Federal emergency assistance (42 U.S.C. 5192)\***

(a) Specified - In any emergency, the President may -

- (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations;
- (2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
- (3) provide technical and advisory assistance to affected State and local governments for -
  - (A) the performance of essential community services;
  - (B) issuance of warnings of risks or hazards;
  - (C) public health and safety information, including dissemination of such information;
  - (D) provision of health and safety measures; and
  - (E) management, control, and reduction of immediate threats to public health and safety;
- (4) provide emergency assistance through Federal agencies;
- (5) remove debris in accordance with the terms and conditions of section 407;
- (6) provide assistance in accordance with section 408;
- (7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and
- (8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President -

- (A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and
- (B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.

(b) General - Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations.

(c) Guidelines - The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.

**Sec. 503. Amount of Assistance (42 U.S.C. 5193)**

(a) Federal share - The Federal share for assistance provided under this title shall be equal to not less than 75 percent of the eligible costs.

(b) Limit on amount of assistance—

(1) In general - Except as provided in paragraph (2), total assistance provided under this title for a single emergency shall not exceed \$5,000,000.

(2) Additional assistance - The limitation described in paragraph (1) may be exceeded when the President determines that -

- (A) continued emergency assistance is immediately required;
- (B) there is a continuing and immediate risk to lives, property, public health or safety; and
- (C) necessary assistance will not otherwise be provided on a timely basis.

(3) Report - Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.

## **Title VI -- Emergency Preparedness**

### **Sec. 601. Declaration of policy (42 U.S.C. 5195)**

The purpose of this title is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.

### **Sec. 602. Definitions (42 U.S.C. 5195a)**

(a) Definitions - For purposes of this title only:

- (1) Hazard - The term "hazard" means an emergency or disaster resulting from
  - (A) a natural disaster; or
  - (B) an accidental or man-caused event.
- (2) Natural disaster - The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.
- (3) Emergency preparedness - The term "emergency preparedness" means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:
  - (A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters,

- shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).
- (B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).
  - (C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).
- (4) Organizational equipment - The term “organizational equipment” means equipment determined by the Director to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.
- (5) Materials - The term “materials” includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.
- (6) Facilities - The term “facilities”, except as otherwise provided in this title, includes buildings, shelters, utilities, and land.
- (7) Director - The term “Director” means the Director of the Federal Emergency Management Agency.
- (8) Neighboring countries - The term “neighboring countries” includes Canada and Mexico.
- (9) United States and States - The terms “United States “ and “States” includes the several States, the District of Columbia , and territories and possessions of the United States .
- (10) State - The term “State” includes interstate emergency preparedness authorities established under section 5196(h) of this title.
- (b) Cross Reference - The terms “national defense” and “defense,” as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes [include] emergency preparedness activities conducted pursuant to this title.

**Sec. 603. Administration of Title (42 U.S.C. 5195b)**

This title shall be carried out by the Director of the Federal Emergency Management Agency.

**SUBTITLE A – POWERS AND DUTIES**

**Sec. 611. Detailed Functions or Administration (42 U.S.C. 5196)\***

- (a) In General - In order to carry out the policy described in section 5195 of this title, the Director shall have the authorities provided in this section.
- (b) Federal Emergency Response Plans and Programs - The Director may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Director may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.
- (c) Delegation of emergency preparedness responsibilities - With the approval of the President, the Director may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.
- (d) Communications and warnings - The Director may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.
- (e) Emergency preparedness measures - The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including -
  - (1) research and studies as to the best methods of treating the effects of hazards;
  - (2) developing shelter designs and materials for protective covering or construction;
  - (3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements; and
  - (4) plans that take into account the needs of individuals with pets and service animals prior to, during, and following a major disaster or emergency.



(f) Training programs -

(1) The Director may -

- (A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;
- (B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter 1 of chapter 57 of title 5, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and
- (C) provide instructors and training aids as necessary.

(2) The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The Director may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) Public dissemination of emergency preparedness information - The Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) Emergency preparedness compacts -

(1) The Director shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by -

- (A) identifying and cataloging existing emergency preparedness compacts for acts of terrorism, disasters, and emergencies at the State and local levels of government;
- (B) disseminating to State and local governments examples of best practices in the development of emergency preparedness compacts and models of existing emergency preparedness compacts, including agreements involving interstate jurisdictions; and
- (C) completing an inventory of Federal response capabilities for acts of terrorism, disasters, and emergencies, making such inventory available to appropriate Federal, State, and local government officials, and ensuring that such inventory is as current and accurate as practicable.

(2) The Director may -

- (A) assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;
- (B) review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity between such compacts and consistency with Federal emergency response plans and programs;
- (C) assist and coordinate the activities under such compacts; and
- (D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

(3) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

(4) Nothing in this subsection shall be construed as preventing Congress from disapproving, or withdrawing at any time its consent to, any interstate emergency preparedness compact.

(i) Materials and facilities -

- (1) The Director may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.
- (2) Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this title before the approval of title by the Attorney General as required by section 255 of title 40 .
- (3) The Director may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.
- (4) The Director may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Director shall prescribe.

(j) Financial contributions -

- (1) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.
- (2) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.
- (3) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.
- (4) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.
- (5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.
- (6) The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.
- (7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any

facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director necessary for the use of such facility for emergency preparedness purposes.

(8) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act, 40 U.S.C. 276a - 276a-5), and every such employee shall receive compensation at a rate not less than one and 1/2 times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 276c of title 40.

(k) Sale or disposal of certain materials and facilities - The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 ( 40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

**Sec. 612. Mutual Aid Pacts Between States and Neighboring Countries (42 U.S.C. 5196a)**

The Director shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

**Sec. 613. Contributions for Personnel and Administrative Expenses (42 U.S.C. 5196b)\***

- (a) General authority - To further assist in carrying out the purposes of this title, the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 5196(h) of this title) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.
- (b) Plan requirements - A plan submitted under this section shall -
  - (1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;
  - (2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;
  - (3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the Director;
  - (4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;
  - (5) provide that the State shall make such reports in such form and content as the Director may require;
  - (6) make available to duly authorized representatives of the Director and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and
  - (7) include a plan for providing information to the public in a coordinated manner.

(c) Catastrophic Incident Annex -

(1) Consistency - A catastrophic incident annex submitted under subsection (b)(3) shall be -

(A) modeled after the catastrophic incident annex of the National Response Plan; and

(B) consistent with the national preparedness goal established under section 643 of the Post-Katrina Emergency Management Reform Act of 2006, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(2) Consultation - In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.

(d) Terms and conditions - The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.

(e) Application of other provisions - In carrying out this section, the provisions of sections 5196(h) and 5197(h) of this title shall apply.

(f) Allocation of funds - For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(g) Standards for State and Local Emergency Preparedness Operational Plans - In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the Director shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) Submission of plan - If a State fails to submit a plan for approval as required by this section within 60 days after the Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director, will

best assure the adequate development of the emergency preparedness capability of the United States.

- (i) Annual reports - The Director shall report annually to the Congress all contributions made pursuant to this section.

**Sec. 614. Requirement for State Matching Funds for Construction of Emergency Operating Centers (42 U.S.C. 5196c)**

Notwithstanding any other provision of this title, funds appropriated to carry out this title may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title for such purpose.

**Sec. 615. Use of Funds to Prepare for and Respond to Hazards (42 U.S.C. 5196d)**

Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this title for emergency preparedness activities and measures related to hazards.

**Sec. 616. Disaster Related Information Services (42 U.S.C. 5196f)\***

- (a) In General - Consistent with section 308(a), the Director of the Federal Emergency Management Agency shall -
  - (1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;
  - (2) ensure that information made available to individuals affected by a major disaster or emergency is made available in formats that can be understood by -
    - (A) population groups identified under paragraph (1); and
    - (B) individuals with disabilities or other special needs; and
  - (3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.
- (b) Group Size - For purposes of subsection (a), the Director of the Federal Emergency Management Agency shall define the size of a population group.

## **SUBTITLE B – GENERAL PROVISIONS**

### **Sec. 621. Administrative Authority (42 U.S.C. 5197)**

- (a) In General - For the purpose of carrying out the powers and duties assigned to the Director under this title, the Director may exercise the administrative authorities provided under this section.
- (b) Advisory personnel - The Director may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Director considers to be necessary in carrying out the provisions of this title.
  - (1) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the Director.
- (c) Services of other agency personnel and volunteers - The Director may -
  - (1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;
  - (2) establish and use such regional and other offices as may be necessary; and
  - (3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.
- (d) Gifts - Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.
- (e) Reimbursement - The Director may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.
- (f) Printing - The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44.
- (g) Rules and regulations - The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The Director may perform any of the powers and duties provided by this title through or with the aid



of such officials of the Federal Emergency Management Agency as the Director may designate.

(h) Failure to expend contributions correctly - When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this subchapter for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this subchapter (or from funds otherwise available for the purposes of this subchapter for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

(3) As used in this subsection, the term "person" means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

#### **Sec. 622. Security Regulations (42 U.S.C. 5197a)**

(a) Establishment - The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

(b) Limitation on Employee access to information - No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of

the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

(c) National Security Positions - No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.

(d) Employee Oaths - Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 5197(b) of this title, shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

(e) "I \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of \_\_\_\_\_ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

**Sec. 623. Use of Existing Facilities (42 U.S.C. 5197b)**

In performing duties under this title, the Director -

- (1) shall cooperate with the various departments and agencies of the Federal Government;
- (2) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and
- (3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

**Sec. 624. Annual Report to Congress (42 U.S.C. 5197c)**

The Director shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the Director considers appropriate.

**Sec. 625. Applicability of Subchapter (42 U.S.C. 5197d)**

The provisions of this title shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

**Sec. 626. Authorization of Appropriation and Transfers of Funds (42 U.S.C. 5197e)**

- (a) Authorization of appropriations - There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.
- (b) Transfer Authority - Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or

**Sec. 627. Relation to Atomic Energy Act of 1954 (42 U.S.C. 5197f)**

Nothing in this title shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

**Sec. 628. Federal Bureau of Investigation (42 U.S.C. 5197g)**

Nothing in this title shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

**Title VII -- Miscellaneous**

**Sec. 701. Rules and Regulations (42 U.S.C. 5201)**

(a) Rules and regulations

(1) The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.

(2) Deadline for payment of assistance - Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.

(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

**Sec. 705. Disaster Grant Closeout Procedures (42 U.S.C. 5205)**

(a) Statute of Limitations -

- (1) In general - Except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency.
- (2) Fraud exception - The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.

(b) Rebuttal of Presumption of Record Maintenance -

- (1) In general - In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.
- (2) Affirmative evidence - The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.
- (3) Inability to produce documentation - The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years after the date of transmission of the final expenditure report shall not constitute evidence to rebut the presumption described in paragraph (1).
- (4) Right of access - The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.

(c) Binding Nature of Grant Requirements - A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this Act if -

- (1) the payment was authorized by an approved agreement specifying the costs;
- (2) the costs were reasonable; and
- (3) the purpose of the grant was accomplished.

**Sec. 706. Firearms Policies (42 U.S.C. 5207)\***

- (a) Prohibition on Confiscation of Firearms - No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer,

- (1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;
  - (2) require registration of any firearm for which registration is not required by Federal, State, or local law;
  - (3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or
  - (4) prohibit the carrying of firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency in support of relief from the major disaster or emergency.
- (b) Limitation - Nothing in this section shall be construed to prohibit any person in subsection (a) from requiring the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency, provided that such temporarily surrendered firearm is returned at the completion of such rescue or evacuation.
- (c) Private Rights of Action -
- (1) In General - Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.
  - (2) Remedies - In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.
  - (3) Attorney Fees - In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

## **MISCELLANEOUS STATUTORY PROVISIONS THAT RELATE TO THE STAFFORD ACT**

### **Excess Disaster Assistance Payments as Budgetary Emergency Requirements (42 U.S.C. 5203)**

Hereafter, beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of \$320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 901(b)(2)(D) of title 2, and such amounts shall hereafter be so designated.

### **Insular Areas Disaster Survival and Recovery; Definitions (42 U.S.C. 5204)**

As used in sections 5204 to 5204c of this title -

(1) the term "insular area" means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, and the Virgin Islands;

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(3) the term "Secretary" means the Secretary of the Interior.

*Note: See the note preceding 48 U.S.C. § 1681 terminating the Trust Territory of the Pacific Islands which effectively removes the Federated States of Micronesia and the Marshall Islands from the definition of "insular area".*

### **Authorization of Appropriations for Insular Areas (Disaster Recovery) (42 U.S.C. 5204a)**

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to -

(1) reconstruct essential public facilities damaged by disasters in the insular areas that occurred prior to February 24, 1992; and

(2) enhance the survivability of essential public facilities in the event of disasters in the insular areas, except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 5170b and 5172 of this title for such disaster. Such sums shall remain available until expended.

**Technical Assistance for Insular Areas (Disaster Recovery) (42 U.S.C. 5204b)**

(a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

*Note: The following provision is superseded by Section 404 of the Stafford Act.*

**Hazard Mitigation for Insular Areas (Limitation on Amount of Contributions, Local Match) (42 U.S.C. 5204c)**

The total of contributions under the last sentence of section 5170c of this title for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 5170c, 5172, 5173, 5174 and 5178 of this title for any disaster: Provided, That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 5172 of this title for any disaster.



**Buy American (Requirements) (42 U.S.C. 5206)**

(a) Compliance With Buy American Act - No funds authorized to be appropriated under this Act [Disaster Mitigation Act of 2000, Pub. L. No.106-390] or any amendment made by this Act [Disaster Mitigation Act of 2000, Pub. L. No.106-390] may be expended by an entity unless the entity, in expending the funds, complies with the Buy American Act (41 U.S.C. 10a et seq.).

(b) Debarment of Persons Convicted of Fraudulent Use of "Made in America" Labels -

(1) In general - If the Director of the Federal Emergency Management Agency determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Director shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Definition of debar - In this subsection, the term "debar" has the meaning given the term in section 2393(c) of title 10, United States Code.

**U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28, 121 Stat. 112 (2007), Signed on May 25, 2007.**

**Sec. 4501.**

(a) IN GENERAL – Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including any direct Federal assistance, provided for the States of Louisiana, Mississippi, Florida, Alabama, and Texas in connection with Hurricanes Katrina, Wilma, Dennis, and Rita under sections 403, 406, 407, and 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173, and 5174) shall be 100 percent of the eligible costs under such sections.

(b) APPLICABILITY –

- (1) IN GENERAL – The Federal share provided by subsection (a) shall apply to disaster assistance applied for before the date of enactment of this Act.
- (2) LIMITATION – In the case of disaster assistance provided under sections 403, 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Federal share provided by subsection (a) shall be limited to assistance provided for projects for which a “request for public assistance form” has been submitted.

**Sec. 4502.**

(a) COMMUNITY DISASTER LOAN ACT –

- (1) IN GENERAL – Section 2(a) of the Community Disaster Loan Act of 2005 (Public Law 109-88) is amended by striking “*Provided further*, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled:”.
- (2) EFFECTIVE DATE – The amendment made by paragraph (1) shall be effective on the date of enactment of the Community Disaster Loan Act of 2005 (Public Law 109-88).

(b) EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT –

- (1) IN GENERAL – Chapter 4 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234) is amended under Federal Emergency Management Agency, “Disaster Assistance Direct Loan Program Account” by striking “*Provided further*, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled:”.
- (2) EFFECTIVE DATE – The amendment made by paragraph (1) shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234).

**Sec. 4503.**

(a) IN GENERAL – Section 2401 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234) is amended by striking “12 months” and inserting “24 months”.

*Note: Section 2401 is set forth below.*

(b) EFFECTIVE DATE – The amendment made by this section shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234).

**Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109-295, 120 Stat. 1355 (2006), Signed on October 4, 2006.**  
*[Includes Post-Katrina Emergency Management Reform Act (PKEMRA)]*

**Sec. 508.**

None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of \$1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: *Provided*, That no notification shall involve funds that are not available for obligation: *Provided further*, That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism prevention grants; or high-threat, high-density urban areas grants.

**Sec. 536.**

The Department of Homeland Security shall, in approving standards for State and local emergency preparedness operational plans under section 613(b)(3) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5196b(b)(3)), account for the needs of individuals with household pets and service animals before, during, and following a major disaster or emergency: *Provided*, That Federal agencies may provide assistance as described in section 403(a) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5170b(a)) to carry out plans described in the previous proviso.

## TITLE VI – NATIONAL EMERGENCY MANAGEMENT

### **Sec. 601. Short Title (6 U.S.C. 701 note)**

This title may be cited as the ‘Post-Katrina Emergency Management Reform Act of 2006’.

### **Sec. 612. (6 U.S.C. 313 note and 6 U.S.C. 311 note)**

(c) References- Any reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.

(f) Interim Actions-

- (1) IN GENERAL- During the period beginning on the date of enactment of this Act and ending on March 31, 2007, the Secretary, the Under Secretary for Preparedness, and the Director of the Federal Emergency Management Agency shall take such actions as are necessary to provide for the orderly implementation of any amendment under this subtitle that takes effect on March 31, 2007.
- (2) REFERENCES- Any reference to the Administrator of the Federal Emergency Management Agency in this title or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency until March 31, 2007.

### **Sec. 640a. Disclosure of Certain Information to Law Enforcement Agencies (6 U.S.C. 727)**

In the event of circumstances requiring an evacuation, sheltering, or mass relocation, the Administrator may disclose information in any individual assistance database of the Agency in accordance with section 552a(b) of title 5, United States Code (commonly referred to as the “Privacy Act”), to any law enforcement agency of the Federal Government or a State, local, or tribal government in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws.

### **Sec. 653. Federal Preparedness (6 U.S.C. 753)**

(c) Mission Assignments – To expedite the provision of assistance under the National Response Plan, the President shall ensure that the Administrator, in coordination with Federal agencies with responsibilities under the National Response Plan, develops prescribed mission assignments, including logistics, communications, mass care, health services, and public safety.

## Subtitle E – Stafford Act Amendments

### Sec. 682. National Disaster Recovery Strategy (6 U.S.C. 771)

(a) In General – The Administrator, in coordination with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary for Indian Affairs of the Department of the Interior, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council), and representatives of appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Recovery Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

(b) Contents – The National Disaster Recovery Strategy shall –

- (1) outline the most efficient and cost-effective Federal programs that will meet the recovery needs of States, local and tribal governments, and individuals and households affected by a major disaster;
- (2) clearly define the role, programs, authorities, and responsibilities of each Federal agency that may be of assistance in providing assistance in the recovery from a major disaster;
- (3) promote the use of the most appropriate and cost-effective building materials (based on the hazards present in an area) in any area affected by a major disaster, with the goal of encouraging the construction of disaster-resistant buildings; and
- (4) describe in detail the programs that may be offered by the agencies described in paragraph (2), including –
  - (A) discussing funding issues;
  - (B) detailing how responsibilities under the National Disaster Recovery Strategy will be shared; and
  - (C) addressing other matters concerning the cooperative effort to provide recovery assistance.

(c) Report –

- (1) IN GENERAL – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Recovery Strategy and any additional authorities necessary to implement any portion of the National Disaster Recovery Strategy.
- (2) UPDATE – The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1) –
  - (A) on the same date that any change is made to the National Disaster Recovery Strategy; and

- (B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

**Sec. 683. National Disaster Housing Strategy (6 U.S.C. 772)**

(a) In General – The Administrator, in coordination with representatives of the Federal agencies, governments, and organizations listed in subsection (b)(2) of this section, the National Advisory Council, the National Council on Disability, and other entities at the Administrator’s discretion, shall develop, coordinate, and maintain a National Disaster Housing Strategy.

(b) Contents – The National Disaster Housing Strategy shall –

- (1) outline the most efficient and cost effective Federal programs that will best meet the short-term and long-term housing needs of individuals and households affected by a major disaster;
- (2) clearly define the role, programs, authorities, and responsibilities of each entity in providing housing assistance in the event of a major disaster, including –
  - (A) the Agency;
  - (B) the Department of Housing and Urban Development;
  - (C) the Department of Agriculture;
  - (D) the Department of Veterans Affairs;
  - (E) the Department of Health and Human Services;
  - (F) the Bureau of Indian Affairs;
  - (G) any other Federal agency that may provide housing assistance in the event of a major disaster;
  - (H) the American Red Cross; and
  - (I) State, local, and tribal governments;
- (3) describe in detail the programs that may be offered by the entities described in paragraph (2), including –
  - (A) outlining any funding issues;
  - (B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and
  - (C) addressing other matters concerning the cooperative effort to provide housing assistance during a major disaster;
- (4) consider methods through which housing assistance can be provided to individuals and households where employment and other resources for living are available;
- (5) describe programs directed to meet the needs of special needs and low-income populations and ensure that a sufficient number of housing units are provided for individuals with disabilities;
- (6) describe plans for operation of clusters of housing provided to individuals and households, including access to public services, site management, security, and site density;

- (7) describe plans for promoting the repair or rehabilitation of existing rental housing, including through lease agreements or other means, in order to improve the provision of housing to individuals and households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and
  - (8) describe any additional authorities necessary to carry out any portion of the strategy.
- (c) Guidance – The Administrator should develop and make publicly available guidance on –
- (1) types of housing assistance available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to individuals and households affected by an emergency or major disaster;
  - (2) eligibility for such assistance (including, where appropriate, the continuation of such assistance); and
  - (3) application procedures for such assistance.
- (d) Report –
- (1) IN GENERAL – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Housing Strategy, including programs directed to meeting the needs of special needs populations.
  - (2) UPDATED REPORT – The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1) –
    - (A) on the same date that any change is made to the National Disaster Housing Strategy; and
    - (B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

**Sec. 689. Individuals with Disabilities (6 U.S.C. 773)**

- (a) Guidelines – Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under section 513 of the Homeland Security Act of 2002, as added by this Act), the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for –
- (1) the accessibility of, and communications and programs in, shelters, recovery centers, and other facilities; and
  - (2) devices used in connection with disaster operations, including first aid stations, mass feeding areas, portable payphone stations, portable toilets, and temporary housing.

**Sec. 689b. Reunification (6 U.S.C. 774)**

(a) Definitions – In this section:

- (1) Child Locator Center – The term “Child Locator Center” means the National Emergency Child Locator Center established under subsection (b).
- (2) Declared Event – The term “declared event” means a major disaster or emergency.
- (3) Displaced Adult – The term “displaced adult” means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.
- (4) Displaced Child – The term “displaced child” means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) National Emergency Child Locator Center –

- (1) In general – Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish procedures to make all relevant information available to the National Emergency Child Locator Center in a timely manner to facilitate the expeditious identification and reunification of children with their families.

(2) Purposes – The purposes of the Child Locator Center are to

- (A) enable individuals to provide to the Child Locator Center the name of and other identifying information about a displaced child or a displaced adult who may have information about the location of a displaced child;
- (B) enable individuals to receive information about other sources of information about displaced children and displaced adults; and
- (C) assist law enforcement in locating displaced children.

(3) Responsibilities and Duties – The responsibilities and duties of the Child Locator Center are to –

- (A) establish a toll-free telephone number to receive reports of displaced children and information about displaced adults that may assist in locating displaced children;
- (B) create a website to provide information about displaced children;
- (C) deploy its staff to the location of a declared event to gather information about displaced children;
- (D) assist in the reunification of displaced children with their families;
- (E) provide information to the public about additional resources for disaster assistance;



- (F) work in partnership with Federal, State, and local law enforcement agencies;
- (G) provide technical assistance in locating displaced children;
- (H) share information on displaced children and displaced adults with governmental agencies and nongovernmental organizations providing disaster assistance;
- (I) use its resources to gather information about displaced children;
- (J) refer reports of displaced adults to
  - (i) an entity designated by the Attorney General to provide technical assistance in locating displaced adults; and
  - (ii) the National Emergency Family Registry and Locator System as defined under section 689c(a);
- (K) enter into cooperative agreements with Federal and State agencies and other organizations such as the American Red Cross as necessary to implement the mission of the Child Locator Center; and
- (L) develop an emergency response plan to prepare for the activation of the Child Locator Center.

(c) Conforming Amendments – Section 403(1) of the Missing Children’s Assistance Act (42 U.S.C. 5772(1)) is amended –

- (1) in subparagraph (A), by striking “or” at the end;
- (2) in subparagraph (B), by adding “or” after the semicolon; and
- (3) by inserting after subparagraph (B) the following:  
 “(C) the individual is an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).”.

(d) Report – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives a report describing in detail the status of the Child Locator Center, including funding issues and any difficulties or issues in establishing the Center or completing the cooperative agreements described in subsection (b)(3)(K).

**Sec. 689c. National Emergency Family Registry and Locator System (6 U.S.C. 775)**

- (a) Definitions – In this section –
- (1) the term “displaced individual” means an individual displaced by an emergency or major disaster; and
  - (2) the term “National Emergency Family Registry and Locator System” means the National Emergency Family Registry and Locator System established under subsection (b).

(b) Establishment – Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a National Emergency Family Registry and Locator System to help reunify families separated after an emergency or major disaster.

(c) Operation of System – The National Emergency Family Registry and Locator System shall –

- (1) allow a displaced adult (including medical patients) to voluntarily register (and allow an adult that is the parent or guardian of a displaced child to register such child), by submitting personal information to be entered into a database (such as the name, current location of residence, and any other relevant information that could be used by others seeking to locate that individual);
- (2) ensure that information submitted under paragraph (1) is accessible to those individuals named by a displaced individual and to those law enforcement officials;
- (3) be accessible through the Internet and through a toll-free number, to receive reports of displaced individuals; and
- (4) include a means of referring displaced children to the National Emergency Child Locator Center established under section 689b.

(d) Publication of Information – Not later than 210 days after the date of enactment of this Act, the Administrator shall establish a mechanism to inform the public about the National Emergency Family Registry and Locator System and its potential usefulness for assisting to reunite displaced individuals with their families.

(e) Coordination – Not later than 90 days after the date of enactment of this Act, the Administrator shall enter a memorandum of understanding with the Department of Justice, the National Center for Missing and Exploited Children, the Department of Health and Human Services, and the American Red Cross and other relevant private organizations that will enhance the sharing of information to facilitate reuniting displaced individuals (including medical patients) with families.

(f) Report – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the status of the National Emergency Family Registry and Locator System, including any difficulties or issues in establishing the System, including funding issues.

**Sec. 689i. Individuals and Households Pilot Program (6 U.S.C. 776)**

(a) Pilot Program –

- (1) In general – The President, acting through the Administrator, in coordination with State, local, and tribal governments, shall establish and conduct a pilot program. The pilot program shall be designed to make better use of existing rental housing, located in areas covered by a major disaster declaration, in

order to provide timely and cost-effective temporary housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) where alternative housing options are less available or cost-effective.

(2) Administration –

(A) In General – For the purposes of the pilot program under this section, the Administrator may –

(i) enter into lease agreements with owners of multi-family rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174);

(ii) make improvements to properties under such lease agreements;

(iii) use the pilot program where the program is cost effective in that the cost to the Government for the lease agreements is in proportion to the savings to the Government by not providing alternative housing; and

(iv) limit repairs to those required to ensure that the housing units shall meet Federal housing quality standards.

(B) Improvements to leased properties – Under the terms of any lease agreement for a property described under subparagraph (A)(ii), the value of the contribution of the Agency to such improvements –

(i) shall be deducted from the value of the lease agreement; and

(ii) may not exceed the value of the lease agreement.

(3) Consultation – In administering the pilot program under this section, the Administrator may consult with State, local, and tribal governments.

(4) Report –

(A) In General – Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program.

(B) Contents – The Administrator shall include in the report –

(i) an assessment of the effectiveness of the pilot program under this section, including an assessment of cost-savings to the Federal Government and any benefits to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) under the pilot program;

(ii) findings and conclusions of the Administrator with respect to the pilot program;

(iii) an assessment of additional authorities needed to aid the Agency in its mission of providing disaster housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), either under the pilot program under this section or other potential housing programs; and

(iv) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(b) Pilot Program Project Approval – The Administrator shall not approve a project under the pilot program after December 31, 2008.

**Sec. 689j. Public Assistance Pilot Program (6 U.S.C. 777)**

(a) Pilot Program –

(1) In General – The President, acting through the Administrator, and in coordination with State and local governments, shall establish and conduct a pilot program to –

(A) reduce the costs of the Federal Government of providing assistance to States and local governments under sections 403(a)(3)(A), 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1570b(a)(3), 5172, 5172);

(B) increase flexibility in the administration of sections 403(a)(3)(A), 406, and 407 of that Act; and

(C) expedite the provision of assistance to States and local governments provided under sections 403(a)(3)(A), 406, and 407 of that Act.

(2) Participation – Only States and local governments that elect to participate in the pilot program may participate in the pilot program for a particular project.

(3) Innovative Administration –

(A) In General – For purposes of the pilot program, the Administrator shall establish new procedures to administer assistance provided under the sections referred to in paragraph (1).

(B) New Procedures – The new procedures established under subparagraph

(A) may include 1 or more of the following:

(i) Notwithstanding section 406(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1571(c)(1)(A)), providing an option for a State or local government to elect to receive an in-lieu contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State or local government and of management expenses.

(ii) Making grants on the basis of estimates agreed to by the local government (or where no local government is involved, by the State government) and the Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the State government) for the timely or cost effective completion of projects under section 403(a)(3)(A), 406, and 407 of that Act.

(iii) Increasing the Federal share for removal of debris and wreckage for States and local governments that have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris

and wreckage removal contractors before the date of declaration of the major disaster.

(iv) Using a sliding scale for the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal.

(v) Using a financial incentive to recycle debris.

(vi) Reimbursing base wages for employees and extra hires of a State or local government involved in or administering debris and wreckage removal.

(4) Waiver – The Administrator may waive such regulations or rules applicable to the provisions of assistance under the sections referred to in paragraph (1) as the Administrator determines are necessary to carry out the pilot program under this section.

(b) Report –

(1) In General – Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program under this section.

(2) Contents – The report submitted under paragraph (1) shall include –

(A) An assessment by the Administrator of any administrative or financial benefits of the pilot program;

(B) An assessment by the Administrator of the effect, including any savings in time and cost, of the pilot program;

(C) Any identified legal or other obstacles to increasing the amount of debris recycled after a major disaster;

(D) Any other findings and conclusions of the Administrator with respect to the pilot program; and

(E) Any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(c) Deadline for Initiation of Implementation – The Administrator shall initiate implementation of the pilot program under this section not later than 90 days after the date of enactment of the Act.

(d) Pilot Program Project Duration – The Administrator may not approve a project under the pilot program under this section after December 31, 2008.

#### **Sec. 689k. Disposal of Unused Temporary Housing Units**

(a) In General – Notwithstanding section 408(d)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)(B)), if the Administrator authorizes the disposal of an unused temporary housing unit that is owned by the Agency on the date of enactment of this Act and is not used to house individuals or households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) after that date, such unit shall be

disposed of under subchapter III of chapter 5 of subtitle I of title 40, United States Code.

(b) Tribal Governments – Housing units described in subsection (a) shall be disposed of in coordination with the Department of the Interior or other appropriate agencies in order to transfer such units to tribal governments if appropriate.

#### **Subtitle F – Prevention of Fraud, Waste, and Abuse**

#### **Sec. 691. Advance Contracting (6 U.S.C. 791)**

(a) Initial Report –

- (1) IN GENERAL – Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying –
  - (A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;
  - (B) recurring disaster response requirements, including specific goods and services, for which the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and
  - (C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.
- (2) SUBMISSION – The report under paragraph (1) shall be submitted to the appropriate committees of Congress.

(b) Entering Into Contracts –

- (1) IN GENERAL – Not later than 1 year after the date of enactment of this Act, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement.
- (2) CONSIDERED FACTORS – Before entering into any contract under this subsection, the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by this Act.
- (3) PRENEGOTIATED FEDERAL CONTRACTS FOR GOODS AND SERVICES – The Administrator, in coordination with State and local governments and other Federal agencies, shall establish a process to ensure that Federal prenegotiated contracts for goods and services are coordinated with State and local governments, as appropriate.
- (4) PRENEGOTIATED STATE AND LOCAL CONTRACTS FOR GOODS AND SERVICES – The Administrator shall encourage State and local

governments to establish prenegotiated contracts with vendors for goods and services in advance of natural disasters and acts of terrorism or other man-made disasters.

(c) Maintenance of Contracts – After the date described under subsection (b), the Administrator shall have the responsibility to maintain contracts for appropriate levels of goods and services in accordance with subsection (a)(1)(C).

(d) Report on Contracts Not Using Competitive Procedures – At the end of each fiscal quarter, beginning with the first fiscal quarter occurring at least 90 days after the date of enactment of this Act, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

**Sec. 692. Limitations on Tiering of Subcontractors (6 U.S.C. 792)**

(a) Regulations – The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) Specific Requirement – At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

(c) Covered Contracts – This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

**Sec. 693. Oversight and Accountability of Federal Disaster Expenditures (6 U.S.C. 793)**

(a) Authority of Administrator to Designate Funds for Oversight Activities – The Administrator may designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight of activities carried out under the Agency reimbursable mission assignment process. Such funds shall remain available until expended.

(b) Use of Funds –

(1) TYPES OF OVERSIGHT ACTIVITIES – Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

- (A) Monitoring, tracking, and auditing expenditures of funds.
- (B) Ensuring that sufficient management and internal control mechanisms are available so that Agency funds are spent appropriately and in accordance with all applicable laws and regulations.
- (C) Reviewing selected contracts and other activities.
- (D) Investigating allegations of fraud involving Agency funds.
- (E) Conducting and participating in fraud prevention activities with other Federal, State, and local government personnel and contractors.
- (2) PLANS AND REPORTS – Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

(c) Restriction on Use of Funds – Oversight funds may not be used to finance existing agency oversight responsibilities related to direct agency appropriations used for disaster response, relief, and recovery activities.

(d) Methods of Oversight Activities –

- (1) IN GENERAL – Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits.
- (2) COORDINATION OF OVERSIGHT ACTIVITIES – To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

(e) Development of Oversight Plans –

- (1) IN GENERAL – If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare a plan describing the oversight activities for disaster response, relief, and recovery anticipated to be undertaken during the subsequent fiscal year.
- (2) SELECTION OF OVERSIGHT ACTIVITIES – In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of those areas that present the greatest risk of fraud, waste, and abuse.
- (3) SCHEDULE – The plan shall include a schedule for conducting oversight activities, including anticipated dates of completion.

(f) Federal Disaster Assistance Accountability Reports – A Federal agency receiving oversight funds under this section shall submit annually to the Administrator and the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

(g) Definition – In this section, the term ‘oversight funds’ means funds referred to in subsection (a) that are designated for use in performing oversight activities.



**Sec. 695. Limitation on Length of Certain Noncompetitive Contracts (6 U.S.C. 794)**

(a) Regulations – The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary –

- (1) to meet the urgent and compelling requirements of the work to be performed under the contract; and
- (2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) Specific Contract Period – The regulations promulgated under subsection (a) shall require the contract period to not to exceed 150 days, unless the Secretary determines that exceptional circumstances apply.

(c) Covered Contracts – This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

**Sec. 696. Fraud, Waste, and Abuse Controls (6 U.S.C. 795)**

(a) In General – The Administrator shall ensure that –

- (1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;
- (2) application databases used by the Agency to collect information on eligible recipients must record disbursements;
- (3) such tracking is designed to highlight and identify ineligible applications; and
- (4) the databases used to collect information from applications for such assistance must be integrated with disbursement and payment records.

(b) Audits and Reviews Required – The Administrator shall ensure that any database or similar application processing system for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.

**Sec. 697. Registry of Disaster Response Contractors (6 U.S.C. 796)**

(a) Definitions – In this section –

- (1) the term ‘registry’ means the registry created under subsection (b); and
- (2) the terms ‘small business concern’, ‘small business concern owned and controlled by socially and economically disadvantaged individuals’, ‘small business concern owned and controlled by women’, and ‘small business concern owned and controlled by service-disabled veterans’ have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

(b) Registry –

- (1) IN GENERAL – The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.
- (2) CONTENTS – The registry shall include, for each business concern –
  - (A) the name of the business concern;
  - (B) the location of the business concern;
  - (C) the area served by the business concern;
  - (D) the type of good or service provided by the business concern;
  - (E) the bonding level of the business concern ;
  - (F) whether the business concern is –
    - (i) a small business concern;
    - (ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;
    - (iii) a small business concern owned and controlled by women; or
    - (iv) a small business concern owned and controlled by service-disabled veterans.
- (3) SOURCE OF INFORMATION –
  - (A) SUBMISSION – Information maintained in the registry shall be submitted on a voluntary basis and be kept current by the submitting business concerns.
  - (B) ATTESTATION – Each business concern submitting information to the registry shall submit –
    - (i) an attestation that the information is true; and
    - (ii) documentation supporting such attestation.
  - (C) VERIFICATION – The Administrator shall verify that the documentation submitted by each business concern supports the information submitted by that business concern.
- (4) AVAILABILITY OF REGISTRY – The registry shall be made generally available on the Internet site of the Agency.
- (5) CONSULTATION OF REGISTRY – As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

**Sec. 698 Fraud Prevention Training Program (6 U.S.C. 797)**

The Administrator shall develop and implement a program to provide training on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

**Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, Pub. L. No. 109-234, 120 Stat. 418 (2006), Signed on June 15, 2006.**

**Sec. 2401.**

The Federal Emergency Management Agency may provide funds to a State or local government or, as necessary, assume an existing agreement from such unit of government, to pay for utility costs resulting from the provision of temporary housing units to evacuees from Hurricane Katrina and other hurricanes of the 2005 season if the State or local government has previously arranged to pay for such utilities on behalf of the evacuees for the term of any leases, not to exceed 12 months, contracted by or prior to February 7, 2006: *Provided*, That the Federal share of the costs eligible to be paid shall be 100 percent.

*Note: Section 2401 has been extended from a period of 12 months to a period of 24 months by section 4503 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (signed on May 25, 2007), set forth above.*

**Sec. 2403.**

Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Individual Assistance Program the costs sufficient for alternative housing pilot programs in the areas hardest hit by Hurricane Katrina and other hurricanes of the 2005 season.



# THE HOMELAND SECURITY ACT OF 2002

6 U.S.C. 311-321j

*(As amended by the Department of Homeland Security Appropriations Act, 2007,  
Pub. L. No. 109-295)*

## TITLE V

### (National Emergency Management)

#### Sec. 501. Definitions (6 U.S.C. 311)

In this title—

- (1) the term 'Administrator' means the Administrator of the Agency;
- (2) the term 'Agency' means the Federal Emergency Management Agency;
- (3) the term 'catastrophic incident' means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;
- (4) the term 'Federal coordinating officer' means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);
- (5) the term 'interoperable' has the meaning given the term 'interoperable communications' under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));
- (6) the term 'National Incident Management System' means a system to enable effective, efficient, and collaborative incident management;
- (7) the term 'National Response Plan' means the National Response Plan or any successor plan prepared under section 502(a)(6);
- (8) the term 'Regional Administrator' means a Regional Administrator appointed under section 507;
- (9) the term 'Regional Office' means a Regional Office established under section 507;

(10) the term 'surge capacity' means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and

(11) the term 'tribal government' means the government of any entity described in section 2(10)(B).

**Sec. 502. Definition (6 U.S.C. 312)**

In this subchapter, the term “Nuclear Incident Response Team” means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

**Sec. 503. Federal Emergency Management Agency (6 U.S.C. 313)**

(a) In General— There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

(b) Mission—

(1) PRIMARY MISSION— The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

(2) SPECIFIC ACTIVITIES— In support of the primary mission of the Agency, the Administrator shall—

(A) lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(B) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency

management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

(D) integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

(G) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

(c) Administrator—

(1) IN GENERAL— The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS— The Administrator shall be appointed from among individuals who have—

(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

(B) not less than 5 years of executive leadership and management experience in the public or private sector.

(3) REPORTING— The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT—

(A) IN GENERAL— The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

(B) ADVICE AND RECOMMENDATIONS—

(i) IN GENERAL— In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

(ii) ADVICE ON REQUEST— The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(iii) RECOMMENDATIONS TO CONGRESS— After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

(5) CABINET STATUS—

(A) IN GENERAL— The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

(B) RETENTION OF AUTHORITY— Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.

**Sec. 504. Authority and Responsibilities (6 U.S.C. 314)**

(a) In General — The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this subchapter)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;



(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this subchapter) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan;

(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act;

(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;

(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;

(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;

(12) supervising grant programs administered by the Agency;

(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;

(14) coordinating with the National Advisory Council established under section 508;

(15) preparing and implementing the plans and programs of the Federal Government for—

(A) continuity of operations;

(B) continuity of government; and

(C) continuity of plans;

(16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

(17) maintaining and operating within the Agency the National Response Coordination Center or its successor;

(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Administrator under the national preparedness System;

(20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and

(21) otherwise carrying out the mission of the Agency as described in section 503(b).

(b) All-Hazards Approach— In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that

builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.

**Sec. 505. Functions Transferred (6 U.S.C. 315)**

(a) In General— Except as provided in subsection (b), there are transferred to the Agency the following:

(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

(b) Exceptions— The following within the Preparedness Directorate shall not be transferred:

(1) The Office of Infrastructure Protection.

(2) The National Communications System.

(3) The National Cybersecurity Division.

(4) The Office of the Chief Medical Officer.

(5) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (4).

**Sec. 506. Preserving the Federal Emergency Management Agency (6 U.S.C. 316)**

(a) Distinct Entity— The Agency shall be maintained as a distinct entity within the Department.

(b) Reorganization— Section 872 shall not apply to the Agency, including any function or organizational unit of the Agency.

(c) Prohibition on Changes to Missions—

(1) IN GENERAL— The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

(2) CERTAIN TRANSFERS PROHIBITED— No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

(d) Reprogramming and Transfer of Funds— In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

**Sec. 507. Regional Offices (6 U.S.C. 317)**

(a) In General— There are in the Agency 10 regional offices, as identified by the Administrator.

(b) Management of Regional Offices—

(1) REGIONAL ADMINISTRATOR— Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

(2) QUALIFICATIONS—

(A) IN GENERAL— Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

(B) CONSIDERATIONS— In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

(c) Responsibilities—

(1) IN GENERAL— The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations,

multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

(2) RESPONSIBILITIES— The responsibilities of a Regional Administrator include—

(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

(F) fostering the development of mutual aid and other cooperative agreements;

(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

(H) maintaining and operating a Regional Response Coordination Center or its successor; and

(I) performing such other duties relating to such responsibilities as the Administrator may require.

(3) TRAINING AND EXERCISE REQUIREMENTS—

(A) TRAINING— The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

(B) EXERCISES— The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

(d) Area Offices—

(1) IN GENERAL— There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

(2) ALASKA— The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

(e) Regional Advisory Council—

(1) ESTABLISHMENT— Each Regional Administrator shall establish a Regional Advisory Council.

(2) NOMINATIONS— A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

(3) RESPONSIBILITIES— Each Regional Advisory Council shall—

(A) advise the Regional Administrator on emergency management issues specific to that region;

(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

(f) Regional Office Strike Teams—

(1) IN GENERAL— In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of

(A) a designated Federal coordinating officer;

(B) personnel trained in incident management;

(C) public affairs, response and recovery, and communications support personnel;

(D) a defense coordinating officer;

(E) liaisons to other Federal agencies;

(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

(2) OTHER DUTIES— The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

(3) LOCATION OF MEMBERS— The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

(4) COORDINATION— Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

(5) PREPAREDNESS— Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(6) AUTHORITIES— If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

#### **Sec. 508. National Advisory Council (6 U.S.C. 318)**

(a) Establishment— Not later than 60 days after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

(b) Responsibilities— The National Advisory Council shall advise the Administrator on all aspects of emergency management. The National Advisory Council shall incorporate State, local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(c) Membership—

(1) IN GENERAL— The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and inpatient medical providers, and public health professionals;

- (C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;
- (D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;
- (E) elected State, local, and tribal government executives;
- (F) experts in public and private sector infrastructure protection, cybersecurity, and communications;
- (G) representatives of individuals with disabilities and other populations with special needs; and
- (H) such other individuals as the Administrator determines to be appropriate.

(2) **COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION**— In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

(3) **EX OFFICIO MEMBERS**— The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

(4) **TERMS OF OFFICE**—

(A) **IN GENERAL**— Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

(B) **INITIAL APPOINTMENTS**— Of the members initially appointed to the National Advisory Council

- (i) one-third shall be appointed for a term of 1 year; and
- (ii) one-third shall be appointed for a term of 2 years.

(d) **Applicability of Federal Advisory Committee Act**—

(1) **IN GENERAL**— Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

(2) **TERMINATION**— Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

### **Sec. 509. National Integration Center (6 U.S.C. 319)**

(a) **In General**— There is established in the Agency a National Integration Center.



(b) Responsibilities—

(1) IN GENERAL— The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan.

(2) SPECIFIC RESPONSIBILITIES— The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

- (A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;
- (B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and
- (C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

(c) Incident Management—

(1) IN GENERAL—

(A) NATIONAL RESPONSE PLAN— The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

(B) ADMINISTRATOR— The chain of the command specified in the National Response Plan shall

- (i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 503(c)(4) and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and
- (ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

(2) PRINCIPAL FEDERAL OFFICIAL— The Principal Federal Official (or the successor thereto) shall not—

- (A) direct or replace the incident command structure established at the incident; or
- (B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

### **Sec. 510. Credentialing and Typing (6 U.S.C. 320)**

The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

### **Sec. 511. The National Infrastructure Simulation and Analysis Center (6 U.S.C. 321)**

(a) Definition— In this section, the term 'National Infrastructure Simulation and Analysis Center' means the National Infrastructure Simulation and Analysis Center established under section 1016(d) of the USA PATRIOT Act (42 U.S.C. 5195c(d)).

(b) Authority—

(1) IN GENERAL— There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to

- (A) counterterrorism, threat assessment, and risk mitigation; and
- (B) a natural disaster, act of terrorism, or other man-made disaster.

(2) INFRASTRUCTURE MODELING—

(A) PARTICULAR SUPPORT— The support provided under paragraph (1) shall include modeling, simulation, and analysis of the systems and assets comprising critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

(B) RELATIONSHIP WITH OTHER AGENCIES— Each Federal agency and department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

(C) PURPOSE—

(i) IN GENERAL— The purpose of the relationship under subparagraph (B) shall be to permit each Federal agency and department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and consequence analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.

(ii) RECIPIENT OF CERTAIN SUPPORT— Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive.

### **Sec. 512. Evacuation Plans and Exercises (6 U.S.C. 321a)**

(a) In General— Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal governments by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

- (1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster;
- (2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and
- (3) conduct exercises of such plans.

(b) Plan Development— In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

- (1) establish incident command and decision making processes;
- (2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;
- (3) identify primary and alternative evacuation routes and methods to increase evacuation capabilities along such routes such as conversion of two-way traffic to one-way evacuation routes;
- (4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all populations including for those individuals located in hospitals, nursing homes, and other institutional living facilities;
- (5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals--
  - (A) with disabilities or other special needs;
  - (B) with limited English proficiency; or
  - (C) who might otherwise have difficulty in obtaining such information; and

(6) identify shelter locations and capabilities.

(c) Assistance—

(1) IN GENERAL— The Administrator may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

(2) REQUESTED ASSISTANCE— The Administrator shall make assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to establish, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.

(d) Multipurpose Funds— Nothing in this section may be construed to preclude a State, local, or tribal government from using grant funds in a manner that enhances preparedness for a natural or man-made disaster unrelated to an act of terrorism, if such use assists such government in building capabilities for terrorism preparedness.

### **Sec. 513. Disability Coordinator (6 U.S.C. 321b)**

(a) In General— After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, established under Executive Order No. 13347 (6 U.S.C. 312 note), the Administrator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.

(b) Responsibilities The Disability Coordinator shall be responsible for—

(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), other agencies of the Federal Government, and State, local, and tribal government authorities regarding the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in

emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of 2006; and

(11) any other duties as assigned by the Administrator.

#### **Sec. 514. Department and Agency Officials (6 U.S.C. 321c)**

(a) Deputy Administrators— The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this title.

(b) Cybersecurity and Communications— There is in the Department an Assistant Secretary for Cybersecurity and Communications.

(c) United States Fire Administration— The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

**Sec. 515. National Operations Center (6 U.S.C. 321d)**

(a) Definition— In this section, the term 'situational awareness' means information gathered from a variety of sources that, when communicated to emergency managers and decision makers, can form the basis for incident management decision making.

(b) Establishment— The National Operations Center is the principal operations center for the Department and shall—

(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster; and

(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

**Sec. 516. Chief Medical Officer (6 U.S.C. 321e)**

(a) In General— There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Qualifications— The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

(c) Responsibilities— The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—

(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

(2) coordinating the biodefense activities of the Department;

(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

(5) serving as the Department's primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;

(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and

(7) performing such other duties relating to such responsibilities as the Secretary may require.

**Sec. 517. Nuclear incident response (6 U.S.C. 321f)**

**(a) In general**

At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

**(b) Rule of construction**

Nothing in this subchapter shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this subchapter) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

**Sec. 518. Conduct of certain public health-related activities (6 U.S.C. 321g)**

**(a) In general**

With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

**(b) Evaluation of progress**

In carrying out subsection (a) of this section, the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

**Sec. 519. Use of national private sector networks in emergency response (6 U.S.C. 321h)**

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

**Sec. 520. Use of commercially available technology, goods, and services (6 U.S.C. 321i)**

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

**Sec. 521. Procurement of security countermeasures for Strategic National Stockpile (6 U.S.C. 321j)**

**(a) Authorization of appropriations**

For the procurement of security countermeasures under section 247d–6b (c) of title 42 (referred to in this section as the “security countermeasures program”), there is authorized to be appropriated up to \$5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed \$3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed \$890,000,000 may be obligated during fiscal year 2004.

**(b) Special reserve fund**

For purposes of the security countermeasures program, the term “special reserve fund” means the “Biodefense Countermeasures” appropriations account or any other appropriation made under subsection (a) of this section.

**(c) Availability**

Amounts appropriated under subsection (a) of this section become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

**(d) Related authorizations of appropriations**

**(1) Threat assessment capabilities**

For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment



(including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 403-4 of title 50.

**(2) Intelligence sharing infrastructure**

For the purpose of carrying out the acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after July 21, 2004, all classified information and products to which the Under Secretary for Information Analysis and Infrastructure Protection is entitled under part A of subchapter II of this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.

## APPENDIX 2-16: 3025.1, MILITARY SUPPORT TO CIVIL AUTHORITIES

### Department of Defense DIRECTIVE

NUMBER 3025.1  
January 15, 1993

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USD(P)

SUBJECT: Military Support to Civil Authorities (MSCA)

References:

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

#### 1. REISSUANCE AND PURPOSE

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

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

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

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

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

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

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

## 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 (STARAC), 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 (l)).)

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

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

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

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

5.7.2. Establish a single headquarters element (to be denominated the "Directorate of Military Support (DOMS)") under the Secretary of the Army, through which the Secretary of the Army issues orders necessary to perform the duties of the DoD Executive Agent under this Directive. The Secretary of the Army shall ensure that the staff element includes specially qualified and trained officers of all Military Services, including those at senior levels in the element.

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

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

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

5.7.5.1. Resourcing the STARCs for MSCA planning and response tasks.

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

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

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.

/S/  
Donald J. Atwood  
Deputy Secretary of Defense

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.



## **APPENDIX 2-17: National Oil and Hazardous Substances Pollution Contingency Plan**

*For the complete text of 40 CFR 300, see:*

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=8f2a607e9d482ff9f41b1f7baf4aeb28&rgn=div5&view=text&node=40:26.0.1.1.1&idno=40>

*The following article summarizes National Oil and Hazardous Substances Pollution Plan:*

*Source:* [http://homer.ornl.gov/oepa/guidance/cwa/ncp\\_rev.pdf](http://homer.ornl.gov/oepa/guidance/cwa/ncp_rev.pdf)



# Environmental Guidance Regulatory Bulletin

Office of Environmental Policy and Assistance · RCRA/CERCLA Division (EH-413)

July 31, 1995

## National Oil and Hazardous Substances Pollution Contingency Plan

# Revised Rule Issued

**Effective Date: October 17, 1994**

### Introduction

On September 15, 1994, at 59 FR 47384-47495, the Environmental Protection Agency promulgated a Final Rule revising 40 CFR Part 300\*; the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). One of the primary purposes of the revised NCP is to provide for efficient, coordinated, and effective action to minimize adverse impact from oil discharges and hazardous substance releases. The NCP is required by Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act and Section 311 (c) (2) of the Clean Water Act. The NCP establishes an organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants under these two Acts. The Oil Pollution Act of 1990 (OPA) amends the existing provisions of the Clean Water Act (CWA) and creates major new authorities addressing oil, and to a lesser extent, hazardous substance spill response. These amendments to the CWA, in turn, require revision of the NCP. The OPA specifies a number of revisions to the NCP that enhance and expand upon the current framework, standards, and procedures for response. A Notice of Proposed Rulemaking on changes to the NCP was issued on October 22, 1993 (58 FR 54702). DOE solicited comments on the proposed rule from DOE program and field offices, and submitted those comments to EPA on December 20, 1993.

Specific aspects of the revisions to the NCP that affect DOE programs and facilities include:

- Role of on-scene coordinators and remedial project managers
- Response operations

- Federal agency participation
- Natural resource trustee responsibilities

The NCP and Executive Order 12580 (issued January 23, 1987) are the basis for DOE's implementation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) at DOE facilities. The Executive Order delegates response authority to DOE from the President, while the NCP establishes EPA's procedures for implementing the CERCLA program and for responding to oil and hazardous substance discharges. DOE is required to carry out a number of key functions, including providing representatives to the National Response Team (NRT), the interagency organization responsible for planning for and responding to CERCLA releases and CWA discharges (see Definitions Table); acting as a natural resource trustee for land that DOE manages; performing natural resource damage assessments (NRDA); and assuming authority for certain response actions.

The NCP applies to:

1) discharges of oil into or on the navigable waters of the United States, the adjoining shorelines, the waters of the contiguous zone, the exclusive economic zone; or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

2) releases into the environment of hazardous substances and pollutants or contaminants which may present an imminent and present danger to public health and welfare.

For a discussion of the provisions of Executive Order 12580 signed on January 23, 1987, please refer to the "Executive Order 12580: Superfund Implementation" Information Brief (EH-231-015/0593, May 1993).

The major revisions to the NCP reflect OPA revisions to CWA section 311. These changes increase Presidential authority to direct cleanup of oil spills and hazardous substance releases and augment preparedness and planning activities on the part of the federal government, as well as vessel and facility owners and operators. The OPA was enacted to strengthen the national response system and provide for better coordination of spill contingency planning among federal, state, and local authorities. Because Presidential authority for response to CERCLA oil and hazardous substance releases was delegated to DOE and other specified federal agencies under E.O. 12580, the revisions to the NCP do not substantially alter current DOE responsibilities in this area. The majority of changes to the NCP, resulting from the OPA, address responses to discharges, or threatened

\*Also 40 CFR Part 9: "OMB Approvals Under the Paperwork Reduction Act," 1994, p. 183.

discharges, of oil under CWA section 311. The language of the Final Rule uses the term “discharge,” as defined by section 311(a)(2) of the CWA to refer to oil, and “releases,” as defined under CERCLA, to refer to hazardous substance spills or releases.

## Organization for Response

The NCP establishes a national response system for responding to discharges of oil and releases of hazardous substances. Figure 1a and 1b of the Final Rule illustrate the roles of the national response system. DOE’s request that EPA differentiate between responses to discharges of oil under the CWA and releases of hazardous substances under CERCLA was not incorporated in the revised rule. EPA believes these figures accurately reflect all categories of response without requiring additional explanation. DOE provides representation to the NRT, which is responsible for national response and preparedness activities, coordinating regional planning, and for providing policy guidance and support to the Regional Response Teams (RRTs). Under 40 CFR 300.120, federal agencies should also provide representation to the RRTs for the regions in which they have facilities. The regions, for the purposes of establishing RRT authority, correspond to existing EPA regions and U.S. Coast Guard (USCG) districts. Regions are further divided into areas which are managed by Area Committees.

### *On-Scene Coordinators (OSC) and Remedial Project Managers (RPM)*

The OSC or RPM directs response efforts and coordinates all other efforts at the scene of the discharge of oil or release of hazardous substances. Revised 40 CFR 300.120 provides that the EPA or the USCG will predesignate OSCs for all areas in each region.

- The USCG shall provide OSCs for all oil discharges, including discharges from facilities or vessels under the jurisdiction of another federal agency, within or threatening the coastal zone. The USCG will also provide OSCs for removal of releases of hazardous substances except:
  - where the release of hazardous substances, pollutants or contaminants is on, or the sole source of the release is from, any facility or vessel, under the jurisdiction, custody, or control of DOE, DOD, or any other federal agency.
- The EPA shall provide OSCs for discharges or releases into or threatening the inland zone except:
  - where the release of hazardous substances, pollutants or contaminants is on, or the sole source of the release is from, any facility or vessel, under the jurisdiction, custody, or control of DOE, DOD, or any other federal agency.

- DOE shall provide RPMs who are responsible for taking all response actions where the sole source of the release is from any facility or vessel under the jurisdiction, custody, or control of DOE.

In its comments on the proposed rule, DOE requested clarification in the final rule on EPA’s responsibility to provide OSCs for oil discharges into or threatening the inland zone even where those discharges are from facilities or vessels under the jurisdiction of another federal agency. EPA declined to address this comment in the final rule. However, following an informal request for clarification, an Environmental Protection Specialist of the Emergency Response Division stated that EPA will provide OSCs for all oil discharges in the inland zone.

In addition to providing OSCs or RPMs for hazardous substance releases from its facilities, DOE also provides advice and assistance to other OSCs or RPMs for emergency actions essential for the control of immediate radiological hazards.

Under revised 40 CFR 300.170, federal agencies are responsible for reporting to the National Response Center releases of hazardous substances from facilities or vessels under their jurisdiction or control in accordance with section 103 of CERCLA. In addition, all federal agencies are now required to report discharges of oil that are in violation of section 311(b)(3) of the CWA from facilities or vessels under their jurisdiction or control to the National Response Center (NRC). Discharges of oil that meet the requirements of section 311(b) of the CWA are those that:

- violate applicable water quality standards, or
- cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

### *Definitions*

The final rule amended the CWA definition of oil to reflect the OPA. In addition to the CWA definition of oil, the revised definition at 40 CFR 300.5 also states:

- Oil, as defined by section 1001 of OPA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil, but does not include crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of CERCLA and which is subject to provisions of that act.

In response to the public comments on the proposed changes to the NCP, EPA received a request to address both 1) the appropriate response and funding for spills of statutorily defined “oil” which may exhibit, if tested, characteristics of a CERCLA “hazardous substance” in either its initial or

weathered state; and 2) response funding where both “oil” and CERCLA “hazardous substances” may be involved in a discharge. The commenter had previously experienced difficulty where the USCG defined the discharge as CERCLA hazardous substance, while the EPA defined it as an oil. EPA declined to clarify the definition stating that the commenter’s concerns “touch on interagency policy issues that will be decided on a case-by-case basis between EPA and the USCG” (59 FR 47386). This definitional issue may become important to DOE because DOE will provide OSCs for releases of CERCLA hazardous substances that do not meet the definition of “oil” as defined at 40 CFR 300.5. Either the USCG or EPA, as appropriate, will provide OSCs for discharges of oil.

The revised NCP provides additional response actions and planning requirements for “worst case” discharges. DOE requested clarification of the term “worst case” discharge as it is used in the revised NCP. For example, section 311(a)(24) of the CWA does not specify whether “worst case” discharge applies only to oil or also to hazardous substances. EPA commented that, for the purposes of *responding* to a “worst case” discharge, the term applies only to discharges of oil. However, for *planning* purposes, CWA section 311(j)(5) requires tank vessel and facility response plans to address worst case discharges of oil or hazardous substances.

#### *Response operations*

Under revised 40 CFR 300.135, the OSC is required to coordinate all response activities with the affected natural resource trustees, and for discharges of oil, shall consult with the affected trustees on the appropriate removal action to be taken. EPA has indicated that it does not interpret “consultation with” the affected trustees as a requirement for obtaining concurrence of the trustees “although such concurrence is highly desirable” (59 FR 47390).

Under 40 CFR 300.600(b)(3), DOE is designated a federal natural resource trustee for resources on, over, or under land it administers. Other federal agencies may also serve as natural resource trustees for resources found on DOE facilities. The lead federal administrative trustee for a response is designated on an incident-by-incident basis by the other trustees whose natural resources are affected by the incident. The lead federal administrative trustee facilitates communication between the OSC and other federal trustees during response operations and is responsible for applying to the OSC for non-monetary (personnel and equipment) federal response resources on behalf of all trustees.

Revised 40 CFR 300.305(e) states that the OSC and the trustees shall coordinate assessments, evaluations, investigations, and planning with respect to removal actions. The trustees are required to provide “timely” advice concerning recommended removal actions with regard to trustee resources that may potentially be affected. The trustees are also required to inform the OSC of activities related to natural resource damage assessment (NRDA) that may affect response. The trustees, through the lead federal trustee, will ensure that all data from NRDA activities that may support more effective operational decisions are provided to the OSC

in a timely manner. Where circumstances permit, the OSC shall provide the trustees with non-monetary response resources (personnel and equipment) for conducting damage assessments. In the response to comments on the proposed rule, EPA states that activities of the trustees and the OSC should be coordinated to prevent duplication of effort and promote effective use of resources.

#### **Planning and Preparedness**

CWA section 311(j), as revised by the OPA, requires the development of Area Committees (ACs) composed of representatives from federal, state and local agencies. The ACs are responsible for developing an Area Contingency Plan (ACP) which, when implemented, is adequate to remove a worst case discharge of oil under section 300.324 and to mitigate or prevent a substantial threat of such discharge from a vessel, offshore facility, or onshore facility operating in or near the area. An April 24, 1992 Federal Register notice (57 FR 15198) designates the initial areas. However, EPA has indicated that both area boundaries and ACPs are expected to change as the national response system evolves. Changes to area boundaries will be published in the Federal Register.

Each ACP shall include a detailed annex containing a Fish and Wildlife Sensitive Environmental Plan (FWSEP) which shall address fish and wildlife resources and their habitat and shall include other areas considered sensitive environments. The FWSEP annex shall:

- identify and establish priorities for fish and wildlife resources and their habitats and other important sensitive areas requiring protection from discharges;
- provide a mechanism for timely identification of protection priorities;
- identify potential environmental effects on fish and wildlife, their habitat, and other sensitive environments resulting from removal actions or countermeasures;
- provide for pre-approval of application of specific countermeasures or removal actions which will minimize adverse impacts;
- provide monitoring plans to evaluate the effectiveness of different countermeasures or removal actions;
- identify and plan for the acquisition and utilization of necessary response capabilities for protection, rescue, and rehabilitation of fish and wildlife resources and habitat; and
- identify appropriate federal and state agency contacts and alternatives responsible for coordination of fish and wildlife rescue and rehabilitation and protection of sensitive environments.

Because of the requirement to pre-approve removal actions or countermeasures, DOE requested clarification of the application of the FWSEP annex; specifically requesting that the annex apply only to discharges of oil and not releases of hazardous substances under CERCLA. In its response, EPA stated that ACPs are currently required to only address discharges of oil; however, “planning for hazardous substance response is already being addressed in the area contingency planning process because individual Area Committees will consider planning for such releases, as appropriate”(59 FR 47397). Both Local Emergency Planning Committees (LEPCs) and State Emergency Response Committees (SERCs) may provide input to ACPs. The participation by these committees allows the ACPs to “effectively address hazardous substance planning issues, as necessary.” The implication of this response appears to be that the extent to which ACPs address hazardous substances will be on a case-by-case basis and will be left to the Area Committee.

DOE also commented on the burden placed on federal agencies with control over extensive land and resources in the collection of fish and wildlife and sensitive environment information by the proposed rule. In the Final Rule, EPA clarified that although ACs, not facility owners, are responsible for identifying fish and wildlife resources and sensitive environments for inclusion in the ACP, “the facility owners and operators remain responsible for ensuring protection of sensitive environments in their proximity for inclusion in facility response plans” (59 FR 47397) until the geographic-specific annexes of the ACPs have been completed. The guidance for planning for these responsibilities on an interim basis is provided in a Federal Register notice published March 29, 1994 (59 FR 14713). However, EPA has reaffirmed the major role of the AC and has stated: “Ultimately, the Area Committee deliberations and their ACPs will specify information on fish, wildlife, and sensitive environments with

which the facility plans must be consistent” (59 FR 47397).

The FWSEP annex is required to be prepared in consultation with NOAA, the U.S. Fish and Wildlife Service, and other interested natural resource management agencies. Trustee concurrence on the pre-approval of countermeasures and response actions is required.

DOE facilities have several roles in the development of ACPs. Federal agency participation is required on the Area Committees which develop the ACPs and the FWSEPs. DOE must also cooperate with the AC to ensure that the Department adequately protects fish and wildlife and sensitive environments on, or in proximity to, its facilities. Once fish, wildlife and sensitive environments have been identified, DOE remains responsible for ensuring that those resources on, or in proximity to, its facilities are protected. Finally, as a natural resource trustee for resources on, in, or under land which it owns or manages, DOE concurrence on the pre-approval of countermeasures and response actions is required.

#### Designation of Federal Trustees

As established by the NCP, natural resource trustees have the responsibility for protection of resources, assessment of damage, and restoration, rehabilitation, replacement, or acquisition of resources equivalent to those impacted by a CERCLA hazardous substance release or a discharge of oil. Preplanning and coordination for damage assessment activities are strongly encouraged at the regional and area levels, both during the area and regional planning and preparation, and during specific incidents where coordination with the OSC is required. In the Final Rule, EPA has revised 40 CFR 300.600 to clarify that trusteeship extends to the ecosystems supporting specific natural resources, and that habitat is included as part of the ecosystem.

### Definitions

**Coastal Zone** means all United States waters subject to the tide, United States waters of Great Lakes, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters. The term delineates an area of federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in federal regional contingency plans.

**Discharge** as defined by section 311(a)(2) of the CWA includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil, but excludes discharges in compliance with a permit under section 402 of the CWA. For the purposes of the NCP, discharge also means the substantial threat of discharge.

**Inland Waters** for the purposes of classifying the size of discharges, means those waters of the United States in the inland zone, waters of the Great lakes, and specified ports and harbors on inland rivers.

**Inland Zone** means of the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors on inland rivers. The term delineates an area

of federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in federal regional contingency plans.

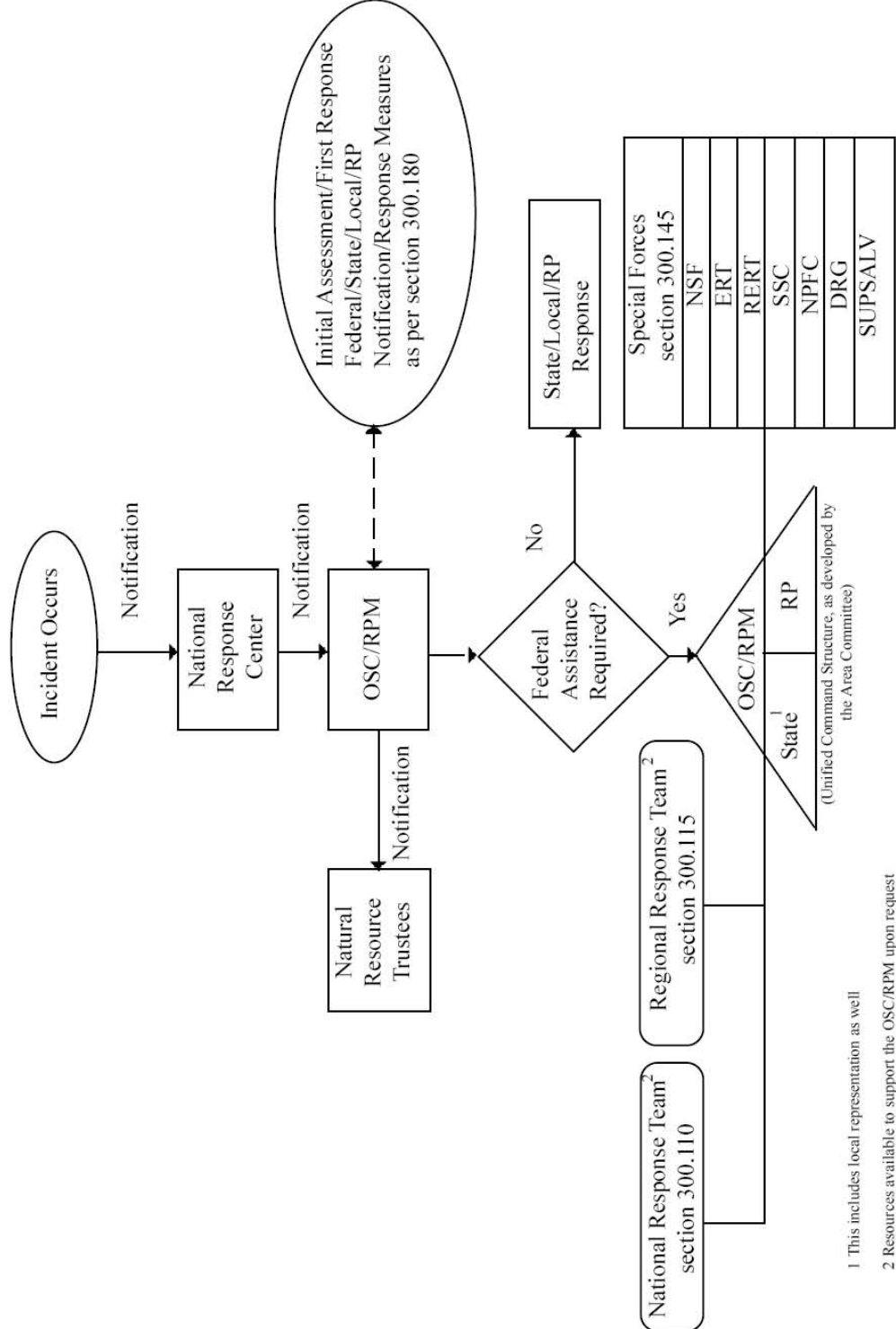
**Release** as defined by section 101(22) of CERCLA means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (see section 101(22) of CERCLA for exclusions). For the purposes of the NCP, it also means the threat of a release.

**Worst Case Discharge** as defined by section 311(a)(24) of the CWA means, in the case of a vessel, a discharge in adverse weather conditions of its entire cargo, and, in the case of an offshore facility, the largest foreseeable discharge in adverse weather conditions.

Please direct questions about the NCP Final Rule to:  
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Figure 1a  
**National Response System Concepts: Response**



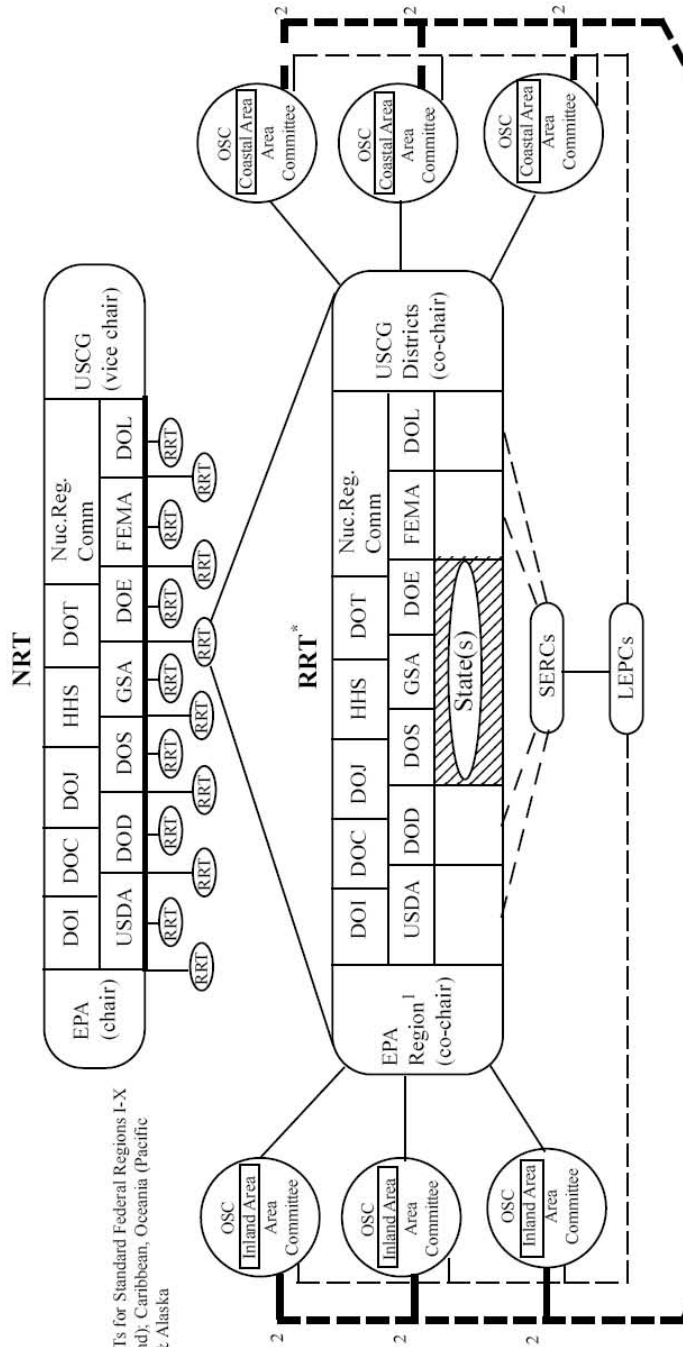
1 This includes local representation as well

2 Resources available to support the OSC/RPM upon request



Figure 1 b

### National Response System Concepts: Planning



\* 13 RRT's for Standard Federal Regions I-X (mainland); Caribbean, Oceania (Pacific Basin) & Alaska

RRT serves as the Area Committee for inland areas not covered by a separate Area Committee, unless a separate Area Committee is designated by the Regional Administrator (57 FR 15198)

<sup>2</sup> Federal Laws (e.g., CWA Sec. 311(j)(5), Clean Air Act Sec. 112(r), OSHA (Process safety regulations) require facility owner/operators to prepare a response plan. Additional description is found in Section 300.211.

Sources of Input and Guidance to Area Committees	
<b>Government</b> (sec.300.145)	<b>Non-Government</b> (57 FR 15198)
Strike Teams NPFC ERT RERT DRG DRAT SSC PIAT SUPSALV	Facility and vessel owners/operators <sup>2</sup> Shipping company representatives Cleanup contractors Emergency planning and response officials Marine pilot associations Members of academia Environmental advocacy groups Response organizations/officers Citizens

## APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

### **APPENDIX 2-18: National Response Framework**

See next page.

## APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

This *National Response Framework (NRF)* is a guide to how the Nation conducts all-hazards response. It is built upon scalable, flexible, and adaptable coordinating structures to align key roles and responsibilities across the Nation, linking all levels of government, nongovernmental organizations, and the private sector. It is intended to capture specific authorities and best practices for managing incidents that range from the serious but purely local, to large-scale terrorist attacks or catastrophic natural disasters.

This core document, along with the Emergency Support Function Annexes and Support Annexes (available at the **NRF Resource Center**, <http://www.fema.gov/NRF>), supersedes the corresponding sections of the *National Response Plan* (2004, with 2006 revisions). The Incident Annexes remain in effect until superseded at a later date. The President has approved this *National Response Framework*.

Washington, DC  
January 2008

# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

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# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## INTRODUCTION

### OVERVIEW

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**This *National Response Framework (NRF)* [or *Framework*] is a guide to how the Nation conducts all-hazards response.** It is built upon *scalable, flexible, and adaptable coordinating structures* to align key roles and responsibilities *across the Nation*. It describes specific authorities and best practices for managing incidents that range from the serious but purely local, to large-scale terrorist attacks or catastrophic natural disasters.

This document explains the common discipline and structures that have been exercised and matured at the local, tribal, State, and national levels over time. It describes key lessons learned from Hurricanes Katrina and Rita, focusing particularly on how the Federal Government is organized to support communities and States in catastrophic incidents. Most importantly, it builds upon the *National Incident Management System (NIMS)*, which provides a consistent template for managing incidents.

**The term “response” as used in this *Framework* includes immediate actions to save lives, protect property and the environment, and meet basic human needs.** Response also includes the execution of emergency plans and actions to support short-term recovery. The *Framework* is always in effect, and elements can be implemented as needed on a flexible, scalable basis to improve response.

### INTENDED AUDIENCE

**The *Framework* is written especially for government executives, private-sector and nongovernmental organization (NGO) leaders, and emergency management practitioners.** First, it is addressed to senior elected and appointed leaders, such as Federal department or agency heads, State Governors, mayors, tribal leaders, and city or county officials – those who have a responsibility to provide for effective response. For the Nation to be prepared for any and all hazards, its leaders must have a baseline familiarity with the concepts and mechanics of the *Framework*.

At the same time, the *Framework* informs emergency management practitioners, explaining the operating structures and tools used routinely by first responders and emergency managers at all levels of government. For these readers, the *Framework* is augmented with online access to supporting documents, further training, and an evolving resource for exchanging lessons learned.<sup>1</sup>

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<sup>1</sup> To support users of the *Framework*, the Department of Homeland Security has created an online **NRF Resource Center**, available at <http://www.fema.gov/NRF>. This online resource will routinely grow and evolve in support of the *Framework* and those who work with it. The initial postings contain multiple supporting documents, operational plans, standard forms, and other tools that are commonly used by the incident management community. The site will further explain technical aspects of the *Framework*, and will routinely post supporting documents as they are newly generated or improved.

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## INTRODUCTION

**One of the challenges to effective response is the relatively high turnover and short tenure among elected and appointed officials responsible for response at all levels.** Effective response hinges upon well-trained leaders and responders who have invested in response preparedness, developed engaged partnerships, and are able to achieve shared objectives. The players' bench is constantly changing, but a concise, common playbook is needed by all.

This *Framework* is intended to supply that essential playbook. It is rooted in extensive consultation among practitioners and policymakers at all levels. Operational planning for specific types of incidents has accelerated and improved nationwide since the terrorist attacks of September 11, 2001 (or 9/11). Such plans will continue to evolve in alignment with the *Framework*.

## EVOLUTION OF THE FRAMEWORK

**This document is an outgrowth of previous iterations of Federal planning documents.** A brief discussion of its history underscores important elements of the *Framework* and highlights improvements to the previous *National Response Plan (NRP)*. This *Framework* was preceded 15 years earlier by a *Federal Response Plan (1992)* that focused largely on Federal roles and responsibilities.

Following the 9/11 attacks, more urgent efforts were made to understand and implement common incident management and response principles and to develop common planning frameworks. The 2004 *NRP* was an early outgrowth of those discussions, replacing the *Federal Response Plan*. It was published one year after creation of the Department of Homeland Security (DHS). The *NRP* broke new ground in integrating all levels of government in a common incident management framework. It incorporated incident coordination roles for Federal agencies<sup>2</sup> as defined by several new laws and Presidential directives. Nine months after Katrina's landfall, a notice of change to the *NRP* was released, incorporating preliminary lessons learned from the 2005 hurricane season.

**Stakeholders suggested changes to the *NRP* – both structural and substantive.** Stakeholders have advised that both the initial *NRP* and its 2006 iteration were bureaucratic and internally repetitive.

Users also suggested the *NRP* was still insufficiently *national* in its focus, which is to say that it should speak more clearly to the roles and responsibilities of all parties involved in response. Moreover, it was evident that the *NRP* and its supporting documents did not constitute a true operational *plan* in the sense understood by emergency managers. Its content was inconsistent with the promise of its title.

In the last several years, operational planning on a national basis for specific types of incidents has matured. Both public and private sectors are making significant homeland security investments to strengthen the Nation's response capability.

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<sup>2</sup> Note that within this document, use of the term "agency" when referring to Federal entities is inclusive of executive agencies, departments, and Government corporations.



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**By adopting the term “framework” within the title, this document is now more accurately aligned with its intended purpose.** Effective response to an incident is a shared responsibility of governments at all levels, the private sector and NGOs, and individual citizens. This *Framework* commits the Federal Government, in partnership with local, tribal, and State governments and the private sector, to complete both strategic and operational plans for the incident scenarios specified in the *National Preparedness Guidelines*.<sup>3</sup> These plans will ultimately improve significantly the Incident Annexes to this *Framework*, which have been carried forward from the *NRP*.

## *FRAMEWORK UNPACKED*

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The *Framework* presents the key response principles, participants, roles, and structures that guide the Nation’s response operations. The remainder of the *Framework* is organized as follows:

- **Chapter I – Roles and Responsibilities.** This chapter sharpens the focus on *who* is involved with emergency management activities at the local, tribal, State, and Federal levels and with the private sector and NGOs.
- **Chapter II – Response Actions.** This chapter describes *what* we as a Nation collectively do to respond to incidents.
- **Chapter III – Response Organization.** This chapter explains *how* we as a Nation are organized to implement response actions.
- **Chapter IV – Planning: A Critical Element of Effective Response.** This chapter emphasizes the importance of planning and summarizes the elements of national planning structures.
- **Chapter V – Additional Resources.** This final chapter summarizes the content and plan for the online **NRF Resource Center**, a new, actively managed DHS/Federal Emergency Management Agency Web site that will deliver state-of-the-art support for the *Framework* with additional support tools shaped by and addressed to the response community.

## HOW THE FRAMEWORK IS ORGANIZED

**The *National Response Framework* is comprised of the core document, the Emergency Support Function (ESF), Support, and Incident Annexes, and the Partner Guides.** The core document describes the doctrine that guides our national response, roles and responsibilities, response actions, response organizations, and planning requirements to achieve an effective national response to any incident that occurs. The core document of the *National Response Framework* is effective 60 days after publication. The annexes and Partner Guides will be updated periodically and effective 60 days after publication.

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<sup>3</sup> The set of scenarios, while not exhaustive, is representative of a broad range of terrorist attacks and natural disasters that would stretch the Nation’s prevention and response capabilities. Collectively, they yield core prevention and response requirements that can help direct comprehensive planning efforts.

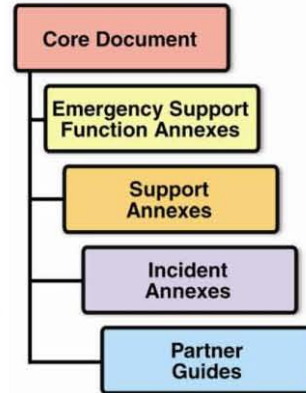
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The following documents provide more detailed information to assist practitioners in implementing the *Framework*:

- **Emergency Support Function Annexes** group Federal resources and capabilities into functional areas that are most frequently needed in a national response (e.g., Transportation, Firefighting, Mass Care).
- **Support Annexes** describe essential supporting aspects that are common to all incidents (e.g., Financial Management, Volunteer and Donations Management, Private-Sector Coordination).
- **Incident Annexes** address the unique aspects of how we respond to seven broad incident categories (e.g., Biological, Nuclear/Radiological, Cyber, Mass Evacuation).
- **Partner Guides** provide ready references describing key roles and actions for local, tribal, State, Federal, and private-sector response partners.

Figure 1. Organization of the *Framework*



The **National Incident Management System (NIMS)** is a companion document that provides standard command and management structures that apply to response activities. This system provides a consistent, nationwide template to enable Federal, State, tribal, and local governments, the private sector, and NGOs to work together to prepare for, prevent, respond to, recover from, and mitigate the effects of incidents regardless of cause, size, location, or complexity. This consistency provides the foundation for utilization of the *NIMS* for all incidents, ranging from daily occurrences to incidents requiring a coordinated Federal response.

These documents are available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

## RESPONSE: THE WHO

**An effective, unified national response requires layered, mutually supporting capabilities.** The *Framework* systematically incorporates public-sector agencies, the private sector, and NGOs. It also emphasizes the importance of personal preparedness by individuals and households.

Communities, tribes, States, the Federal Government, NGOs, and the private sector should each understand their respective roles and responsibilities, and complement each other in achieving shared goals. Each governmental level plays a prominent role in developing capabilities needed to respond to incidents. This includes developing plans, conducting assessments and exercises, providing and directing resources and capabilities, and gathering lessons learned. These activities require that involved organizations understand their roles and responsibilities, and how they fit within and are supported by the *Framework*.



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**It is important that each level of government adapt and apply the general roles outlined in the *Framework*.** To do this, organizations should define key leadership and staff functions, adopt capabilities-based planning as the method to build response capabilities, and impose the discipline needed to plan and operate effectively. Partner Guides that summarize core *Framework* concepts and are tailored specifically to leaders at different levels and types of organizations are provided through the online **NRF Resource Center**.

Even when a community is overwhelmed by an incident, there is still a core, sovereign responsibility to be exercised at this local level, with unique response obligations to coordinate with State, Federal, and private-sector support teams. Each organization or level of government therefore has an imperative to fund and execute its own core emergency management responsibilities.

Below is a brief summary of emergency management roles at the local, tribal, State, and Federal levels, as well as the roles of private-sector organizations. Emergency management is the coordination and integration of all activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural disasters, acts of terrorism, or other manmade disasters.

**Local Governments. Resilient communities begin with prepared individuals and depend on the leadership and engagement of local government, NGOs, and the private sector.** Individuals, families, and caregivers to those with special needs should enhance their awareness of risk and threats, develop household emergency plans that include care for pets and service animals, and prepare emergency supply kits.<sup>4</sup> Individuals can also volunteer in their communities.

Local police, fire, emergency medical services, public health and medical providers, emergency management, public works, environmental response professionals, and others in the community are often the first to detect a threat or hazard, or respond to an incident. They also are often the last to leave an incident site or otherwise to cope with the effects of an incident. The local senior elected or appointed official (the mayor, city manager, or county manager) is responsible for ensuring the public safety and welfare of residents. In today's world, senior officials and their emergency managers build the foundation for an effective response. They organize and integrate their capabilities and resources with neighboring jurisdictions, the State, NGOs, and the private sector. Increasingly, businesses are vital partners within communities wherever retail locations, service sites, manufacturing facilities, or management offices are located. NGOs and not-for-profit organizations also play a key role in strengthening communities' response efforts through their knowledge of hard-to-reach populations, outreach, and services.

**States, Territories, and Tribal Governments. States, territories, and tribal governments have responsibility for the public health and welfare of the people in their jurisdiction.** State and local governments are closest to those impacted by incidents, and have always had the lead in response and recovery. During response, States play a key role coordinating resources and capabilities throughout the State and obtaining resources and capabilities from other States. States are sovereign entities, and the Governor has responsibility for public safety and welfare. While U.S. territories,

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<sup>4</sup> More information on preparing a household emergency plan is available at <http://www.ready.gov>.

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possessions, freely associated states,<sup>5</sup> and tribal governments also have sovereign rights, there are unique factors involved in working with these entities. Stafford Act assistance is available to States and to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, which are included in the definition of "State" in the Stafford Act.<sup>6</sup>

States have significant resources of their own, including State emergency management and homeland security agencies, State police, health agencies, transportation agencies, incident management teams, specialized teams, and the National Guard. The role of the State government in response is to supplement local efforts before, during, and after incidents. **If a State anticipates that its resources may be exceeded, the Governor can request assistance from the Federal Government and/or from other States through mutual aid and assistance agreements such as the Emergency Management Assistance Compact (EMAC).**<sup>7</sup>

**The Federal Government.** The Federal Government maintains a wide array of capabilities and resources that can be made available upon request of the Governor. When an incident occurs that exceeds or is anticipated to exceed State, tribal, or local resources, the Federal Government may provide resources and capabilities to support the State response. For incidents involving primary Federal jurisdiction or authorities (e.g., on a military base or a Federal facility or lands), Federal departments or agencies may be the first responders and first line of defense, coordinating activities with State, territorial, tribal, and local partners. The Federal Government also maintains working relationships with the private sector and NGOs.

Pursuant to the Homeland Security Act of 2002 and Homeland Security Presidential Directive (HSPD) 5, the Secretary of Homeland Security is the principal Federal official for domestic incident management. Incident management refers to how incidents are managed across all homeland security activities, including prevention, protection, and response and recovery. Other Federal departments and agencies have key responsibilities to support national response activities and carry out those responsibilities within the overarching coordinating mechanisms of this *Framework*. DHS coordinates with other agencies to surge Federal support at the headquarters, regional, and field levels.

**The Private Sector and NGOs.** The private sector and NGOs contribute to response efforts through engaged partnerships with each level of government. Private-sector organizations and NGOs are encouraged to develop contingency plans and to work with State and local planners to ensure that their plans are consistent with pertinent plans, the *NIMS*, and this *Framework*.

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<sup>5</sup> The *Framework* is applicable to U.S. possessions and insular areas, as well as the Federated States of Micronesia and the Republic of the Marshall Islands. The U.S. Government does not provide disaster assistance to the Republic of Palau, in accordance with the Compact of Free Association. Insular areas include Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands.

<sup>6</sup> Often throughout this *Framework*, discussion of authorities and roles of States is also intended to incorporate those of U.S. territories and possessions and tribal nations.

<sup>7</sup> A reference paper on EMAC is available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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**Private-sector organizations play an essential role in protecting critical infrastructure systems and implementing plans for the rapid restoration of normal commercial activities and critical infrastructure operations in the event of disruption.**<sup>8</sup> The protection of critical infrastructure and the ability to rapidly restore normal commercial activities can mitigate the impact of an incident, improve the quality of life of individuals, and accelerate the pace of recovery for communities and the Nation. There are not-for-profit owners/operators of critical infrastructure and key resources (CIKR) facilities, notably in healthcare and power generation.

**NGOs also serve a vital role at the local, State, and national levels by performing essential service missions in times of need.** They provide sheltering, emergency food supplies, and other vital support services. NGOs bolster and support government efforts at all levels.<sup>9</sup>

## RESPONSE: THE WHAT AND THE HOW

**The National Response Framework is always in effect, and elements can be implemented at any level at any time.** The *Framework* is capabilities based, which is to say that local governments, tribes, States, and the Federal Government all develop functional capabilities and identify resources that may be required based on hazard identification and risk assessment, threats, and other potential incidents such as those represented by the National Planning Scenarios.

**The Framework describes what we do and how we respond.** In short, the *National Response Framework* explains how, at all levels, the Nation effectively manages all-hazards response consistent with the *National Strategy for Homeland Security*. The remainder of this Introduction explains the *Framework's* scope, the response doctrine that animates it, and the preparedness strategy of which it is a part. It correlates with an outline of the overall document.

## SCOPE

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**The Framework provides structures for implementing nationwide response policy and operational coordination for all types of domestic incidents.** It can be partially or fully implemented in the context of a threat, in anticipation of a significant event, or in response to an incident. Selective implementation allows for a scaled response, delivery of the resources needed, and an appropriate level of coordination.

In this document, incidents include actual or potential emergencies or all-hazards events that range from accidents and natural disasters to actual or potential terrorist attacks. They include events wholly contained within a single jurisdiction and others that are catastrophic in nature and national in their scope or consequences.

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<sup>8</sup> Additional information on protection of critical infrastructure and key resources (CIKR) can be found in the CIKR Support Annex available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>9</sup> The American Red Cross is a federally chartered instrumentality of the U.S. Government, but it is not a Federal agency under this *Framework*.



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**It is not always obvious at the outset whether a seemingly minor event might be the initial phase of a larger, rapidly growing threat.** The *Framework* incorporates standardized organizational structures that promote on-scene initiative, innovation, and sharing of essential resources drawn from all levels of government, NGOs, and the private sector. Response must be quickly scalable, flexible, and adaptable.

The *Framework* is also intended to accelerate the assessment and response to incidents that may require Federal assistance. In practice, many incidents require virtually reflexive activation of interagency coordination protocols to forestall the incident from becoming worse or to surge more aggressively to contain it. A Federal department or agency acting on independent authority may be the initial and the primary Federal responder, but incidents that require more systematic Federal response efforts are now actively coordinated through the appropriate *Framework* mechanisms described in this document and in its supporting annexes. This initial coordination of Federal incident assessment and response efforts is intended to occur seamlessly, without the need for any formal trigger mechanism.

**This *Framework*, therefore, eliminates the Incident of National Significance declaration.** No such declaration is required by the *Framework* and none will be made. The authorities of the Secretary of Homeland Security to coordinate large-scale national responses are unaltered by this change. Elimination of this declaration will, however, support a more nimble, scalable, and coordinated response by the entire national emergency management community.

## RESPONSE DOCTRINE

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**Response doctrine defines basic roles, responsibilities, and operational concepts for response across all levels of government and with NGOs and the private sector.** The overarching objective of response activities centers upon saving lives and protecting property and the environment. Five key principles of operations define response actions in support of the Nation's response mission. Taken together, these five principles of operation constitute **national response doctrine**.

### Response Doctrine: Five Key Principles

1. Engaged partnership
2. Tiered response
3. Scalable, flexible, and adaptable operational capabilities
4. Unity of effort through unified command
5. Readiness to act

**Response doctrine is rooted in America's Federal system and the Constitution's division of responsibilities between Federal and State governments.** Because this doctrine reflects the history of emergency management and the distilled wisdom of responders and leaders at all levels, it gives elemental form to the *Framework*.

This doctrine "evolves in response to changes in the political and strategic landscape, lessons learned from operations, and the introduction of new technologies. Doctrine influences the way in which policy and plans are developed, forces are organized and

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trained, and equipment is procured. It promotes unity of purpose, guides professional judgment, and enables responders to best fulfill their responsibilities.<sup>10</sup>

**Response doctrine evolves slowly.** Response strategy and the *Framework* merit periodic review and revision, while operational plans supporting the *Framework* must be tested and improved through a process of continuous innovation. The last is especially true regarding operational plans to counter the threat of a terrorist attack.

**Response doctrine is comprised of five key principles:** (1) engaged partnership, (2) tiered response, (3) scalable, flexible, and adaptable operational capabilities, (4) unity of effort through unified command, and (5) readiness to act. An introductory word about each follows.

## ENGAGED PARTNERSHIP

Leaders at all levels must communicate and actively support engaged partnerships by developing shared goals and aligning capabilities so that no one is overwhelmed in times of crisis. Layered, mutually supporting capabilities at Federal, State, tribal, and local levels allow for planning together in times of calm and responding together effectively in times of need. Engaged partnership includes ongoing communication of incident activity among all partners to the *Framework*, and shared situational awareness for a more rapid response. In particular, the potential for terrorist incidents requires a *heightened state of readiness* and nimble, practiced capabilities baked into the heart of our preparedness and response planning.

**Engaged partnerships are essential to preparedness.** Effective response activities begin with a host of preparedness activities conducted well in advance of an incident. Preparedness involves a combination of planning, resources, training, exercising, and organizing to build, sustain, and improve operational capabilities. Preparedness is the process of identifying the personnel, training, and equipment needed for a wide range of potential incidents, and developing jurisdiction-specific plans for delivering capabilities when needed for an incident.

Preparedness activities should be coordinated among all involved agencies within the jurisdiction, as well as across jurisdictions. Integrated planning, described later in this *Framework*, will assist in identifying gaps in capability and developing strategies to fill those gaps.

Nationwide preparedness is described in the *National Preparedness Guidelines* and the *National Exercise Program*.<sup>11</sup> These documents lay out 15 National Planning Scenarios that form the basis of the newly coordinated national exercise schedule and priorities, and identify 37 core capabilities that are needed to support response across the Nation. The *Guidelines* identify core local, tribal, community, and State capabilities that will be supported by the DHS homeland security grant programs.

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<sup>10</sup> *United States Coast Guard: America's Maritime Guardian*, Coast Guard Publication 1 (Washington, DC: January 2002, second printing), p. 3. The term "doctrine" has clear and rich meaning as a guide to action within the military services. See also U.S. Department of Defense's *Joint Operations Planning and Execution System*, an overview of which is available at [http://www.dtic.mil/doctrine/jel/other\\_pubs/jopes.pdf](http://www.dtic.mil/doctrine/jel/other_pubs/jopes.pdf).

<sup>11</sup> Information on the *National Preparedness Guidelines* can be found at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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### TIERED RESPONSE

**Incidents must be managed at the lowest possible jurisdictional level and supported by additional capabilities when needed.** It is not necessary that each level be overwhelmed prior to requesting resources from another level.

Incidents begin and end locally, and most are wholly managed at the local level. Many incidents require unified response from local agencies, NGOs, and the private sector, and some require additional support from neighboring jurisdictions or the State. A small number require Federal support. National response protocols recognize this and are structured to provide additional, tiered levels of support when there is a need for more resources or capabilities to support and sustain the response and initial recovery. All levels should be prepared to respond, anticipating resources that may be required.

A basic premise of the *Framework* is that incidents are generally handled at the lowest jurisdictional level possible.

### SCALABLE, FLEXIBLE, AND ADAPTABLE OPERATIONAL CAPABILITIES

**As incidents change in size, scope, and complexity, the response must adapt to meet requirements.** The number, type, and sources of resources must be able to expand rapidly to meet needs associated with a given incident. The *Framework's* disciplined and coordinated process can provide for a rapid surge of resources from all levels of government, appropriately scaled to need. Execution must be flexible and adapted to fit each individual incident. For the duration of a response, and as needs grow and change, responders must remain nimble and adaptable. Equally, the overall response should be flexible as it transitions from the response effort to recovery.

This *Framework* is grounded in doctrine that demands a tested inventory of common organizational structures and capabilities that are scalable, flexible, and adaptable for diverse operations. Adoption of the *Framework* across all levels of government and with businesses and NGOs will facilitate interoperability and improve operational coordination.

### UNITY OF EFFORT THROUGH UNIFIED COMMAND

**Effective *unified command* is indispensable to response activities and requires a clear understanding of the roles and responsibilities of each participating organization.** Success requires ***unity of effort***, which respects the chain of command of each participating organization while harnessing seamless coordination across jurisdictions in support of common objectives.

Use of the Incident Command System (ICS) is an important element across multijurisdictional or multiagency incident management activities. It provides a structure to enable agencies with different legal, jurisdictional, and functional responsibilities to coordinate, plan, and interact effectively on scene. As a team effort, unified command allows all agencies with jurisdictional authority and/or functional responsibility for the incident to provide joint support through mutually developed incident objectives and strategies established at the command level. Each participating agency maintains its own authority, responsibility, and accountability. This *Framework* employs the *NIMS*



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standardized structures and tools that enable a unified approach to be effective both on scene and at the emergency operations centers.

The Department of Defense (DOD) is a full partner in the Federal response to domestic incidents, and its response is fully coordinated through the mechanisms of this *Framework*.<sup>12</sup> Concepts of “command” and “unity of command” have distinct legal and cultural meanings for military forces and military operations. For Federal military forces, command runs from the President to the Secretary of Defense to the Commander of the combatant command to the DOD on-scene commander. Military forces will always remain under the operational and administrative control of the military chain of command, and these forces are subject to redirection or recall at any time. The ICS “unified command” concept is distinct from the military chain of command use of this term. And, as such, military forces do not operate under the command of the Incident Commander or under the unified command structure.

The *NIMS*<sup>13</sup> supports response through the following elements of unified command: (1) developing a single set of objectives; (2) using a collective, strategic approach; (3) improving information flow and coordination; (4) creating common understanding of joint priorities and restrictions; (5) ensuring that no agency’s legal authorities are compromised or neglected; and (6) optimizing the combined efforts of all agencies under a single plan.

## READINESS TO ACT

**Effective response requires readiness to act balanced with an understanding of risk.** From individuals, households, and communities to local, tribal, State, and Federal governments, national response depends on the instinct and ability to act. A forward-leaning posture is imperative for incidents that have the potential to expand rapidly in size, scope, or complexity, and for no-notice incidents.

**Once response activities have begun, on-scene actions are based on *NIMS* principles.** To save lives and protect property and the environment, decisive action on scene is often required of responders. Although some risk may be unavoidable, first responders can effectively anticipate and manage risk through proper training and planning.

Command, single or unified, is responsible for establishing immediate priorities for the safety of not only the public, but the responders and other emergency workers involved in the response, and for ensuring that adequate health and safety measures are in place. The Incident Commander should ensure that each incident has a designated safety officer who has been trained and equipped to assess the operation, identify hazardous and unsafe situations, and implement effective safety plans.

**Acting swiftly and effectively requires clear, focused communication and the processes to support it.** Without effective communication, a bias toward action will be ineffectual at best, likely perilous. An effective national response relies on disciplined processes, procedures, and systems to communicate timely, accurate, and accessible information on the incident’s cause, size, and current situation to the public, responders,

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<sup>12</sup> The Secretary of Defense retains command of DOD military forces providing Defense Support of Civil Authorities. National Guard forces under the command and control of a Governor are not DOD military forces. Nothing in this *Framework* impairs or otherwise affects the authority of the Secretary of Defense over the DOD.

<sup>13</sup> The *National Incident Management System* is available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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and others. Well-developed public information, education strategies, and communication plans help to ensure that lifesaving measures, evacuation routes, threat and alert systems, and other public safety information are coordinated and communicated to numerous diverse audiences in a consistent, accessible, and timely manner.

## PART OF A BROADER STRATEGY

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The *National Response Framework* is required by, and integrates under, a larger *National Strategy for Homeland Security (Strategy)* that serves to guide, organize, and unify our Nation's homeland security efforts. The *Strategy* reflects our increased understanding of the threats confronting the United States, incorporates lessons learned from exercises and real-world catastrophes, and articulates how we should ensure our long-term success by strengthening the homeland security foundation we have built. It provides a common framework by which our entire Nation should focus its homeland security efforts on achieving the following four goals:

1. Prevent and disrupt terrorist attacks.
2. Protect the American people and our critical infrastructure and key resources.
3. Respond to and recover from incidents that do occur.
4. Continue to strengthen the foundation to ensure our long-term success.

While the first three goals help to organize our national efforts, the last goal entails creating and transforming our homeland security principles, systems, structures, and institutions. This includes applying a comprehensive approach to risk management, building a culture of preparedness, developing a comprehensive Homeland Security Management System, improving incident management, better utilizing science and technology, and leveraging all instruments of national power and influence.

The *Framework* primarily focuses on the third goal: respond to and recover from incidents that do occur. The *Strategy* also provides the context that given the certainty of catastrophes on our soil – no matter how unprecedented or extraordinary – it is our collective duty to provide the best response possible. It states that, when needed, we will bring to bear the Nation's full capabilities and resources to save lives, mitigate suffering, and protect property. The *Strategy* also reminds us that as the Nation responds to an incident, we must also begin to lay the foundation not only for a strong recovery over the short term but also for the rebuilding and revitalization of affected communities and regions over the long term.

The *Strategy* calls for a *National Response Framework* that helps to strengthen the foundation for an effective national response, rapidly assess emerging incidents, take initial actions, expand operations as needed, and commence recovery actions to stabilize the area. It also calls for the *Framework* to be clearly written, easy to understand, and designed to be truly national in scope, meeting the needs of State, local, and tribal governments and the private sector and NGOs, as well as the Federal Government. In addition, the *Strategy* underscores the need to ensure that those communities devastated or severely affected by a catastrophic incident are set on a sustainable path for long-term rebuilding and revitalization. The *Framework* is designed to respond to and support the *Strategy* and is intended to be informed by and tie seamlessly to national, State, tribal, and local preparedness activities and investments.



## APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

### INTRODUCTION

The *Strategy* further describes how the other three national goals are supported through other strategies, plans, and ongoing efforts. For example, the national goal to prevent and disrupt terrorist attacks is further supported by the updated *National Strategy for Combating Terrorism*, released in September 2006, which articulates our Nation's strategy for winning the War on Terror. The sections in both on preventing and disrupting terrorist attacks are complementary and mutually reinforcing. In order to prevent and disrupt terrorist attacks in the United States, we are working to deny terrorists and terrorist-related weapons and materials entry into our country and across all international borders, disrupt their ability to operate within our borders, and prevent the emergence of violent Islamic radicalization in order to deny terrorists future recruits and defeat homegrown extremism. Our *National Strategy to Combat Terrorist Travel*, *National Strategy for Maritime Security*, and *National Strategy for Aviation Security* are helping to guide our efforts in this area.

The national goal to protect the American people and our critical infrastructure and key resources is also supported by existing plans. The *Strategy* sets forth that to protect the lives and livelihoods of the American people, we must undertake measures to deter the threat of terrorism, mitigate the Nation's vulnerability to acts of terror and the full range of manmade and natural catastrophes, and minimize the consequences of an attack or disaster should it occur. Safeguarding the American people also includes the preservation of the Nation's CIKR. Guiding our efforts to protect the Nation's CIKR is the 2006 *National Infrastructure Protection Plan (NIPP)* and its supporting Sector-Specific Plans, which were developed pursuant to HSPD-7, issued on December 17, 2003. The *NIPP* sets forth a comprehensive risk management framework and provides a coordinated approach to CIKR protection roles and responsibilities for Federal, State, local, and private-sector security partners. It sets national priorities, goals, and requirements for the effective distribution of funding and resources that will help ensure that our government, economy, and public services continue to function in the event of a manmade or natural disaster.

The last national goal is to continue to strengthen the foundation to ensure our long-term success. To fulfill these responsibilities over the long term, we will continue to strengthen the principles, systems, structures, and institutions that cut across the homeland security enterprise and support our activities to secure the homeland. Ultimately, this will help ensure the success of our *Strategy* to secure the Nation.

# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## INTRODUCTION

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# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## CHAPTER I ROLES AND RESPONSIBILITIES

**This chapter provides an overview of the roles and responsibilities of key partners at the local, tribal, State, and Federal levels who implement the *Framework*. This includes an important role for the private sector and nongovernmental organizations (NGOs). This chapter sharpens the focus on *who is involved* with the *Framework* and what must be done to build and maintain essential response capabilities.**

### LOCAL

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**The responsibility for responding to incidents, both natural and manmade, begins at the local level – with individuals and public officials in the county, city, or town affected by the incident.** Local leaders and emergency managers prepare their communities to manage incidents locally. The *Framework's* response doctrine plays a key role in helping community leaders to coordinate resources within jurisdictions, among adjacent jurisdictions, and with the private sector and NGOs such as the American Red Cross. This section describes the roles and responsibilities of key leadership elements within communities.

**Chief Elected or Appointed Official. A mayor, city manager, or county manager, as a jurisdiction's chief executive officer, is responsible for ensuring the public safety and welfare of the people of that jurisdiction.** Specifically, this official provides strategic guidance and resources during preparedness, response, and recovery efforts. Emergency management, including preparation and training for effective response, is a core obligation of local leaders.

Chief elected or appointed officials must have a clear understanding of their roles and responsibilities for successful emergency management and response. At times, these roles may require providing direction and guidance to constituents during an incident, but their day-to-day activities do not focus on emergency management and response. On an ongoing basis, elected and appointed officials may be called upon to help shape or modify laws, policies, and budgets to aid preparedness efforts and to improve emergency management and response capabilities.

Any incident can have a mix of public health, economic, social, environmental, criminal, and political implications with potentially serious long-term effects. **Significant incidents require a coordinated response across agencies and jurisdictions, political boundaries, sectors of society, organizations, etc. These incidents will require that publicly elected and appointed officials, as well as business owners and community leaders, make difficult decisions for the benefit of the community as a whole.**

# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## CHAPTER I: ROLES AND RESPONSIBILITIES

Elected and appointed officials help their communities prepare for, respond to, and recover from potential incidents. Key responsibilities include:

- Establishing strong working relationships with local jurisdictional leaders and core private-sector organizations, voluntary agencies, and community partners. The objective is to get to know, coordinate with, and train with local partners in advance of an incident and to develop mutual aid and/or assistance agreements for support in response to an incident.
- Leading and encouraging local leaders to focus on preparedness by participating in planning, training, and exercises.
- Supporting participation in local mitigation efforts within the jurisdiction and, as appropriate, with the private sector.
- Understanding and implementing laws and regulations that support emergency management and response.
- Ensuring that local emergency plans take into account the needs of:
  - The jurisdiction, including persons, property, and structures.
  - Individuals with special needs, including those with service animals.
  - Individuals with household pets.
- Encouraging residents to participate in volunteer organizations and training courses.

**Local leaders also work closely with their Members of Congress during incidents and on an ongoing basis regarding local preparedness capabilities and needs.**

**Members of Congress play an important, ongoing role in supporting their constituents for effective local response and emergency planning.** Members often help local leaders understand the Federal resources that are available to prepare for incidents. Especially during high-consequence events, many citizens traditionally contact Members for assistance or information on Federal response policies and assistance. The Department of Homeland Security (DHS) recognizes a special obligation to provide Members representing affected areas with timely information about incidents that involve Federal response.

**Emergency Manager. The local emergency manager has the day-to-day authority and responsibility for overseeing emergency management programs and activities.** He or she works with chief elected and appointed officials to ensure that there are unified objectives with regard to the jurisdiction's emergency plans and activities. This role entails coordinating all aspects of a jurisdiction's capabilities.

The emergency manager coordinates all components of the local emergency management program, to include assessing the availability and readiness of local resources most likely required during an incident and identifying and correcting any shortfalls.



# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## CHAPTER I: ROLES AND RESPONSIBILITIES

Other duties of the local emergency manager might include the following:

- Coordinating the planning process and working cooperatively with other local agencies and private-sector organizations.
- Developing mutual aid and assistance agreements.
- Coordinating damage assessments during an incident.
- Advising and informing local officials about emergency management activities during an incident.
- Developing and executing public awareness and education programs.
- Conducting exercises to test plans and systems and obtain lessons learned.
- Involving the private sector and NGOs in planning, training, and exercises.

**Department and Agency Heads.** The local emergency manager is assisted by, and coordinates the efforts of, employees in departments and agencies that perform emergency management functions. Department and agency heads collaborate with the emergency manager during development of local emergency plans and provide key response resources. Participation in the planning process ensures that specific capabilities (e.g., firefighting, law enforcement, emergency medical services, public works, environmental and natural resources agencies) are integrated into a workable plan to safeguard the community.

These department and agency heads and their staffs develop, plan, and train to internal policies and procedures to meet response and recovery needs safely. They should also participate in interagency training and exercises to develop and maintain the necessary capabilities.

**Individuals and Households.** Although not formally a part of emergency management operations, individuals and households play an important role in the overall emergency management strategy. Community members can contribute by:

- **Reducing hazards in and around their homes.** By taking simple actions, such as raising utilities above flood level or taking in unanchored objects during high winds, people can reduce the amount of damage caused by an incident.
- **Preparing an emergency supply kit and household emergency plan.** By developing a household emergency plan and assembling disaster supplies in advance of an event, people can take care of themselves until assistance arrives. This includes supplies for household pets and service animals. See the recommended disaster supplies list at <http://www.ready.gov>.
- **Monitoring emergency communications carefully.** Throughout an emergency, critical information and direction will be released to the public via various media. By carefully following the directions provided, residents can reduce their risk of injury, keep emergency routes open to response personnel, and reduce demands on landline and cellular communication.

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- **Volunteering with an established organization.** Organizations and agencies with a role in response and recovery are always seeking hardworking, dedicated volunteers. By volunteering with an established voluntary agency, individuals and households become part of the emergency management system and ensure that their efforts are directed where they are needed most.
- **Enrolling in emergency response training courses.** Emergency response training, whether basic first aid through the American Red Cross or a more complex course through a local college, will enable residents to take initial response actions required to take care of themselves and their households, thus allowing first responders to focus on higher priority tasks that affect the entire community.

Citizen Corps brings together local leaders from government and civic leaders from NGOs and the private sector to prepare for and respond to incidents. Citizen Corps Councils are typically sponsored by elected or appointed officials and/or emergency managers. These Councils provide leadership and support for programs that educate, train, and engage community volunteers to support emergency management and responders.

## THE PRIVATE SECTOR AND NGOS

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Government agencies are responsible for protecting the lives and property of their citizens and promoting their well-being. However, the government does not, and cannot, work alone. **In many facets of an incident, the government works with private-sector groups as partners in emergency management.**

**Private Sector.** Private sector organizations play a key role before, during, and after an incident. First, they must provide for the welfare and protection of their employees in the workplace. In addition, emergency managers must work seamlessly with businesses that provide water, power, communication networks, transportation, medical care, security, and numerous other services upon which both response and recovery are particularly dependent.

Participation of the private sector varies based on the nature of the organization and the nature of the incident. The five distinct roles that private-sector organizations play are summarized in Table 1.

**Table 1. Private-Sector Response Role**

Category	Role in This Category
<b>Impacted Organization or Infrastructure</b>	Private-sector organizations may be impacted by direct or indirect consequences of the incident. These include privately owned critical infrastructure, key resources, and other private-sector entities that are significant to local, regional, and national economic recovery from the incident. Examples of privately owned infrastructure include transportation, telecommunications, private utilities, financial institutions, and hospitals. Critical infrastructure and key resources (CIKR) are grouped into 17 sectors that together provide essential functions and services supporting various aspects of the American government, economy, and society.

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Category	Role in This Category
<b>Regulated and/or Responsible Party</b>	Owners/operators of certain regulated facilities or hazardous operations may be legally responsible for preparing for and preventing incidents from occurring and responding to an incident once it occurs. For example, Federal regulations require owners/operators of nuclear power plants to maintain emergency plans and facilities and to perform assessments, prompt notifications, and training for a response to an incident.
<b>Response Resource</b>	Private-sector entities provide response resources (donated or compensated) during an incident – including specialized teams, essential service providers, equipment, and advanced technologies – through local public-private emergency plans or mutual aid and assistance agreements, or in response to requests from government and nongovernmental-volunteer initiatives.
<b>Partner With State/Local Emergency Organizations</b>	Private-sector entities may serve as partners in local and State emergency preparedness and response organizations and activities.
<b>Components of the Nation's Economy</b>	As the key element of the national economy, private-sector resilience and continuity of operations planning, as well as recovery and restoration from an actual incident, represent essential homeland security activities.

**Many private-sector organizations are responsible for operating and maintaining portions of the Nation's critical infrastructure.** Critical infrastructures include those assets, systems, networks, and functions – physical or virtual – so vital to the United States that their incapacitation or destruction would have a debilitating impact on security, national economic security, public health or safety, or any combination of those matters. Key resources are publicly or privately controlled resources essential to minimal operation of the economy and the government.<sup>14</sup> DHS has developed a comprehensive *National Infrastructure Protection Plan (NIPP)* that is synchronized with this *Framework*.<sup>15</sup> The CIKR Support Annex discusses necessary support by and for CIKR during an incident and mechanisms in place to implement that support.

**During an incident, key private-sector partners should be involved in the local crisis decisionmaking process or at least have a direct link to key local emergency managers.** Communities cannot effectively respond to, or recover from, incidents without strong cooperative relations with the private sector.

Essential private-sector responsibilities include:

- Planning for the protection of employees, infrastructure, and facilities.
- Planning for the protection of information and the continuity of business operations.
- Planning for responding to and recovering from incidents that impact their own infrastructure and facilities.

<sup>14</sup> *National Infrastructure Protection Plan*, 2006, Glossary of Key Terms, is the source for the definitions of critical infrastructure and key resources. These definitions are derived from the provisions of the Homeland Security Act of 2002 and Homeland Security Presidential Directive (HSPD) 7.

<sup>15</sup> The goal of the *NIPP* is to build a safer, more secure, and more resilient America by enhancing protection of the Nation's critical infrastructure and key resources (CIKR). See <http://www.dhs.gov/nipp> for additional information. The CIKR Support Annex and Private-Sector Coordination Support Annex provide detailed guidance regarding implementation of the *NIPP*, including roles and responsibilities, concept of operations, and incident-related actions.



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- Collaborating with emergency management personnel before an incident occurs to ascertain what assistance may be necessary and how they can help.
- Developing and exercising emergency plans before an incident occurs.
- Where appropriate, establishing mutual aid and assistance agreements to provide specific response capabilities.
- Providing assistance (including volunteers) to support local emergency management and public awareness during response and throughout the recovery process.

**Nongovernmental Organizations. NGOs play enormously important roles before, during, and after an incident.** For example, NGOs provide sheltering, emergency food supplies, counseling services, and other vital support services to support response and promote the recovery of disaster victims. These groups often provide specialized services that help individuals with special needs, including those with disabilities.

A key feature of NGOs is their inherent independence and commitment to specific sets of interests and values. These interests and values drive the groups' operational priorities and shape the resources they provide. Such NGOs bolster and support government efforts at all levels – for response operations and planning. However, NGOs may also need government assistance, and when planning the allocation of local community emergency management resources and structures, some government organizations provide direct assistance to NGOs. NGOs collaborate with responders, governments at all levels, and other agencies and organizations.

Examples of NGO and voluntary organization contributions include:

- Training and managing volunteer resources.
- Identifying shelter locations and needed supplies.
- Providing critical emergency services to those in need, such as cleaning supplies, clothing, food and shelter, or assistance with post-emergency cleanup.
- Identifying those whose needs have not been met and helping coordinate the provision of assistance.

**Some NGOs are officially designated as support elements to national response capabilities.**

- **The American Red Cross.** The American Red Cross is a supporting agency to the mass care functions of Emergency Support Function (ESF) #6. While it does not direct other NGOs, the American Red Cross takes the lead in integrating the efforts of the national NGOs that provide mass care services during response operations.
- **National Voluntary Organizations Active in Disaster (National VOAD).** National VOAD<sup>16</sup> is the forum where organizations share knowledge and resources throughout the disaster cycle – preparation, response, and recovery – to help disaster survivors and their communities. National VOAD is a consortium of

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<sup>16</sup> Additional information is available at <http://www.nvoad.org>.



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approximately 50 national organizations and 55 State and territory equivalents. During major incidents, National VOAD typically sends representatives to the DHS/Federal Emergency Management Agency (FEMA)'s National Response Coordination Center to represent the voluntary organizations and assist in response coordination.

**Volunteers and Donations.** Responding to incidents frequently exceeds the resources of government organizations. Volunteers and donors can support response efforts in many ways, and it is essential that governments at all levels plan ahead to effectively incorporate volunteers and donated goods into their response activities.

The Volunteer and Donations Management Support Annex provides detailed guidance from a national standpoint. State, tribal, and local planners should include similar volunteer and donations management provisions in their emergency plans.

For major incidents in which foreign governments, individuals, or organizations wish to make donations, the U.S. Department of State is responsible for managing such donations. Detailed guidance regarding the process for managing international donations is provided in the International Coordination Support Annex.<sup>17</sup>

## STATES, TERRITORIES, AND TRIBAL GOVERNMENTS

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**A primary role of State government is to supplement and facilitate local efforts before, during, and after incidents.** The State provides direct and routine assistance to its local jurisdictions through emergency management program development and by routinely coordinating in these efforts with Federal officials. States must be prepared to maintain or accelerate the provision of commodities and services to local governments when local capabilities fall short of demands.

Under the *Framework*, the term "State" and discussion of the roles and responsibilities of States typically also include similar responsibilities that apply to U.S. territories and possessions and tribal governments. Under the Stafford Act, States are also responsible for requesting Federal emergency assistance for communities and tribal governments within their jurisdiction. In response to an incident, the State helps coordinate and integrate resources and applies them to local needs.

**Governor. Public safety and welfare of a State's citizens are fundamental responsibilities of every Governor.** For the purposes of the *Framework*, any reference to a State Governor also references the chief executive of a U.S. territory. The Governor:

- Is responsible for coordinating State resources and providing the strategic guidance needed to prevent, mitigate, prepare for, respond to, and recover from incidents of all types.
- In accordance with State law, may be able to make, amend, or suspend certain orders or regulations associated with response.

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<sup>17</sup> The *Framework's* Support Annexes are available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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- Communicates to the public and helps people, businesses, and organizations cope with the consequences of any type of incident.
- Commands the State military forces (National Guard personnel not in Federal service and State militias).
- Coordinates assistance from other States through interstate mutual aid and assistance compacts, such as the Emergency Management Assistance Compact.
- Requests Federal assistance including, if appropriate, a Stafford Act Presidential declaration of an emergency or major disaster, when it becomes clear that State capabilities will be insufficient or have been exceeded.
- Coordinates with impacted tribal governments within the State and initiates requests for a Stafford Act Presidential declaration of an emergency or major disaster on behalf of an impacted tribe when appropriate.

As noted in *A Governor's Guide to Homeland Security*,<sup>18</sup> before being sworn in, each new Governor should:

- *Avoid vacancies in key homeland security positions such as the State homeland security director or the State emergency manager. A newly elected Governor should work with his or her transition team to identify these key personnel early to minimize vacancies and encourage overlap with the outgoing administration. As soon as a new Governor selects people for these positions, the department or agency they are about to lead should be informed.*
- *Ensure that a staff able to manage a disaster response operation is in place on their inauguration day.*
- *Task their incoming gubernatorial staff, particularly the legal counsel, with reviewing the procedures necessary for them to declare a State emergency and use their emergency powers.*

**State Homeland Security Advisor.** The State Homeland Security Advisor serves as counsel to the Governor on homeland security issues and **may serve as a liaison between the Governor's office, the State homeland security structure, DHS, and other organizations both inside and outside of the State.** The advisor often chairs a committee comprised of representatives of relevant State agencies, including public safety, the National Guard, emergency management, public health, and others charged with developing prevention, protection, response, and recovery strategies. This also includes preparedness activities associated with these strategies.

**Director, State Emergency Management Agency.** All States have laws mandating establishment of a State emergency management agency and the emergency plans coordinated by that agency. **The Director of the State emergency management agency ensures that the State is prepared to deal with large-scale emergencies and is responsible for coordinating the State response in any incident.**

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<sup>18</sup> National Governors Association, *A Governor's Guide to Homeland Security*, 2007, p. 11. Available at <http://www.nga.org>.

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This includes supporting local governments as needed or requested and coordinating assistance with other States and/or the Federal Government.

If local resources are not adequate, authorities can seek additional assistance from the county emergency manager or the State Director of Emergency Management. The State emergency management agency may dispatch personnel to the scene to assist in the response and recovery effort. If a jurisdiction requires resources beyond those available within the State, local agencies may request certain types of Federal assistance directly in non-Stafford Act situations. For example, the Environmental Protection Agency or U.S. Coast Guard may assess or mitigate oil or chemical spills **without waiting for requests from State, tribal, or local officials**. However, only the Governor can request a Presidential declaration under the Stafford Act.

**Other State Departments and Agencies.** State department and agency heads and their staffs develop, plan, and train to internal policies and procedures to meet response and recovery needs safely. They should also participate in interagency training and exercises to develop and maintain the necessary capabilities. They are vital to the State's overall emergency management and homeland security programs, as they bring expertise spanning the ESFs and serve as core members of the State emergency operations center.

**Indian Tribes.** The United States has a trust relationship with Indian tribes and recognizes their right to self-government. As such, tribal governments are responsible for coordinating resources to address actual or potential incidents. When local resources are not adequate, tribal leaders seek assistance from States or the Federal Government.

For certain types of Federal assistance, tribal governments work with the State, but as sovereign entities they can elect to deal directly with the Federal Government for other types of assistance. In order to obtain Federal assistance via the Stafford Act, **a State Governor must request a Presidential declaration on behalf of a tribe**.

**Tribal Leader.** The tribal leader is responsible for the public safety and welfare of the people of that tribe. As authorized by tribal government, the tribal leader:

- Is responsible for coordinating tribal resources needed to prevent, protect against, respond to, and recover from incidents of all types. This also includes preparedness and mitigation activities.
- May have powers to amend or suspend certain tribal laws or ordinances associated with response.
- Communicates with the tribal community, and helps people, businesses, and organizations cope with the consequences of any type of incident.
- Negotiates mutual aid and assistance agreements with other tribes or jurisdictions.
- Can request Federal assistance under the Stafford Act through the Governor of the State when it becomes clear that the tribe's capabilities will be insufficient or have been exceeded.
- Can elect to deal directly with the Federal Government. Although a State Governor must request a Presidential declaration on behalf of a tribe under the Stafford Act, Federal departments or agencies can work directly with the tribe within existing authorities and resources.



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### FEDERAL

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When an incident occurs that exceeds or is anticipated to exceed local or State resources – or when an incident is managed by Federal departments or agencies acting under their own authorities – the Federal Government uses the *Framework* to involve all necessary department and agency capabilities, organize the Federal response, and ensure coordination with response partners.

The Federal Government's response structures are **scalable and flexible** – adaptable specifically to the nature and scope of a given incident. The Federal Government has strengthened its capabilities to act in emergencies, and to do so more quickly and comprehensively, based on lessons learned.

The principles of **unified command** are applied at the headquarters, regional, and field levels to enable diverse departments and agencies to work together effectively. Using unified command principles, participants share common goals and synchronize their activities to achieve those goals. The Federal Government also works to establish **engaged partnerships** with States, as well as the private sector. Our national response is more effective when all levels and branches of government work together well before an incident to develop effective plans and achieve a heightened state of preparedness.

**Coordination of Federal Responsibilities. The President leads the Federal Government response effort** to ensure that the necessary coordinating structures, leadership, and resources are applied quickly and efficiently to large-scale and catastrophic incidents. The President's **Homeland Security Council** and **National Security Council**, which bring together Cabinet officers and other department or agency heads as necessary, provide national strategic and policy advice to the President during large-scale incidents that affect the Nation.

Federal disaster assistance is often thought of as synonymous with Presidential declarations and the Stafford Act. The fact is that Federal assistance can be provided to State, tribal, and local jurisdictions, and to other Federal departments and agencies, in a number of different ways through various mechanisms and authorities. Often, Federal assistance does not require coordination by DHS and can be provided without a Presidential major disaster or emergency declaration. Examples of these types of Federal assistance include that described in the National Oil and Hazardous Substances Pollution Contingency Plan, the Mass Migration Emergency Plan, the National Search and Rescue Plan, and the National Maritime Security Plan. These and other supplemental agency or interagency plans, compacts, and agreements may be implemented concurrently with the *Framework*, but are subordinated to its overarching coordinating structures, processes, and protocols.

**When the overall coordination of Federal response activities is required, it is implemented through the Secretary of Homeland Security consistent with Homeland Security Presidential Directive (HSPD) 5.** Other Federal departments and agencies carry out their response authorities and responsibilities within this overarching construct. **Nothing in this *Framework* alters or impedes the ability of Federal, State, tribal, or local departments and agencies to carry out their specific authorities or perform their responsibilities under all applicable laws, Executive orders, and directives.** Additionally, nothing in this *Framework* is intended to impact or impede the ability of any Federal department or agency to take an issue of concern directly to the President or any member of the President's staff.

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Presidential directives<sup>19</sup> outline the following six primary lanes of responsibility that guide Federal support at national, regional, and field levels.

**Incident Management.** The **Secretary of Homeland Security** is the principal Federal official for domestic incident management. By Presidential directive and statute, the Secretary is responsible for coordination of Federal resources utilized in the prevention of, preparation for, response to, or recovery from terrorist attacks, major disasters, or other emergencies. The role of the Secretary of Homeland Security is to provide the President with an overall architecture for domestic incident management and to coordinate the Federal response, when required, while relying upon the support of other Federal partners. Depending upon the incident, the Secretary also contributes elements of the response consistent with DHS's mission, capabilities, and authorities.

The **FEMA Administrator**, as the principal advisor to the President, the Secretary, and the Homeland Security Council on all matters regarding emergency management,<sup>20</sup> helps the Secretary in meeting these HSPD-5 responsibilities.

Federal assistance for incidents that do not require DHS coordination may be led by other Federal departments and agencies consistent with their authorities. The Secretary of Homeland Security may monitor such incidents and may activate specific *Framework* mechanisms to provide support to departments and agencies without assuming overall leadership for the Federal response to the incident.

The following four HSPD-5 criteria define situations for which DHS shall assume overall Federal incident management coordination responsibilities within the *Framework* and implement the *Framework's* coordinating mechanisms: (1) a Federal department or agency acting under its own authority has requested DHS assistance, (2) the resources of State and local authorities are overwhelmed and Federal assistance has been requested, (3) more than one Federal department or agency has become substantially involved in responding to the incident, or (4) the Secretary has been directed by the President to assume incident management responsibilities.

**Law Enforcement.** The **Attorney General** is the chief law enforcement officer of the United States. Generally acting through the Federal Bureau of Investigation, the Attorney General has the lead responsibility for criminal investigations of terrorist acts or terrorist threats by individuals or groups inside the United States or directed at U.S. citizens or institutions abroad, as well as for coordinating activities of the other members of the law enforcement community to detect, prevent, and disrupt terrorist attacks against the United States. This includes actions that are based on specific intelligence or law enforcement information. In addition, the Attorney General approves requests submitted by State Governors pursuant to the Emergency Federal Law Enforcement Assistance Act for personnel and other Federal law enforcement support during incidents. The Attorney General also enforces Federal civil rights laws and will provide expertise to ensure that these laws are appropriately addressed.

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<sup>19</sup> The core Presidential directive in this regard is HSPD-5, "Management of Domestic Incidents," which is available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>20</sup> See the Post-Katrina Emergency Reform Act, enacted as part of the FY 2007 DHS Appropriations Act, P.L. 109-295.

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**National Defense and Defense Support of Civil Authorities.** The primary mission of the Department of Defense (DOD) and its components is national defense. Because of this critical role, resources are committed after approval by the **Secretary of Defense** or at the direction of the **President**. Many DOD components and agencies are authorized to respond to save lives, protect property and the environment, and mitigate human suffering under imminently serious conditions, as well as to provide support under their separate established authorities, as appropriate. The provision of defense support is evaluated by its legality, lethality, risk, cost, appropriateness, and impact on readiness. When Federal military and civilian personnel and resources are authorized to support civil authorities, command of those forces will remain with the Secretary of Defense. DOD elements in the incident area of operations and National Guard forces under the command of a Governor will coordinate closely with response organizations at all levels.<sup>21</sup>

**International Coordination.** The **Secretary of State** is responsible for managing international preparedness, response, and recovery activities relating to domestic incidents and the protection of U.S. citizens and U.S. interests overseas.

**Intelligence.** The **Director of National Intelligence** leads the Intelligence Community, serves as the President's principal intelligence advisor, and oversees and directs the implementation of the National Intelligence Program.

**Other Federal Departments and Agencies.** Under the *Framework*, **various Federal departments or agencies may play primary, coordinating, and/or support roles based on their authorities and resources and the nature of the threat or incident.**<sup>22</sup>

In situations where a Federal department or agency has responsibility for directing or managing a major aspect of a response being coordinated by DHS, that organization is part of the national leadership for the incident and is represented in the field at the Joint Field Office in the Unified Coordination Group, and at headquarters through the National Operations Center and the National Response Coordination Center, which is part of the National Operations Center.<sup>23</sup>

In addition, several Federal departments and agencies have their own authorities to declare disasters or emergencies. For example, the Secretary of Health and Human Services can declare a public health emergency. These declarations may be made independently or as part of a coordinated Federal response. Where those declarations are part of an incident requiring a coordinated Federal response, those Federal departments or agencies act within the overall coordination structure of the *Framework*.

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<sup>21</sup> Additional information on DOD support is available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>22</sup> Additional information about the roles of Federal departments and agencies can be found in the annexes available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>23</sup> Additional information on these entities can be found in Chapter III, Response Organization.



# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## CHAPTER II RESPONSE ACTIONS

This chapter describes *what we as a Nation collectively do to respond to incidents.*

### INTRODUCTION

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The *Framework* is intended to strengthen, organize, and coordinate **response actions** across all levels. The doctrine of **tiered response** emphasizes that response to incidents should be handled at the lowest jurisdictional level capable of handling the work. The vast majority of incidents are, in fact, managed locally.

The *Framework* is focused on incidents of all types, including acts of terrorism, major disasters, and other emergencies. For the purpose of this document, the term "incident" refers to an actual or potential occurrence or event.

Responders and emergency managers are both doers and planners, which is to say that to lead **response** and **recovery** efforts effectively, they must also **prepare** effectively (i.e., plan, organize, equip, train, exercise, and continuously evaluate actual performance).

This chapter describes and outlines key tasks related to the **three phases of effective response: *prepare, respond, and recover.***

Each member of our society – including our leaders, professional emergency managers, private-sector representatives, and nongovernmental organizations (NGOs) – has a role to play in strengthening the Nation's response capabilities. The discussion below provides an overview of the key tasks associated with preparedness, response, and recovery. In each case, the general discussion is augmented by examples of how the key tasks are tailored to align with the needs of responders and emergency managers at all levels.

**Mastery of these key tasks supports unity of effort, and thus improves our ability to save lives, protect property and the environment, and meet basic human needs.**

### PREPARE

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**Preparedness is essential for effective response.** This section discusses the six essential activities for responding to an incident: plan, organize, train, equip, exercise, and evaluate and improve.

Figure 2 illustrates the preparedness cycle.

Figure 2. The Preparedness Cycle



*The Preparedness Cycle Builds Capabilities*

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## CHAPTER II: RESPONSE ACTIONS

### 1. PLAN

**Planning makes it possible to manage the entire life cycle of a potential crisis, determine capability requirements, and help stakeholders learn their roles.** It includes the collection and analysis of intelligence and information, as well as the development of policies, plans, procedures, mutual aid and assistance agreements, strategies, and other arrangements to perform missions and tasks. Planning also improves effectiveness by clearly defining required capabilities, shortening the time required to gain control of an incident, and facilitating the rapid exchange of information about a situation.

**Governments at all levels have a responsibility to develop detailed, robust, all-hazards response plans.** These plans should have clearly defined leadership roles and responsibilities, and they should clearly articulate the decisions that need to be made, who will make them, and when. These plans should include both hazard-specific as well as comprehensive all-hazards plans that are tailored to each respective jurisdiction. They should be integrated, operational, and incorporate key private-sector and NGO elements and persons with disabilities.

Among the many contingencies that response plans must address, planning for evacuations presents particular challenges. In this area, plans must include:

- The lead time required for various scenarios, including no-notice and forewarned events.
- Weather contingencies.
- Transportation.
- Interdependencies between shelter locations and transportation.
- Provisions for special needs populations and those with household pets.

Specific procedures and protocols should augment these plans to guide rapid implementation.

Virtually every Federal department and agency possesses personnel and resources that may be needed in response to an incident. Some Federal departments and agencies have primary responsibility for certain aspects of response, such as hazardous materials removal. Others may have supporting roles in providing different types of resources, such as communications personnel and equipment. Regardless of their roles, all Federal departments and agencies must develop policies, plans, and procedures governing how they will effectively locate resources and provide them as part of a coordinated response.

The Integrated Planning System is the national planning system used to develop interagency and intergovernmental plans based upon the National Planning Scenarios. Local, tribal, State, regional, and Federal plans are mutually supportive. See Chapter IV for significant additional detail regarding planning.



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### 2. ORGANIZE

**Organizing to execute response activities includes developing an overall organizational structure, strengthening leadership at each level, and assembling well-qualified teams of paid and volunteer staff for essential response and recovery tasks.** The *National Incident Management System (NIMS)* provides standard command and management structures that apply to response. This common system enables responders from different jurisdictions and disciplines to work together to respond to incidents.

**Governments at all levels should organize to support effective response.** The leader of each government organization should vest the official responsible for response activities with sufficient authority to meet the organization's responsibilities under the *Framework*.

Government agencies at all levels are encouraged to conduct a thorough, systematic inventory of their response resources and to conform to *NIMS* organizational and management principles as noted above. Government agencies should also ensure they have a cadre of personnel (which can include full-time employees, temporary or surge personnel, and contractors) who are trained in incident management and response principles and organized into teams. Personnel and equipment can be organized to provide a particular function or mission capability.

**Governments at all levels should use the *NIMS* resource management principles described below to enhance response capabilities.**

- **Individual Resources.** Resources are organized by category, kind, size, capacity, skill, and other characteristics. This organization makes resource management more efficient and ensures that similar resources from different agencies are organized according to standard principles.
- **Emergency Support Functions.** The Federal Government and many State governments organize much of their resources and capabilities – as well as those of certain private-sector and nongovernmental organizations – under 15 Emergency Support Functions (ESFs). ESFs align categories of resources and provide strategic objectives for their use. ESFs utilize standardized resource management concepts such as typing, inventorying, and tracking to facilitate the dispatch, deployment, and recovery of resources before, during, and after an incident. ESF coordinators and primary agencies are identified on the basis of authorities and resources. Support agencies are assigned based on the availability of resources in a given functional area. ESFs provide the greatest possible access to Federal department and agency resources regardless of which organization has those resources. See Chapter III for significant additional detail regarding ESFs.<sup>24</sup>
- **Pre-Scripted Mission Assignments.** The Federal Government and many State governments use pre-scripted mission assignments to assist in planning and to reduce the time it takes to deploy response resources. Pre-scripted mission assignments identify resources or capabilities of government organizations that are commonly called upon during response to an incident. Pre-scripted mission assignments allow primary and supporting ESF agencies to organize resources that can be tailored to develop, train, and exercise rosters of deployable response

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<sup>24</sup> ESF Annexes are available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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personnel. All local, tribal, and State governments are encouraged to use pre-scripted mission assignments to expedite the delivery of services and commodities in response to an incident.

- **Advanced Readiness Contracting.** While the Federal Government and many State governments have tremendous resources on hand to support local governments, certain resources are more efficiently deployed when procured from the private sector. Advanced readiness contracting ensures that contracts are in place before an incident for commonly needed commodities and services such as ice, water, plastic sheeting, temporary power, and debris removal. This type of contracting improves the ability to secure supplies and services by streamlining the process of ordering, acquiring, and distributing resources when needed.
- **Pre-Positioned Resources.** Since virtually all incidents are local in nature, resources should be positioned close to those localities most at risk for particular types of events. For example, the Federal Government pre-positions resource stockpiles to leverage the geographic distribution of Federal regional, district, and field offices across the country. Additionally, federally administered response networks such as the National Urban Search and Rescue Response System and the National Disaster Medical System utilize locally sponsored resources to enhance Federal response efforts, reduce response times, and strengthen preparedness in their communities.

### 3. EQUIP

**Local, tribal, State, and Federal jurisdictions need to establish a common understanding of the capabilities of distinct types of response equipment.** This facilitates planning before an incident, as well as rapid scaling and flexibility in meeting the needs of an incident. A critical component of preparedness is the acquisition of equipment that will perform to established standards, including the capability to be interoperable with equipment used by other jurisdictions and/or participating organizations.

Effective preparedness requires jurisdictions to identify and have strategies to obtain and deploy major equipment, supplies, facilities, and systems in sufficient quantities to perform assigned missions and tasks. The mobilization, tracking, use, sustaining, and demobilization of physical and human resources require an effective logistics system. That system must support both the residents in need and the teams that are responding to the incident. Resource typing provides a uniform method of sharing commonly understood resources when needed in a major incident.

Governments at all levels should ensure that their personnel have the necessary resources to perform assigned response missions and tasks. This includes obtaining equipment needed to conduct specific response missions and maintaining core capabilities to communicate effectively among Federal, State, tribal, and local responders using the incident management and response structures described in the *Framework*.

Government organizations responsible for providing equipment for response activities should bundle that equipment into standardized equipment caches and be prepared to provide for its safe transportation. They must also routinely service and maintain such equipment and support the resources needed to maintain, repair, and operate it in the field.

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### 4. TRAIN

**Building essential response capabilities nationwide requires a systematic program to train individual teams and organizations – to include governmental, nongovernmental, private-sector, and voluntary organizations – to meet a common baseline of performance and certification standards.** Professionalism and experience are the foundation upon which successful response is built. Rigorous, ongoing training is thus imperative.<sup>25</sup>

Individuals and teams, whether paid or volunteer, should meet relevant local, tribal, State, Federal, or professional qualifications, certifications, or performance standards. Content and methods of training must comply with applicable standards and produce required skills and measurable proficiency. FEMA and other organizations offer response and incident management training in online and classroom formats.

### 5. EXERCISE

**Exercises provide opportunities to test plans and improve proficiency in a risk-free environment.** Exercises assess and validate proficiency levels. They also clarify and familiarize personnel with roles and responsibilities. Well-designed exercises improve interagency coordination and communications, highlight capability gaps, and identify opportunities for improvement. Exercises should:

- Include multidisciplinary, multijurisdictional incidents.
- Include participation of private-sector and nongovernmental organizations.
- Cover aspects of preparedness plans, particularly the processes and procedures for activating local, intrastate, or interstate mutual aid and assistance agreements.
- Contain a mechanism for incorporating corrective actions.

**Local, tribal, State, and Federal jurisdictions should exercise their own response capabilities and evaluate their abilities to perform expected responsibilities and tasks.** This is a basic responsibility of all entities and is distinct from participation in other interagency exercise programs.

In addition, the Department of Homeland Security (DHS) coordinates the National Exercise Program,<sup>26</sup> which requires Federal departments and agencies to participate in an exercise program based upon the National Planning Scenarios contained in the *National Preparedness Guidelines*. This program coordinates and, where appropriate, integrates a 5-year homeland security exercise schedule across Federal agencies and incorporates exercises at the State and local levels.

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<sup>25</sup> Links to training resources are available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>26</sup> The Homeland Security Exercise and Evaluation Program (HSEEP) provides a standardized policy, methodology, and language for designing, developing, conducting, and evaluating all exercises. Information on HSEEP and the National Exercise Program is available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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### 6. EVALUATE AND IMPROVE

Evaluation and continual process improvement are cornerstones of effective preparedness. Upon concluding an exercise, jurisdictions should evaluate performance against relevant capability objectives, identify deficits, and institute corrective action plans. Improvement planning should develop specific recommendations for changes in practice, timelines for implementation, and assignments for completion.

**All local, tribal, State, and Federal entities should institute a corrective action program to evaluate exercise participation and response, capture lessons learned, and make improvements in their response capabilities.** An active corrective action program will provide a method and define roles and responsibilities for identification, prioritization, assignment, monitoring, and reporting of corrective actions arising from exercises and real-world events. The Homeland Security Exercise and Evaluation Program (HSEEP) Toolkit is a Web-based system that enables implementation of the corrective action program process. In this way, the continuous cycle of preparedness yields enhancements to national preparedness.

## RESPOND

Once an incident occurs, priorities shift – from building capabilities to employing resources to save lives, protect property and the environment, and preserve the social, economic, and political structure of the jurisdiction. Depending on the size, scope, and magnitude of an incident, communities, States, and, in some cases, the Federal Government will be called to action.

Four key actions typically occur in support of a response: (1) gain and maintain situational awareness; (2) activate and deploy key resources and capabilities; (3) effectively coordinate response actions; then, as the situation permits, (4) demobilize. These response actions are illustrated in Figure 3, and their core elements are described below.

Figure 3. The Response Process



#### 1. GAIN AND MAINTAIN SITUATIONAL AWARENESS

**Baseline Priorities.** Situational awareness requires continuous monitoring of relevant sources of information regarding actual and developing incidents. The scope and type of monitoring vary based on the type of incidents being evaluated and needed reporting thresholds. Critical information is passed through established reporting channels according to established security protocols. Priorities include:

- **Providing the right information at the right time.** For an effective national response, jurisdictions must continuously refine their ability to assess the situation as an incident unfolds and rapidly provide accurate and accessible information to decisionmakers in a user-friendly manner. It is essential that all levels of government, the private sector (in particular, owners/operators of critical

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infrastructure and key resources (CIKR)), and NGOs share information to develop a common operating picture and synchronize their response operations and resources.

- **Improving and integrating national reporting.** Situational awareness must start at the incident scene and be effectively communicated to local, tribal, State, and Federal governments and the private sector, to include CIKR. Jurisdictions must integrate existing reporting systems to develop an information and knowledge management system that fulfills national information requirements.
- **Linking operations centers and tapping subject-matter experts.** Local governments, tribes, States, and the Federal Government have a wide range of operations centers that monitor events and provide situational awareness. Based on their roles and responsibilities, operations centers should identify information requirements, establish reporting thresholds, and be familiar with the expectations of decisionmakers and partners. Situational awareness is greatly improved when experienced technical specialists identify critical elements of information and use them to form a common operating picture.

Reporting and documentation procedures should be standardized to enhance situational awareness and provide emergency management and response personnel with ready access to critical information. Situation reports should contain verified information and explicit details (who, what, where, when, and how) related to the incident. Status reports, which may be contained in situation reports, relay specific information about resources. Based on an analysis of the threats, jurisdictions issue accessible warnings to the public and provide emergency public information.

**Local, Tribal, and State Actions.** Local, tribal, and State governments can address the inherent challenges in establishing successful information-sharing networks by:

- Creating fusion centers that bring together into one central location law enforcement, intelligence, emergency management, public health, and other agencies, as well as private-sector and nongovernmental organizations when appropriate, and that have the capabilities to evaluate and act appropriately on all available information.
- Implementing the National Information Sharing Guidelines to share intelligence and information and improve the ability of systems to exchange data.
- Establishing information requirements and reporting protocols to enable effective and timely decisionmaking during response to incidents. Terrorist threats and actual incidents with a potential or actual terrorist link should be reported immediately to a local or regional Joint Terrorism Task Force.

**Federal Actions.** The National Operations Center (NOC) serves as the national fusion center, collecting and synthesizing all-source information, including information from State fusion centers, across all-threats and all-hazards information covering the spectrum of homeland security partners. Federal departments and agencies should report information regarding actual or potential incidents requiring a coordinated Federal response to the NOC.

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Such information may include:

- Implementation of a Federal department or agency emergency plan.
- Actions to prevent or respond to an incident requiring a coordinated Federal response for which a Federal department or agency has responsibility under law or directive.
- Submission of requests for coordinated Federal assistance to, or receipt of a request from, another Federal department or agency.
- Requests for coordinated Federal assistance from State, tribal, or local governments, the private sector, and NGOs.
- Suspicious activities or threats, which are closely coordinated among the Department of Justice/Federal Bureau of Investigation (FBI) Strategic Information and Operations Center (SIOC), the NOC, and the National Counterterrorism Center (NCTC).

The primary reporting method for information flow is the Homeland Security Information Network (HSIN). Additionally, there are threat reporting mechanisms in place through the FBI where information is assessed for credibility and possible criminal investigation. Each Federal department and agency must work with DHS to ensure that its response personnel have access to and are trained to use the HSIN common operating picture for incident reporting.<sup>27</sup>

**Alerts.** When notified of a threat or an incident that potentially requires a coordinated Federal response, the **NOC evaluates the information and notifies appropriate senior Federal officials and Federal operations centers:** the National Response Coordination Center (NRCC), the FBI SIOC, the NCTC, and the National Military Command Center. The NOC serves as the primary coordinating center for these and other operations centers.

The NOC alerts department and agency leadership to critical information to inform decisionmaking. Based on that information, the Secretary of Homeland Security coordinates with other appropriate departments and agencies to activate plans and applicable coordination structures of the *Framework* as required. Officials should be prepared to participate, either in person or by secure video teleconference, with departments or agencies involved in responding to the incident. The NOC maintains the common operating picture that provides overall situational awareness for incident information. Each Federal department and agency must ensure that its response personnel are trained to utilize these tools.

**Operations Centers.** Federal operations centers maintain active situational awareness and communications within and among Federal department and agency regional, district, and sector offices across the country. These operations centers are often connected with their State, tribal, and local counterparts, and can exchange information and draw and direct resources in the event of an incident.

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<sup>27</sup> Additional information concerning HSIN and Federal reporting requirements is found in the *HSIN Concept of Operations*, available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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### 2. ACTIVATE AND DEPLOY RESOURCES AND CAPABILITIES

**Baseline Priorities.** When an incident or potential incident occurs, responders assess the situation, identify and prioritize requirements, and activate available resources and capabilities to save lives, protect property and the environment, and meet basic human needs. In most cases, this includes development of incident objectives based on incident priorities, development of an **Incident Action Plan** by the Incident Command in the field, and development of support plans by the appropriate local, tribal, State, and/or Federal Government entities. Key activities include:

- **Activating people, resources, and capabilities.** Across all levels, initial actions may include activation of people and teams and establishment of incident management and response structures to organize and coordinate an effective response. The resources and capabilities deployed and the activation of supporting incident management structures should be directly related to the size, scope, nature, and complexity of the incident. All responders should maintain and regularly exercise notification systems and protocols.
- **Requesting additional resources and capabilities.** Responders and capabilities may be requested through mutual aid and assistance agreements, the State, or the Federal Government. For all incidents, especially large-scale incidents, it is essential to prioritize and clearly communicate incident requirements so that resources can be efficiently matched, typed, and mobilized to support operations.
- **Identifying needs and pre-positioning resources.** When planning for heightened threats or in anticipation of large-scale incidents, local or tribal jurisdictions, States, or the Federal Government should anticipate resources and capabilities that may be needed. Based on asset availability, resources should be pre-positioned and response teams and other support resources may be placed on alert or deployed to a staging area. As noted above, mobilization and deployment will be most effective when supported by planning that includes pre-scripted mission assignments, advance readiness contracting, and staged resources.

**Local, Tribal, and State Actions.** In the event of, or in anticipation of, an incident requiring a coordinated response, local, tribal, and State jurisdictions should:

- Identify staff for deployment to the **emergency operations center (EOC)**, which should have standard procedures and call-down lists to notify department and agency points of contact.
- Work with emergency management officials to take the necessary steps to provide for continuity of operations.
- Activate **Incident Management Teams (IMTs)** as required. IMTs are incident command organizations made up of the command and general staff members and appropriate functional units of an Incident Command System organization. The level of training and experience of the IMT members, coupled with the identified formal response requirements and responsibilities of the IMT, are factors in determining the "type," or level, of the IMT.
- Activate **specialized response teams** as required. Jurisdictions may have specialized teams including search and rescue teams, crime scene investigators,

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public works teams, hazardous materials response teams, public health specialists, or veterinarians/animal response teams.

- Activate **mutual aid and assistance agreements** as required.

**Federal Actions.** In the event of, or in anticipation of, an incident requiring a coordinated Federal response, the National Operations Center, in many cases acting through the National Response Coordination Center, notifies other Federal departments and agencies of the situation and specifies the level of activation required. After being notified, departments and agencies should:

- Identify and mobilize staff to fulfill their department's or agency's responsibilities, including identifying appropriate subject-matter experts and other staff to support department operations centers.
- Identify staff for deployment to the NOC, the NRCC, FEMA Regional Response Coordination Centers (RRCCs), or other operations centers as needed, such as the FBI's Joint Operations Center. These organizations have standard procedures and call-down lists, and will notify department or agency points of contact if deployment is necessary.
- Identify staff that can be dispatched to the Joint Field Office (JFO), including Federal officials representing those departments and agencies with specific authorities, lead personnel for the JFO Sections (Operations, Planning, Logistics, and Administration and Finance) and the ESFs.
- Begin activating and staging Federal teams and other resources in support of the Federal response as requested by DHS or in accordance with department or agency authorities.
- Execute pre-scripted mission assignments and readiness contracts, as directed by DHS.

Some Federal departments or agencies may deploy to an incident under their own authorities. In these instances, Federal departments or agencies will notify the appropriate entities such as the NOC, JFO, State EOCs, and the local Incident Command.

### 3. COORDINATE RESPONSE ACTIONS

**Baseline Priorities.** Coordination of response activities occurs through response structures based on assigned roles, responsibilities, and reporting protocols. Critical information is provided through established reporting mechanisms. The efficiency and effectiveness of response operations are enhanced by full application of the *NIMS* with its common principles, structures, and coordinating processes. Specific priorities include:

- **Managing emergency functions.** *Local, tribal, and State governments are responsible for the management of their emergency functions.* Such management includes mobilizing the National Guard, pre-positioning assets, and supporting communities. Local, tribal, and State governments, in conjunction with their voluntary organization partners, are also responsible for implementing plans to



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ensure the effective management of the flow of volunteers and goods in the affected area.

- **Coordinating initial actions.** Initial actions are coordinated through the on-scene Incident Command and may include: immediate law enforcement, rescue, firefighting, and emergency medical services; emergency flood fighting; evacuations; transportation detours; and emergency information for the public. As the incident unfolds, the on-scene Incident Command develops and updates an Incident Action Plan, revising courses of action based on changing circumstances.
- **Coordinating requests for additional support.** If additional resources are required, the on-scene Incident Command requests the needed support. Additional incident management and response structures and personnel are activated to support the response. It is critical that personnel understand roles, structures, protocols, and concepts to ensure clear, coordinated actions. Resources are activated through established procedures and integrated into a standardized organizational structure at the appropriate levels.
- **Identifying and integrating resources and capabilities.** Resources and capabilities must be deployed, received, staged, and efficiently integrated into ongoing operations. For large, complex incidents, this may include working with a diverse array of organizations, including multiple private-sector entities and NGOs through prearranged agreements and contracts. Large-scale events may also require sophisticated coordination and time-phased deployment of resources through an integrated logistics system. Systems and venues must be established to receive, stage, track, and integrate resources into ongoing operations. Incident Command should continually assess operations and scale and adapt existing plans to meet evolving circumstances.
- **Coordinating information.** Effective public information strategies are essential following an incident. Incident Command may elect to establish a Joint Information Center (JIC), a physical location where the coordination and dissemination of information for the public and media concerning the incident are managed. JICs may be established locally, regionally, or nationally depending on the size and magnitude of an incident. In the event of incidents requiring a coordinated Federal response, JICs are established to coordinate Federal, State, tribal, local, and private-sector incident communications with the public. By developing media lists, contact information for relevant stakeholders, and coordinated news releases, the JIC staff facilitates dissemination of accurate, consistent, accessible, and timely public information to numerous audiences.

**Specific response actions will vary depending upon the scope and nature of the incident.** Response actions are based on the objectives established by the Incident Command and Unified Coordination Group. Response actions include, but are not limited to:

- Warning the public and providing accessible emergency public information.
- Implementing evacuation and sheltering plans that include provisions for special needs populations and household pets.

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- Sheltering evacuees in preidentified, physically accessible shelters and providing food, water, and other necessities to meet the needs of all people, including persons with disabilities and other special needs.
- Performing search and rescue.
- Treating the injured.
- Providing law enforcement and investigation.
- Controlling hazards (extinguishing fires, containing hazardous materials spills, etc.).
- Ensuring responder safety and health.

**Local, Tribal, and State Actions.** Within communities, *NIMS* principles are applied to integrate response plans and resources across jurisdictions and departments and with the private sector and NGOs. **Neighboring communities play a key role in providing support through a framework of mutual aid and assistance agreements.** These agreements are formal documents that identify the resources that communities are willing to share during an incident. Such agreements should include:

- Definitions of key terms used in the agreement.
- Roles and responsibilities of individual parties.
- Procedures for requesting and providing assistance.
- Procedures, authorities, and rules for allocation and reimbursement of costs.
- Notification procedures.
- Protocols for interoperable communications.
- Relationships with other agreements among jurisdictions.
- Treatment of workers' compensation, liability, and immunity.
- Recognition of qualifications and certifications.

While States typically act as the conduit between the Federal and local governments when Federal assistance is supporting a local jurisdiction, there are certain instances in which Federal partners may play an active role in a unified command. For example, wildfires on Federal land or oil spills are activities for which certain Federal departments or agencies may have authority to respond under their own statutes and jurisdictions.

**States provide the majority of the external assistance to communities.** The State is the gateway to several government programs that help communities prepare. When an incident grows beyond the capability of a local jurisdiction, and responders cannot meet the needs with mutual aid and assistance resources, the local emergency manager contacts the State. Upon receiving a request for assistance from a local government, immediate State response activities may include:

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- Coordinating warnings and public information through the activation of the State's public communications strategy and the establishment of a JIC.
- Distributing supplies stockpiled to meet the emergency.
- Providing needed technical assistance and support to meet the response and recovery needs of individuals and households.
- The Governor suspending existing statutes, rules, ordinances, and orders for the duration of the emergency, to the extent permitted by law, to ensure timely performance of response functions.
- Implementing State donations management plans and coordinating with NGOs and the private sector.
- Ordering the evacuation of persons from any portions of the State threatened by the incident, giving consideration to the requirements of special needs populations and those with household pets or service animals.
- Mobilizing resources to meet the requirements of people with special needs, in accordance with the State's preexisting plan and in compliance with Federal civil rights laws.

In addition to these actions, the Governor may activate elements of the National Guard. The National Guard is a crucial State resource, with expertise in communications, logistics, search and rescue, and decontamination. **National Guard forces employed under State Active Duty or Title 32 status are under the command and control of the Governor of their State and are not part of Federal military response efforts.**

Title 32 Full-Time National Guard Duty refers to Federal training or other duty, other than inactive duty, performed by a member of the National Guard. Title 32 is not subject to *posse comitatus* restrictions<sup>28</sup> and allows the Governor, with the approval of the President or the Secretary of Defense, to order a Guard member to duty to:

- Perform training and other operational activities.
- Conduct homeland defense activities for the military protection of the territory or domestic population of the United States, or of the infrastructure or other assets of the United States determined by the Secretary of Defense to be critical to national security, from a threat or aggression against the United States.

In rare circumstances, the President can federalize National Guard forces for domestic duties under Title 10 (e.g., in cases of invasion by a foreign nation, rebellion against the authority of the United States, or where the President is unable to execute the laws of the United States with regular forces (10 U.S.C. 12406)). When mobilized under Title 10 of the U.S. Code, the forces are no longer under the command of the Governor. Instead, the Department of Defense assumes full responsibility for all aspects of the deployment, including command and control over National Guard forces.

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<sup>28</sup> For more information on *posse comitatus*, see the Authorities and References section of the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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**State-to-State Assistance.** If additional resources are required, the State should request assistance from other States by using interstate mutual aid and assistance agreements such as the **Emergency Management Assistance Compact (EMAC)**. Administered by the National Emergency Management Association, EMAC is a congressionally ratified organization that provides form and structure to the interstate mutual aid and assistance process. Through EMAC or other mutual aid or assistance agreements, a State can request and receive assistance from other member States.<sup>29</sup> Such State-to-State assistance may include:

- Invoking and administering a Statewide Mutual Aid Agreement, as well as coordinating the allocation of resources under that agreement.
- Invoking and administering EMAC and/or other compacts and agreements, and coordinating the allocation of resources that are made available to and from other States.

**Requesting Federal Assistance.** When an incident overwhelms or is anticipated to overwhelm State resources, the Governor may request Federal assistance.<sup>30</sup> In such cases, the affected local jurisdiction, tribe, State, and the Federal Government will collaborate to provide the necessary assistance. The Federal Government may provide assistance in the form of funding, resources, and critical services. **Federal departments and agencies respect the sovereignty and responsibilities of local, tribal, and State governments while rendering assistance.** The intention of the Federal Government in these situations is not to command the response, but rather to support the affected local, tribal, and/or State governments.

**Robert T. Stafford Disaster Relief and Emergency Assistance Act.** When it is clear that State capabilities will be exceeded, the Governor can request Federal assistance, including assistance under the **Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)**.<sup>31</sup> The Stafford Act authorizes the President to provide financial and other assistance to State and local governments, certain private nonprofit organizations, and individuals to support response, recovery, and mitigation efforts following Presidential emergency or major disaster declarations.

The Stafford Act is triggered by a Presidential declaration of a major disaster or emergency, when an event causes damage of sufficient severity and magnitude to warrant Federal disaster assistance to supplement the efforts and available resources of States, local governments, and the disaster relief organizations in alleviating the damage, loss, hardship, or suffering.

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<sup>29</sup> For more detail about EMAC, see <http://www.emacweb.org/>.

<sup>30</sup> Additional guidance on requesting Federal support can be found in the Overview document at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>31</sup> Details regarding Federal involvement under the Stafford Act are available at the **NRF Resource Center**, <http://www.fema.gov/NRF>. Additional information about the Stafford Act's disaster process and disaster aid programs is available at <http://www.fema.gov/hazard/dproc.shtm>.

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The forms of public assistance typically flow either from a major disaster declaration or an emergency declaration.<sup>32</sup> A **major disaster** could result from any natural or manmade event that the President determines warrants supplemental Federal aid. The event must be clearly more than State or local governments can handle alone.

If declared, funding comes from the President's Disaster Relief Fund, which is managed by FEMA, and the disaster aid programs of other participating Federal departments and agencies. A **Presidential major disaster declaration** triggers long-term Federal recovery programs, some of which are matched by State programs, and designed to help disaster victims, businesses, and public entities. An **emergency declaration** is more limited in scope and without the long-term Federal recovery programs of a major disaster declaration. Generally, Federal assistance and funding are provided to meet a specific emergency need or to help prevent a major disaster from occurring.

**Requesting a Presidential Declaration.** Most incidents are not of sufficient magnitude to warrant a Presidential declaration. However, if State and local resources are insufficient, **a Governor may ask the President to make such a declaration.** Before making a declaration request, the Governor must activate the State's emergency plan and ensure that all appropriate State and local actions have been taken or initiated, including:

- Surveying the affected areas to determine the extent of private and public damage.
- Conducting joint preliminary damage assessments with FEMA officials to estimate the types and extent of Federal disaster assistance required.
- Consulting with the FEMA Regional Administrator on Federal disaster assistance eligibility, and advising the FEMA regional office if a Presidential declaration will be requested.

Ordinarily, only a Governor can initiate a request for a Presidential emergency or major disaster declaration. In extraordinary circumstances, the President may unilaterally declare a major disaster or emergency.<sup>33</sup> This **request is made through the FEMA Regional Administrator** and based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments, and that Federal assistance is necessary. The request must include:

- Information on the extent and nature of State resources that have been or will be used to address the consequences of the disaster.
- A certification by the Governor that State and local governments will assume all applicable non-Federal costs required by the Stafford Act.
- An estimate of the types and amounts of supplementary Federal assistance required.

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<sup>32</sup> The Stafford Act defines an **emergency** as "any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States." A **major disaster** is defined as "any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby."

<sup>33</sup> Per section 501(b) of the Stafford Act.

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## CHAPTER II: RESPONSE ACTIONS

- Designation of a State Coordinating Officer.

The completed request, addressed to the President, is submitted through the FEMA Regional Administrator, who evaluates the damage and requirements for Federal assistance and makes a recommendation to the FEMA Administrator. The FEMA Administrator, acting through the Secretary of Homeland Security, may then recommend a course of action to the President. The Governor, appropriate Members of Congress, and Federal departments and agencies are immediately notified of a Presidential declaration.

### **Proactive Response to Catastrophic**

**Incidents.** Prior to and during catastrophic incidents, especially those that occur with little or no notice, the State and Federal governments may take proactive measures to mobilize and deploy assets in anticipation of a formal request from the State for Federal assistance.<sup>34</sup> Such deployments of significant Federal assets would likely occur for catastrophic events involving chemical, biological, radiological, nuclear, or high-yield explosive weapons of mass destruction, large-magnitude earthquakes, or other catastrophic incidents affecting heavily populated areas. The proactive responses are utilized to ensure that resources reach the scene in a timely manner to assist in restoring any disruption of normal function of State or local governments. Proactive notification and deployment of Federal resources in anticipation of or in response to catastrophic events will be done in coordination and collaboration with State, tribal, and local governments and private-sector entities when possible.

A catastrophic incident is defined as any natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions.

**Federal Assistance Available Without a Presidential Declaration.** In many cases, assistance may be obtained from the Federal Government without a Presidential declaration. For example, FEMA places liaisons in State EOCs and moves commodities near incident sites that may require Federal assistance prior to a Presidential declaration. Additionally, some types of assistance, such as Fire Management Assistance Grants – which provide support to States experiencing severe wildfires – are performed by Federal departments or agencies under their own authorities and do not require Presidential approval. Finally, Federal departments and agencies may provide immediate lifesaving assistance to States under their own statutory authorities without a formal Presidential declaration.

**Other Federal or Federally Facilitated Assistance.** The *Framework* covers the full range of complex and constantly changing requirements in anticipation of, or in response to, threats or actual incidents, including terrorism and major disasters. In addition to Stafford Act support, the *Framework* may be applied to provide other forms of support to Federal partners. Federal departments and agencies must remain flexible and adaptable in order to provide the support that is required for a particular incident.

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<sup>34</sup> Additional information on proactive response can be found in the Catastrophic Incident Annex, available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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**Federal-to-Federal Support.** Federal departments and agencies execute interagency or intra-agency reimbursable agreements, in accordance with the Economy Act or other applicable authorities. The *Framework's* Financial Management Support Annex<sup>35</sup> contains additional information on this process. Additionally, a Federal department or agency responding to an incident under its own jurisdictional authorities may request DHS coordination to obtain additional Federal assistance.

In such cases, DHS may activate one or more Emergency Support Functions to coordinate required support. Federal departments and agencies must plan for Federal-to-Federal support missions, identify additional issues that may arise when providing assistance to other Federal departments and agencies, and address those issues in the planning process. When providing Federal-to-Federal support, DHS may designate a Federal Resource Coordinator to perform the resource coordination function.

**International Assistance.** A domestic incident may have international and diplomatic implications that call for coordination and consultations with foreign governments and international organizations. An incident may also require direct bilateral and multilateral actions on foreign affairs issues related to the incident. The Department of State has responsibility for coordinating bilateral and multilateral actions, and for coordinating international assistance. International coordination within the context of a domestic incident requires close cooperative efforts with foreign counterparts, multilateral/international organizations, and the private sector. Federal departments and agencies should consider in advance what resources or other assistance they may require or be asked to accept from foreign sources and address issues that may arise in receiving such resources. Detailed information on coordination with international partners is further defined in the International Coordination Support Annex.<sup>36</sup>

**Response Activities.** Specific response actions will vary depending upon the scope and nature of an incident. Response actions are based on the objectives established by the Incident Command and Joint Field Office (JFO)'s Unified Coordination Group. Detailed information about the full range of potential response capabilities is contained in the Emergency Support Function Annexes, Incident Annexes, and Support Annexes. See Chapter V for additional detail about these items.

**Department and Agency Activities.** Federal departments and agencies, upon receiving notification or activation requests, implement their specific emergency plans to activate resources and organize their response actions. Department and agency plans should incorporate procedures for:

- Designation of department or agency representatives for interagency coordination, and identification of State, tribal, and local points of contact.
- Activation of coordination groups managed by the department or agency in accordance with roles and responsibilities.
- Activation, mobilization, deployment, and ongoing status reporting for resource-typed teams with responsibilities for providing capabilities under the *Framework*.

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<sup>35</sup> Available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

<sup>36</sup> Available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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- Readiness to execute mission assignments in response to requests for assistance (including pre-scripted mission assignments), and to support all levels of department or agency participation in the response, at both the field and national levels.
- Ensuring that department or agency resources (e.g., personnel, teams, or equipment) fit into the interagency structures and processes set out in the *Framework*.

**Regional Response Activities.** The FEMA Regional Administrator deploys a liaison to the State EOC to provide technical assistance and also activates the Regional Response Coordination Center (RRCC). Federal department and agency personnel, including ESF primary and support agency personnel, staff the RRCC as required. The RRCCs:

- Coordinate initial regional and field activities.
- In coordination with State, tribal, and local officials, deploy regional teams to assess the impact of the event, gauge immediate State needs, and make preliminary arrangements to set up operational field facilities.
- Coordinate Federal support until a JFO is established.
- Establish a JIC to provide a central point for coordinating emergency public information activities.

**Incident Management Assistance Team (IMAT).** In coordination with the RRCC and the State, FEMA may deploy an IMAT. IMATs are interagency teams composed of subject-matter experts and incident management professionals. IMAT personnel may be drawn from national or regional Federal department and agency staff according to established protocols. IMAT teams make preliminary arrangements to set up Federal field facilities and initiate establishment of the JFO.

**Emergency Support Functions (ESFs).** The NRCC or RRCC may also activate specific ESFs by directing appropriate departments and agencies to initiate the initial actions delineated in the ESF Annexes.<sup>37</sup>

## 4. DEMOBILIZE

Demobilization is the orderly, safe, and efficient return of a resource to its original location and status. Demobilization should begin as soon as possible to facilitate accountability of the resources and be fully coordinated with other incident management and response structures.

**Local, Tribal, and State Actions.** At the local, tribal, and State levels, demobilization planning and activities should include:

- Provisions to address and validate the safe return of resources to their original locations.
- Processes for tracking resources and ensuring applicable reimbursement.

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<sup>37</sup> Available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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- Accountability for compliance with mutual aid and assistance provisions.

**Federal Actions.** The Unified Coordination Group oversees the development of an exit strategy and demobilization plan. As the need for full-time interagency response coordination at the JFO wanes, the Unified Coordination Group plans for selective release of Federal resources, demobilization, transfer of responsibilities, and closeout. The JFO, however, continues to operate as needed into the recovery phase to coordinate those resources that are still active. ESF representatives assist in demobilizing resources and organizing their orderly return to regular operations, warehouses, or other locations.

## RECOVER

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**Once immediate lifesaving activities are complete, the focus shifts to assisting individuals, households, critical infrastructure, and businesses in meeting basic needs and returning to self-sufficiency.** Even as the immediate imperatives for response to an incident are being addressed, the need to begin recovery operations emerges. The emphasis upon response will gradually give way to recovery operations. Within recovery, actions are taken to help individuals, communities, and the Nation return to normal. Depending on the complexity of this phase, recovery and cleanup efforts involve significant contributions from all sectors of our society.

- **Short-term recovery** is immediate and overlaps with response. It includes actions such as providing essential public health and safety services, restoring interrupted utility and other essential services, reestablishing transportation routes, and providing food and shelter for those displaced by the incident. Although called "short term," some of these activities may last for weeks.
- **Long-term recovery**, which is outside the scope of the *Framework*, may involve some of the same actions but may continue for a number of months or years, depending on the severity and extent of the damage sustained. For example, long-term recovery may include the complete redevelopment of damaged areas.<sup>38</sup>

**Recovery from an incident is unique to each community and depends on the amount and kind of damage caused by the incident and the resources that the jurisdiction has ready or can quickly obtain.** In the short term, recovery is an extension of the response phase in which basic services and functions are restored. In the long term, recovery is a restoration of both the personal lives of individuals and the livelihood of the community. Recovery can include the development, coordination, and execution of service- and site-restoration plans; reconstitution of government operations and services; programs to provide housing and promote restoration; long-term care and treatment of affected persons; and additional measures for social, political, environmental, and economic restoration. Recovery programs:

- Identify needs and resources.
- Provide accessible housing and promote restoration.

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<sup>38</sup> Additional information on long-term recovery can be found in the ESF #14 Annex at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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- Address care and treatment of affected persons.
- Inform residents and prevent unrealistic expectations.
- Implement additional measures for community restoration.
- Incorporate mitigation measures and techniques, as feasible.

**Recovery Coordination.** The JFO remains the central coordination point among local, tribal, State, and Federal governments, as well as private-sector and nongovernmental entities that are providing recovery assistance. Examples of Federal and State recovery actions include:

- **Coordinating assistance programs to help individuals, households, and businesses meet basic needs and return to self-sufficiency.** Such programs include housing assistance, other needs assistance, crisis counseling services, disaster legal services, and unemployment or reemployment programs. Other activities include coordinating with local and tribal governments the need for and locations of Disaster Recovery Centers.
- **Establishing Disaster Recovery Centers.** Federal, State, tribal, local, voluntary, and nongovernmental organizations determine the need for and location of Disaster Recovery Centers. Staff provide recovery and mitigation program information, advice, counseling, and related technical assistance.
- **Coordinating with private-sector and nongovernmental organizations involved in donations management and other recovery activities.**
- **Coordinating public assistance grant programs authorized by the Stafford Act.** These programs aid local, tribal, and State governments and eligible private nonprofit organizations with the cost of emergency protective services, debris removal, and the repair or replacement of disaster-damaged public facilities and associated environmental restoration.
- **Coordinating with the private sector on restoration and recovery of CIKR.** Activities include working with owners/operators to ensure the restoration of critical services, including water, power, natural gas and petroleum, emergency communications, and healthcare.
- **Coordinating mitigation grant programs to help communities reduce the potential impacts of future disasters.** Activities include developing strategies to rebuild resilient communities.

After the JFO closes, ongoing activities transition to individual agencies with primary recovery responsibilities. Federal partners then work directly with their regional or headquarters offices to administer and monitor recovery programs, support, and technical services.

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## CHAPTER III RESPONSE ORGANIZATION

**This chapter explains how we as a Nation are organized to implement response actions. It describes the organizational structures that have been developed, tested, and refined over time and how these structures are applied at all levels to support an effective response.** The key staff positions needed to operate this system are explained and their relationships and dependencies outlined. The *Framework's* response structures are based on the *National Incident Management System (NIMS)*, particularly on its Incident Command System (ICS).

### INTRODUCTION

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Homeland Security Presidential Directive (HSPD) 5 called for a single, comprehensive system to enhance the ability of the United States to manage domestic incidents. *NIMS* provides a consistent nationwide template to enable all levels of government, the private sector, and nongovernmental organizations (NGOs) to work together during an incident.<sup>39</sup>

Integrating these *NIMS* principles into all phases of an incident and throughout all levels of government ensures that all stakeholders have a common set of principles from which to operate during an incident.

**Scope of the *Framework*.** The *Framework* provides structures for implementing national-level policy and operational coordination for domestic response. It can be partially or fully implemented in the context of a threat, in anticipation of a significant event, or in response to an incident. Selective implementation allows for a scaled response, delivery of the exact resources needed, and a level of coordination appropriate to each event.

The *Framework* incorporates organizational structures that promote on-scene initiative, innovation, and sharing of essential resources drawn from all levels of government and the private sector. It is not always obvious whether a seemingly minor incident might be the initial phase of a larger, rapidly growing threat. Response must be quickly scalable, flexible, and adaptable.

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<sup>39</sup> The *NIMS* is available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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### KEY CONCEPTS

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*NIMS* provides a core set of common concepts, principles, terminology, and technologies in the following areas:

- **Incident Command System (ICS).** Much of *NIMS* is built upon ICS, which was developed by the Federal, State, and local wildland fire agencies during the 1970s. ICS is normally structured to facilitate activities in five major functional areas: command, operations, planning, logistics, and finance/administration. In some circumstances, intelligence and investigations may be added as a sixth functional area.
- **Multiagency Coordination System (MACS).** The primary function of MACS is to coordinate activities above the field level and to prioritize the incident demands for critical or competing resources, thereby assisting the coordination of the operations in the field. MACS consists of a combination of elements: personnel, procedures, protocols, business practices, and communications integrated into a common system. For the purpose of coordinating resources and support between multiple jurisdictions, MACS can be implemented from a fixed facility or by other arrangements outlined within the system. Examples of multiagency coordination include a State or county emergency operations center, a State intelligence fusion center, the National Operations Center, the Department of Homeland Security/Federal Emergency Management Agency (FEMA) National Response Coordination Center, the Department of Justice/Federal Bureau of Investigation (FBI) Strategic Information and Operations Center, the FBI Joint Operations Center, and the National Counterterrorism Center.
- **Unified Command.** Unified command is an important element in multijurisdictional or multiagency incident management. It provides guidelines to enable agencies with different legal, geographic, and functional responsibilities to coordinate, plan, and interact effectively. As a team effort, unified command allows all agencies with jurisdictional authority or functional responsibility for the incident to jointly provide management direction to an incident through a common set of incident objectives and strategies and a single Incident Action Plan. Each participating agency maintains its authority, responsibility, and accountability.
- **Training.** Leaders and staff require initial training on response principles, as well as ongoing training to provide updates on current concepts and procedures.
- **Identification and Management of Resources.** Classifying types of resources is essential to ensure that multiple agencies can effectively communicate and provide resources during a crisis, including implementing a plan to inventory, mobilize, and track resources prior to, during, and after an incident.
- **Mutual Aid and Assistance.** Executing mutual aid and other agreements established prior to an incident with appropriate entities at the local, tribal, State, and Federal levels is an important element of preparedness, along with the readiness to develop/implement new agreements during the life cycle of an incident.
- **Situational Awareness.** Situational awareness is the ability to identify, process, and comprehend the critical information about an incident. More simply, it is knowing what is going on around you. Situational awareness requires continuous

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monitoring of relevant sources of information regarding actual incidents and developing hazards.

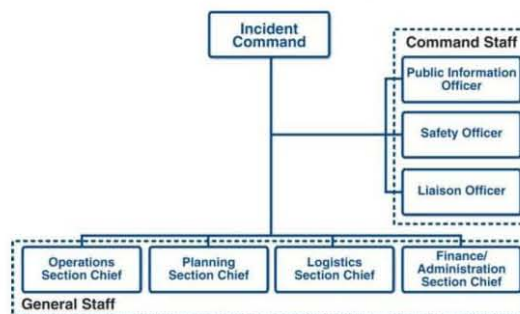
- **Qualifications and Certification.** Competent staff is a requirement for any leader managing an incident. During a crisis there will not be time to determine staff qualifications, if such information has not yet been compiled and available for review by leaders. To identify the appropriate staff to support a leader during a crisis, qualifications based on training and expertise of staff should be identified and evidenced by certification, if appropriate.
- **Collection, Tracking, and Reporting of Incident Information.** Information today is transmitted instantly via the Internet and the 24/7 news channels. While timely information is valuable, it also can be overwhelming. For an effective response, expertise and experience must be leveraged to support decisionmaking and to summarize and prioritize information rapidly. Information must be gathered accurately at the scene and effectively communicated to those who need it. To be successful, clear lines of information flow and a common operating picture are essential.
- **Crisis Action Planning.** Deliberative planning during nonincident periods should quickly transition to crisis action planning when an incident occurs. Crisis action planning is the process for rapidly adapting existing deliberative plans and procedures during an incident based on the actual circumstances of an event. Crisis action planning should also include the provision of decision tools for senior leaders to guide their decisionmaking.
- **Exercises.** Consistent with the National Exercise Program, all stakeholders should regularly exercise their incident management and response capabilities and procedures to ensure that they are fully capable of executing their response responsibilities.

## LOCAL RESPONSE: STRUCTURES AND STAFFING

**Field Level: Incident Command.** Local responders use ICS to manage response operations. ICS is a management system designed to enable effective incident management by integrating a combination of facilities, equipment, personnel, procedures and communications operating within a common organizational structure.

A basic strength of ICS is that it is already widely adopted. It is used to organize both near-term and long-term field-level operations for a broad spectrum of incidents.

Figure 4. Incident Command Structure



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ICS is used by all levels of government – Federal, State, tribal, and local – as well as by many private-sector and nongovernmental organizations. Typically, the incident command is structured to facilitate activities in five major functional areas: command, operations, planning, logistics, and finance/administration.

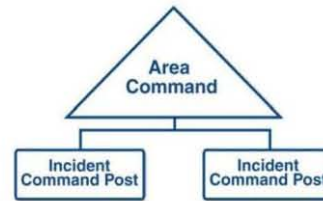
ICS defines certain key roles for managing an ICS incident, as follows:

- The **Incident Commander** is the individual responsible for all response activities, including the development of strategies and tactics and the ordering and release of resources. The Incident Commander has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site. When multiple command authorities are involved, the incident may be led by a **unified command comprised of officials who have jurisdictional authority or functional responsibility for the incident under an appropriate law, ordinance, or agreement**. The unified command provides direct, on-scene control of tactical operations.
- The **Command Staff** consists of a Public Information Officer, Safety Officer, Liaison Officer, and other positions. The Command Staff reports directly to the Incident Commander. The **General Staff** normally consists of an Operations Section Chief, Planning Section Chief, Logistics Section Chief, and Finance/Administration Section Chief. An Intelligence/Investigations Section may be established, if required, to meet response needs.

At the tactical level, on-scene incident command and management organization are located at an **Incident Command Post**, which is typically comprised of local and mutual aid responders.

**Field Level: Area Command.** If necessary, an **Area Command** may be established to assist the agency administrator/executive in providing oversight for the management of multiple incidents being handled by separate Incident Command Posts or to oversee management of a complex incident dispersed over a larger area and broker critical resources. The Area Command does not have operational responsibilities and is activated only if necessary, depending on the complexity of the incident and incident management span-of-control considerations. The Area Command or Incident Command Post provides information to, and may request assistance from, the local emergency operations center.

Figure 5. Area Command Structure



**Local Emergency Operations Center (EOC).** If the Incident Commander determines that additional resources or capabilities are needed, he or she will contact the **local EOC** and relay requirements to the local emergency manager.

Local EOCs are the physical locations where multiagency coordination occurs. EOCs help form a **common operating picture** of the incident, relieve on-scene command of the burden of external coordination, and secure additional resources. The core functions of an EOC include coordination, communications, resource allocation and tracking, and information collection, analysis, and dissemination.



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EOCs may be permanent organizations and facilities that are staffed 24 hours a day, 7 days a week, or they may be established to meet short-term needs. Standing EOCs (or those activated to support larger, more complex incidents) are typically established in a central or permanently established facility. Such permanent facilities in larger communities are typically directed by a full-time **emergency manager**. EOCs may be organized by major discipline (fire, law enforcement, medical services, etc.), by jurisdiction (city, county, region, etc.), by Emergency Support Function (communications, public works, engineering, transportation, resource support, etc.) or, more likely, by some combination thereof.

During an incident, the local emergency manager ensures the EOC is staffed to support the incident command and arranges needed resources. The **chief elected or appointed official** provides policy direction and supports the Incident Commander and emergency manager, as needed.

EOCs at all levels of government often encourage and accommodate private-sector participation. The private sector, in turn, can maintain parallel structures to respond to the needs of the EOC. This representation should complement, not replace, presence in the EOC granted currently to public utilities.

## STATE RESPONSE: STRUCTURES AND STAFFING

**State Emergency Operations Center (EOC).** State EOCs are the physical location where multiagency coordination occurs. Every State maintains an EOC configured to expand as necessary to manage events requiring State-level assistance.

The local incident command structure directs on-scene emergency management activities and maintains command and control of on-scene incident operations. State EOCs are activated as necessary to support local EOCs. Therefore, the State EOC is the central location from which off-scene activities supported by the State are coordinated. Chief elected and appointed officials are located at the State EOC, as well as personnel supporting core functions. The key function of State EOC personnel is to ensure that those who are located at the scene have the resources (e.g., personnel, tools, and equipment) they need for the response.

State and tribal officials typically take the lead to communicate public information regarding incidents occurring in their jurisdictions. It is essential that immediately following the onset of an incident, the State or tribal government, in collaboration with local officials, ensures that:

- Communication lines with the press are open, questions receive prompt responses, and false rumors are refuted before they spread.
- Information about where to receive help is communicated directly to victims and victims' families.

**Figure 6. State and Emergency Operations Center**



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In order to coordinate the release of emergency information and other public affairs functions, a **Joint Information Center (JIC)** may be established. The JIC serves as a focal point for coordinated and timely release of incident-related information to the public and the media. Information about where to receive assistance is communicated directly to victims and their families in an accessible format and in appropriate languages for those with limited English proficiency.

**Requesting and Managing Federal Assistance.** The Governor is responsible for requesting Federal assistance for incidents within his or her State. Overall, Federal incident support to the State is generally coordinated through a **Joint Field Office (JFO)**. The JFO provides the means to integrate diverse Federal resources and engage directly with the State. Using unified command principles, a **Unified Coordination Group** comprised of senior officials from the State and key Federal departments and agencies is established at the JFO. This group of senior officials provides the breadth of national support to achieve shared objectives.

Details of the structures and staffing models associated with a JFO, the FEMA Regional Response Coordination Centers (RRCCs), and other organizations that support State response are described below, in the section regarding Federal response structures. By way of introduction, the *Framework* recognizes two senior leaders appointed by the Governor to work in coordination with the Federal JFO team.

**State Coordinating Officer (SCO).** The SCO plays a critical role in managing the State response and recovery operations following Stafford Act declarations. The Governor of the affected State appoints the SCO, and lines of authority flow from the Governor to the SCO, following the State's policies and laws. For certain anticipated events in which a Stafford Act declaration is expected, such as an approaching hurricane, the Secretary of Homeland Security or the FEMA Administrator may pre-designate one or more Federal officials to coordinate with the SCO to determine resources and actions that will likely be required, and begin deployment of assets. The specific roles and responsibilities of the SCO include:

- Serving as the primary representative of the Governor for the affected State or locality with the RRCC or within the JFO once it is established.
- Working with the Federal Coordinating Officer to formulate State requirements, including those that are beyond State capability, and set priorities for employment of Federal resources provided to the State.
- Ensuring coordination of resources provided to the State via mutual aid and assistance compacts.
- Providing a linkage to local government.
- Serving in the Unified Coordination Group in the JFO.

**Governor's Authorized Representative.** As the complexity of the response dictates, the *Framework* recognizes that the Governor may empower a Governor's Authorized Representative to:

- Execute all necessary documents for disaster assistance on behalf of the State, including certification of applications for public assistance.



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- Represent the Governor of the impacted State in the Unified Coordination Group, when required.
- Coordinate and supervise the State disaster assistance program to include serving as its grant administrator.
- Identify, in coordination with the SCO, the State's critical information needs for incorporation into a list of Essential Elements of Information (critical items of specific information required to plan and execute an operation and to support timely, logical decisions).

**U.S. Territories.** Within the *Framework*, U.S. territories use the same incident management and response structures and mechanisms as State governments for requesting and receiving Federal assistance. Territories pose special response challenges. Working in partnership with territorial governments, the *Framework* is adapted to meet these geographic challenges through preparedness plans and pre-staging of assets.

Territorial governments may receive federally coordinated response within the U.S. possessions, including the insular areas, and within the Federated States of Micronesia and the Republic of the Marshall Islands.<sup>40</sup> Stafford Act assistance is available to Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, which are included in the definition of "State" in the Stafford Act. Stafford Act assistance also is available to the Federated States of Micronesia and the Republic of the Marshall Islands under the Compact of Free Association.

## FEDERAL RESPONSE: STRUCTURES AND STAFFING

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### POLICY DEVELOPMENT AND OPERATIONS COORDINATION

**Policy Development.** The President leads the Nation in responding effectively and ensuring the necessary coordinating structure, leadership, and resources are applied quickly and efficiently to large-scale incidents. The Homeland Security Council (HSC) and National Security Council (NSC) advise the President on national strategic and policy during large-scale incidents. The HSC and NSC ensure coordination for all homeland and national security-related activities among executive departments and agencies and promote effective development and implementation of related policy. The HSC and NSC ensure unified leadership across the Federal Government.

The Assistant to the President for Homeland Security and Counterterrorism and the Assistant to the President for National Security Affairs coordinate interagency policy for domestic and international incident management, respectively, and convene interagency meetings to coordinate policy issues. Both Councils use well-established policy development structures to identify issues that require interagency coordination.

To support domestic interagency policy coordination on a routine basis, HSC and NSC deputies and principals convene to resolve significant policy issues. They are supported by the following two Policy Coordination Committees at the assistant secretary level:

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<sup>40</sup> Refer to footnote 5 for more information on U.S. possessions and freely associated states.

# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## CHAPTER III: RESPONSE ORGANIZATION

- **Domestic Readiness Group (DRG).** The DRG is an interagency body convened on a regular basis to develop and coordinate preparedness, response, and incident management policy. This group evaluates various policy issues of interagency importance regarding domestic preparedness and incident management and makes recommendations to senior levels of the policymaking structure for decision. During an incident, the DRG may be convened by DHS to evaluate relevant interagency policy issues regarding response and develop recommendations as may be required.
- **Counterterrorism Security Group (CSG).** The CSG is an interagency body convened on a regular basis to develop terrorism prevention policy and to coordinate threat response and law enforcement investigations associated with terrorism. This group evaluates various policy issues of interagency importance regarding counterterrorism and makes recommendations to senior levels of the policymaking structure for decision.

**Within the structure described above, Federal departments and agencies support policy development based on responsibilities assigned by statute, by HSPD-5, and in specific detail in Chapter I of this document.**

**Operations Coordination.** The **Secretary of Homeland Security** is the principal Federal official responsible for domestic incident management. This includes coordinating **Federal operations** and resource deployments within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, or other emergencies.<sup>41</sup>

All Federal departments and agencies may play significant roles in incident management and response activities, depending on the nature and size of an event. The policies, operational structures, and capabilities to support an integrated Federal response have grown swiftly since the 9/11 attacks, and continue to evolve. Many of these arrangements are defined in the Emergency Support Functions, coordinated through pre-scripted mission assignments, and formalized in interagency agreements.

**Communications among Federal departments and agencies, particularly in an era when the Nation is at war with terrorists, requires a highly integrated capacity to share information efficiently and effectively.** By doing so, responders can effectively manage incidents that start small but may have large consequences, such as a deliberate attack on the food supply that might initially appear localized or even commonplace. At the same time, these *Framework* mechanisms do not interfere with the established operations of local, tribal, State, and Federal agencies.

**The Department of Homeland Security (DHS) was created in 2003 in part to serve as the planning integrator for the President of a more robust Federal incident management capability and to coordinate Federal incident management activities in support of our State and local partners.** DHS is responsible for the overall architecture of how these capabilities are executed and sustained. The Department has considerable responsibilities and resources for emergency response, and also relies on the statutory authorities, subject-matter expertise, and range of assets and operational capabilities of other Federal departments and agencies.

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<sup>41</sup> Per HSPD-5, paragraph 8, the Secretary of Homeland Security's operational coordination role excludes law enforcement coordination activities assigned to the Attorney General and generally delegated to the Director of the FBI.

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The **FEMA Administrator** is the principal advisor to the President, the Secretary of Homeland Security, and the Homeland Security Council regarding emergency management. The FEMA Administrator's duties include operation of the National Response Coordination Center, the effective support of all Emergency Support Functions, and, more generally, preparation for, protection against, response to, and recovery from all-hazards incidents. Reporting to the Secretary of Homeland Security, the Administrator also is responsible for management of the core DHS grant programs supporting homeland security.<sup>42</sup>

**Other DHS agency heads** have a lead response role or an otherwise significant role, depending upon the type and severity of the event. For example, the U.S. Coast Guard Commandant has statutory lead authority for certain mass migration management scenarios and significant oil/hazardous substance spill incidents in the maritime environment.

The **DHS Director of Operations Coordination** is the Secretary's principal advisor for the overall departmental level of integration of incident management operations and oversees the National Operations Center. Run by the Director, the National Operations Center is intended to provide a one-stop information source for incident information sharing with the White House and other Federal departments and agencies at the headquarters level.

**The role of DHS in coordinating Federal response operations must be highly collaborative.** There must be excellent, mutual transparency among DHS and its Federal partners into each other's response capabilities. The same is true with regard to States. This requires extraordinarily close, daily **operational connectivity** among States, DHS, and other departments and agencies at senior levels and at operational levels.

## HEADQUARTERS-LEVEL SUPPORT STRUCTURES

**National Operations Center (NOC).** The NOC is the primary national hub for situational awareness and operations coordination across the Federal Government for incident management. It provides the Secretary of Homeland Security and other principals with information necessary to make critical national-level incident management decisions.

The NOC is a continuously operating multiagency operations center. The NOC's staff monitors many sources of threat and hazard information from across the United States and abroad. It is supported by a 24/7 watch officer contingent, including: (1) NOC managers; (2) selected Federal interagency, State, and local law enforcement representatives; (3) intelligence community liaison officers provided by the DHS Chief Intelligence Officer; (4) analysts from the Operations Division's interagency planning element; and (5) watch standers representing dozens of organizations and disciplines from the Federal Government and others from the private sector.

The NOC facilitates homeland security information sharing and operations coordination with other Federal, State, tribal, local, and nongovernmental partners. During a response to a significant incident, the NOC meets its information-fusion and information-sharing responsibilities by providing spot reports, situation reports, and other information-sharing tools, all supported by and distributed through its common operating picture. The continued development and rapid integration at the Federal, State, tribal, and local levels of

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<sup>42</sup> See the Post-Katrina Emergency Reform Act, enacted as part of the FY 2007 DHS Appropriations Act, P.L. 109-295.



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electronic reporting and information-sharing tools supporting the NOC's common operating picture is a very high priority of the *Framework*.

**NOC Operational Components.** The following components of the NOC provide integrated mission support:

- **National Response Coordination Center (NRCC).** The NRCC is FEMA's primary operations management center, as well as the focal point for national resource coordination. As a 24/7 operations center, the NRCC monitors potential or developing incidents and supports the efforts of regional and field components.

The NRCC also has the capacity to increase staffing immediately in anticipation of or in response to an incident by activating the full range of ESFs and other personnel as needed to provide resources and policy guidance to a JFO or other local incident management structures. The NRCC provides overall emergency management coordination, conducts operational planning, deploys national-level entities, and collects and disseminates incident information as it builds and maintains a common operating picture. Representatives of nonprofit organizations within the private sector may participate in the NRCC to enhance information exchange and cooperation between these entities and the Federal Government.

- **National Infrastructure Coordinating Center (NICC).** The NICC monitors the Nation's critical infrastructure and key resources on an ongoing basis. During an incident, the NICC provides a coordinating forum to share information across infrastructure and key resources sectors through appropriate information-sharing entities such as the Information Sharing and Analysis Centers and the Sector Coordinating Councils.<sup>43</sup>

**Supporting Federal Operations Centers.** The Federal Government has a wide range of headquarters-level operations centers that maintain situational awareness within their functional areas and provide relevant information to the NOC. Most Cabinet departments and agencies have at least one such facility. Below are examples of other Federal operations centers that have key roles in providing situational awareness and interagency coordination during incidents.

- **National Military Command Center (NMCC).** The NMCC is the Nation's focal point for continuous monitoring and coordination of worldwide military operations. It directly supports combatant commanders, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President in the command of U.S. Armed Forces in peacetime contingencies and war. Structured to support the President and Secretary of Defense effectively and efficiently, the Center participates in a wide variety of activities, ranging from missile warning and attack assessment to management of peacetime contingencies such as Defense Support of Civil Authorities (DSCA) activities. In conjunction with monitoring the current worldwide situation, the Center alerts the Joint Staff and other national agencies to developing crises and will initially coordinate any military response required.

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<sup>43</sup> See <http://www.fema.gov/NRF> for additional information.

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- **National Counterterrorism Center (NCTC).** The NCTC serves as the primary Federal organization for integrating and analyzing all intelligence pertaining to terrorism and counterterrorism and for conducting strategic operational planning by integrating all instruments of national power.
- **Strategic Information and Operations Center (SIOC).** The FBI SIOC is the focal point and operational control center for all Federal intelligence, law enforcement, and investigative law enforcement activities related to domestic terrorist incidents or credible threats, including leading attribution investigations. The SIOC serves as an information clearinghouse to help collect, process, vet, and disseminate information relevant to law enforcement and criminal investigation efforts in a timely manner. The SIOC maintains direct connectivity with the NOC. The SIOC, located at FBI Headquarters, supports the FBI's mission in leading efforts of the law enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States.

The SIOC maintains liaison with the National Joint Terrorism Task Force (NJTTF). The mission of the NJTTF is to enhance communications, coordination, and cooperation among Federal, State, tribal, and local agencies representing the intelligence, law enforcement, defense, diplomatic, public safety, and homeland security communities by providing a point of fusion for terrorism intelligence and by supporting Joint Terrorism Task Forces throughout the United States.

- **Other DHS Operations Centers.** Depending upon the type of incident (e.g., National Special Security Events), the operations centers of other DHS operating Components may serve as the primary operations management center in support of the Secretary. These are the U.S. Coast Guard, Transportation Security Administration, U.S. Secret Service, and U.S. Customs and Border Protection operations centers.

**Emergency Support Functions (ESFs).** FEMA coordinates response support from across the Federal Government and certain NGOs by calling up, as needed, one or more of the 15 ESFs. The ESFs are coordinated by FEMA through its NRCC. During a response, ESFs are a critical mechanism to coordinate functional capabilities and resources provided by Federal departments and agencies, along with certain private-sector and nongovernmental organizations. They represent an effective way to bundle and funnel resources and capabilities to local, tribal, State, and other responders. These functions are coordinated by a single agency but may rely on several agencies that provide resources for each functional area. The mission of the ESFs is to provide the greatest possible access to capabilities of the Federal Government regardless of which agency has those capabilities.

The ESFs serve as the primary operational-level mechanism to provide assistance in functional areas such as transportation, communications, public works and engineering, firefighting, mass care, housing, human services, public health and medical services, search and rescue, agriculture and natural resources, and energy. A list of the 15 ESFs and a description of the scope of each is found in Table 2.

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**Table 2. Emergency Support Functions and ESF Coordinators**

<p><b>ESF #1 – Transportation</b>  <b>ESF Coordinator: Department of Transportation</b></p> <ul style="list-style-type: none"> <li>• Aviation/airspace management and control</li> <li>• Transportation safety</li> <li>• Restoration and recovery of transportation infrastructure</li> <li>• Movement restrictions</li> <li>• Damage and impact assessment</li> </ul>
<p><b>ESF #2 – Communications</b>  <b>ESF Coordinator: DHS (National Communications System)</b></p> <ul style="list-style-type: none"> <li>• Coordination with telecommunications and information technology industries</li> <li>• Restoration and repair of telecommunications infrastructure</li> <li>• Protection, restoration, and sustainment of national cyber and information technology resources</li> <li>• Oversight of communications within the Federal incident management and response structures</li> </ul>
<p><b>ESF #3 – Public Works and Engineering</b>  <b>ESF Coordinator: Department of Defense (U.S. Army Corps of Engineers)</b></p> <ul style="list-style-type: none"> <li>• Infrastructure protection and emergency repair</li> <li>• Infrastructure restoration</li> <li>• Engineering services and construction management</li> <li>• Emergency contracting support for life-saving and life-sustaining services</li> </ul>
<p><b>ESF #4 – Firefighting</b>  <b>ESF Coordinator: Department of Agriculture (U.S. Forest Service)</b></p> <ul style="list-style-type: none"> <li>• Coordination of Federal firefighting activities</li> <li>• Support to wildland, rural, and urban firefighting operations</li> </ul>
<p><b>ESF #5 – Emergency Management</b>  <b>ESF Coordinator: DHS (FEMA)</b></p> <ul style="list-style-type: none"> <li>• Coordination of incident management and response efforts</li> <li>• Issuance of mission assignments</li> <li>• Resource and human capital</li> <li>• Incident action planning</li> <li>• Financial management</li> </ul>
<p><b>ESF #6 – Mass Care, Emergency Assistance, Housing, and Human Services</b>  <b>ESF Coordinator: DHS (FEMA)</b></p> <ul style="list-style-type: none"> <li>• Mass care</li> <li>• Emergency assistance</li> <li>• Disaster housing</li> <li>• Human services</li> </ul>
<p><b>ESF #7 – Logistics Management and Resource Support</b>  <b>ESF Coordinator: General Services Administration and DHS (FEMA)</b></p> <ul style="list-style-type: none"> <li>• Comprehensive, national incident logistics planning, management, and sustainment capability</li> <li>• Resource support (facility space, office equipment and supplies, contracting services, etc.)</li> </ul>



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<p><b>ESF #8 – Public Health and Medical Services</b>  <b>ESF Coordinator: Department of Health and Human Services</b></p> <ul style="list-style-type: none"> <li>• Public health</li> <li>• Medical</li> <li>• Mental health services</li> <li>• Mass fatality management</li> </ul>
<p><b>ESF #9 – Search and Rescue</b>  <b>ESF Coordinator: DHS (FEMA)</b></p> <ul style="list-style-type: none"> <li>• Life-saving assistance</li> <li>• Search and rescue operations</li> </ul>
<p><b>ESF #10 – Oil and Hazardous Materials Response</b>  <b>ESF Coordinator: Environmental Protection Agency</b></p> <ul style="list-style-type: none"> <li>• Oil and hazardous materials (chemical, biological, radiological, etc.) response</li> <li>• Environmental short- and long-term cleanup</li> </ul>
<p><b>ESF #11 – Agriculture and Natural Resources</b>  <b>ESF Coordinator: Department of Agriculture</b></p> <ul style="list-style-type: none"> <li>• Nutrition assistance</li> <li>• Animal and plant disease and pest response</li> <li>• Food safety and security</li> <li>• Natural and cultural resources and historic properties protection</li> <li>• Safety and well-being of household pets</li> </ul>
<p><b>ESF #12 – Energy</b>  <b>ESF Coordinator: Department of Energy</b></p> <ul style="list-style-type: none"> <li>• Energy infrastructure assessment, repair, and restoration</li> <li>• Energy industry utilities coordination</li> <li>• Energy forecast</li> </ul>
<p><b>ESF #13 – Public Safety and Security</b>  <b>ESF Coordinator: Department of Justice</b></p> <ul style="list-style-type: none"> <li>• Facility and resource security</li> <li>• Security planning and technical resource assistance</li> <li>• Public safety and security support</li> <li>• Support to access, traffic, and crowd control</li> </ul>
<p><b>ESF #14 – Long-Term Community Recovery</b>  <b>ESF Coordinator: DHS (FEMA)</b></p> <ul style="list-style-type: none"> <li>• Social and economic community impact assessment</li> <li>• Long-term community recovery assistance to States, tribes, local governments, and the private sector</li> <li>• Analysis and review of mitigation program implementation</li> </ul>
<p><b>ESF #15 – External Affairs</b>  <b>ESF Coordinator: DHS</b></p> <ul style="list-style-type: none"> <li>• Emergency public information and protective action guidance</li> <li>• Media and community relations</li> <li>• Congressional and international affairs</li> <li>• Tribal and insular affairs</li> </ul>

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Each ESF is comprised of a coordinator and primary and support agencies. The *Framework* identifies primary agencies on the basis of authorities, resources, and capabilities. Support agencies are assigned based on resources and capabilities in a given functional area. The resources provided by the ESFs are consistent with resource-typing categories identified in the *NIMS*.

ESFs may be selectively activated for both Stafford Act and non-Stafford Act incidents under circumstances as defined in HSPD-5. Not all incidents requiring Federal support result in the activation of ESFs. FEMA can deploy assets and capabilities through ESFs into an area in anticipation of an approaching storm or event that is expected to cause a significant impact and result. This coordination through ESFs allows FEMA to position Federal support for a quick response, though actual assistance cannot normally be provided until the Governor requests and receives a Presidential major disaster or emergency declaration. Many States have also organized an ESF structure along this approach.

**When ESFs are activated, they may have a headquarters, regional, and field presence.** At FEMA headquarters, the ESFs support decisionmaking and coordination of field operations within the NRCC. The ESFs deliver a broad range of technical support and other services at the regional level in the Regional Response Coordination Centers, and in the Joint Field Office and Incident Command Posts, as required by the incident. At all levels, FEMA issues mission assignments to obtain resources and capabilities from across the ESFs in support of the State.<sup>44</sup>

The ESFs plan and support response activities. At the headquarters, regional, and field levels, ESFs provide staff to support the incident command sections for operations, planning, logistics, and finance/administration, as requested. The incident command structure enables the ESFs to work collaboratively. For example, if a State requests assistance with a mass evacuation, the JFO would request personnel from ESF #1 (*Transportation*), ESF #6 (*Mass Care, Emergency Assistance, Housing, and Human Services*), and ESF #8 (*Public Health and Medical Services*). These would then be integrated into a single branch or group within the Operations Section to ensure effective coordination of evacuation services. The same structures are used to organize ESF response at the field, regional, and headquarters levels.

To support an effective response, all ESFs are required to have both strategic and more-detailed operational plans that include all participating organizations and engage the private sector and NGOs as appropriate. The ongoing support, coordination, and integration of ESFs and their work are core responsibilities of FEMA in its response leadership role for DHS.

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<sup>44</sup> Additional information on the mission assignment process is contained in the Financial Management Support Annex, which is available via the **NRF Resource Center** at <http://www.fema.gov/NRF>.



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**Support and Incident Annexes.** Other mechanisms by which support is harnessed among Federal, private-sector, and NGO partners are the **Support and Incident Annexes**. By serving as coordinating or cooperating agencies for various Support or Incident Annexes, Federal departments and agencies conduct a variety of activities to include managing specific functions and missions or providing overarching Federal support within their functional areas. Specifics on these positions are provided in the Introductions to the Support and Incident Annexes at the **NRF Resource Center**.

### REGIONAL SUPPORT STRUCTURE

**FEMA Regional Offices.** FEMA has 10 regional offices, each headed by a Regional Administrator. The regional field structures are FEMA's permanent presence for communities and States across the Nation. The staff at these offices support development of all-hazards operational plans and generally help States and communities become better prepared. These regional offices mobilize Federal assets and evaluation teams to work with State and local agencies. Many of FEMA's most experienced response personnel are employed at regional offices.

Each of FEMA's regional offices maintains a **Regional Response Coordination Center (RRCC)**. The RRCCs are 24/7 coordination centers that expand to become an interagency facility staffed by ESFs in anticipation of a serious incident in the region or immediately following an incident. Operating under the direction of the FEMA Regional Administrator, the RRCCs coordinate Federal regional response efforts, and maintain connectivity with State EOCs, State fusion centers, Federal Executive Boards, and other Federal and State operations and coordination centers that have potential to contribute to development of situational awareness. Ongoing RRCC operations transition to a JFO once it is established, so that the RRCC can remain ready to deal with new incidents.

Other Federal departments and agencies have regional or field offices that may participate with State, tribal, and local governments in planning for incidents under their jurisdiction and provide initial response assets to the incident.

Figure 7. FEMA Regions



### FIELD SUPPORT STRUCTURE

**Initial Response.** Depending upon the type and scope of incident, in coordination with State and local agencies, Federal assets may be dispatched during the first hours following an incident. Of course, in some cases, the proximity of Federal response employees already working in a community may be able to deliver Federal support that ranges from experienced and professional emergency management teams to other temporary and *ad hoc* assistance.

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Following a Presidential disaster declaration, a wide array of Federal assets can be deployed as needed. For example, FEMA may deploy **Incident Management Assistance Teams (IMATs)**, which are interagency, regionally based response teams that provide a forward Federal presence to improve response to serious incidents.

The IMATs support efforts to meet the emergent needs of State and local jurisdictions, possess the capability to provide initial situational awareness for Federal decisionmakers, and support the establishment of Federal coordination efforts with the State.

Other initial response and coordination tools deployed by FEMA in conjunction with declared emergencies and disasters include:

- **Hurricane Liaison Team (HLT).** The HLT is a small team designed to enhance hurricane disaster response by facilitating information exchange between the National Hurricane Center in Miami and other National Oceanic and Atmospheric Administration components, as well as Federal, State, tribal, and local government officials.
- **Urban Search and Rescue (US&R) Task Forces.** The National US&R Response System is a framework for structuring local emergency services personnel into integrated response task forces. The 28 National US&R Task Forces, complete with the necessary tools, equipment, skills, and techniques, can be deployed by FEMA to assist State, tribal, and local governments in rescuing victims of structural collapse incidents or to assist in other search and rescue missions. Each task force must have all its personnel and equipment at the embarkation point within 6 hours of activation. The task force can be dispatched and en route to its destination within a matter of hours.
- **Mobile Emergency Response Support (MERS).** The primary function of MERS is to provide mobile telecommunications capabilities and life, logistics, operational, and power-generation support required for the on-site management of response activities. MERS support falls into three broad categories: (1) operational support elements, (2) communications equipment and operators, and (3) logistics support.

MERS supports Federal, State, tribal, and local responders in their efforts to save lives, protect property, and coordinate response operations. Staged in six strategic locations, one with offshore capabilities, the MERS detachments can concurrently support multiple field operating sites within an incident area.

**Joint Field Office (JFO).** The JFO is the primary Federal incident management field structure. The JFO is a temporary Federal facility that provides a central location for the coordination of Federal, State, tribal, and local governments and private-sector and nongovernmental organizations with primary responsibility for response and recovery. The JFO structure is organized, staffed, and managed in a manner consistent with *NIMS* principles and is led by the Unified Coordination Group. Although the JFO uses an ICS structure, the JFO does not manage on-scene operations. Instead, the JFO focuses on providing support to on-scene efforts and conducting broader support operations that may extend beyond the incident site.

**Personnel from Federal and State departments and agencies, other jurisdictional entities, the private sector, and NGOs may be requested to staff various levels of the JFO, depending on the requirements of the incident.** When incidents impact the entire Nation or multiple States or localities, multiple JFOs may be established. In these

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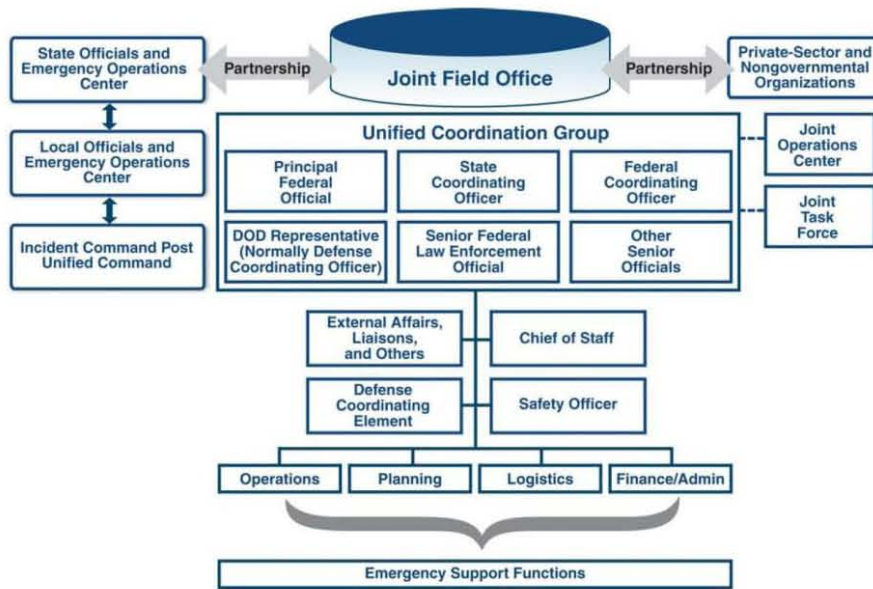
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situations, coordination will occur following the principles of Unified Area Command. The physical location of such a coordination entity depends on the situation.

As the primary field structure, the JFO provides the organizing structure to integrate diverse Federal authorities and capabilities and coordinate Federal response and recovery operations. For additional information on staffing and procedures, see the JFO Standard Operating Procedure.<sup>45</sup> The JFO is internally organized and operated using the concepts and principles of the *NIMS*.

The figure below represents an overview of the JFO and its key components.

**Figure 8. Joint Field Office**



<sup>45</sup> This and other Standard Operating Procedures are available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.



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**Unified Coordination Group.** The JFO is led by the Unified Coordination Group, which is comprised of specified senior leaders representing State and Federal interests, and in certain circumstances tribal governments, local jurisdictions, the private sector, or NGOs. The Unified Coordination Group typically consists of the Principal Federal Official (if designated), Federal Coordinating Officer (FCO), State Coordinating Officer, and senior officials from other entities with primary statutory or jurisdictional responsibility and significant operational responsibility for an aspect of an incident (e.g., the Senior Health Official, Department of Defense representative, or Senior Federal Law Enforcement Official if assigned). Within the Unified Coordination Group, the FCO is the primary Federal official responsible for coordinating, integrating, and synchronizing Federal response activities.

**The composition of the Unified Coordination Group will vary, depending upon the scope and nature of the incident and the assets deployed in support of the affected jurisdiction.**

The JFO structure normally includes a Unified Coordination Staff. The Unified Coordination Group determines the extent of staffing based on the type and magnitude of the incident. See the JFO Standard Operating Procedure for further details on these and other Federal staff positions supporting the field operation.

**Infrastructure Liaison.** The Infrastructure Liaison is assigned by the DHS Office of Infrastructure Protection and advises the Unified Coordination Group on regionally or nationally significant CIKR issues.<sup>46</sup>

**Safety Officer.** The JFO Safety Officer is the senior advisor on all occupational safety and health concerns affecting and arising from the incident.

The JFO is organized into four sections based on the ICS standard organization as follows:

- **Operations Section.** The Operations Section coordinates operational support with on-scene incident management efforts. Branches, divisions, and groups may be added or deleted as required, depending on the nature of the incident. The Operations Section is also responsible for coordinating with other Federal facilities that may be established to support incident management activities.
- **Planning Section.** The Planning Section's functions include the collection, evaluation, dissemination, and use of information regarding the threat or incident and the status of Federal resources. The Planning Section prepares and documents Federal support actions and develops unified action, contingency, long-term, and other plans.
- **Logistics Section.** The Logistics Section coordinates logistics support that includes: control of and accountability for Federal supplies and equipment; resource ordering; delivery of equipment, supplies, and services to the JFO and other field locations; facility location, setup, space management, building services, and general facility operations; transportation coordination and fleet management services; information and technology systems services; administrative services such as mail management and reproduction; and customer assistance.

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<sup>46</sup> For more information see the CIKR Support Annex, available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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- **Finance and Administration Section.** The Finance and Administration Section is responsible for the financial management, monitoring, and tracking of all Federal costs relating to the incident and the functioning of the JFO while adhering to all Federal laws and regulations.

All or portions of this organizational structure may be activated based on the nature and magnitude of the threat or incident.

Depending on the scope and nature of the incident, the Unified Coordination Group identifies what Federal capabilities are needed and requests Federal staff from these areas to support the JFO structure.

**The JFO is the primary, but not the only, Federal field structure.** Presidential directives<sup>47</sup> and other authorities outline the primary areas of responsibility that guide Federal support at national, regional, and field levels. The field structures are designed to implement these lanes of responsibility and provide coordination to ensure an effective response. In addition to the JFO, these include:

- **Joint Operations Center (JOC).** The JOC is an interagency command post established by the FBI to manage terrorist threats or incidents and investigative and intelligence activities. The JOC coordinates the necessary local, State, and Federal assets required to support the investigation, and to prepare for, respond to, and resolve the threat or incident.<sup>48</sup>
- **Joint Information Center (JIC).** The JIC is responsible for the coordination and dissemination of information for the public and media concerning an incident. JICs may be established locally, regionally, or nationally depending on the size and magnitude of the incident.

The JIC is established at or virtually connected to the JFO, through the ESF #15 – External Affairs staff. JICs may be established at multiple locations if the nature and magnitude of the incident require. Co-location of the Federal, State, tribal, and local JICs is encouraged.

There may be additional field structures. These facilities should be co-located to the extent possible, or otherwise established in close proximity. While these structures may not be physically co-located, they will, when and if established, maintain connectivity to share information and remain aligned in purpose and intent. Each coordination center will normally assign liaisons to each of the other coordination centers to ensure alignment.

## FIELD SUPPORT ROLES

The Federal team that assembles to provide unified coordination is composed of multiple senior leaders performing supporting roles tailored to the specific event. Not all of these will be deployed at every incident that involves a Federal response.

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<sup>47</sup> HSPD-5, "Management of Domestic Incidents"

<sup>48</sup> For detail on the relationship between the JOC and the JFO, see the Terrorism Incident Law Enforcement Annex, available at the **NRF Resource Center**, <http://www.fema.gov/NRF>.

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Obviously, not all Federal response efforts come with Stafford Act funding and the full array of Stafford Act staffing. However, a Stafford Act incident, such as a large hurricane or earthquake, will generate a very disciplined and scripted deployment. An equally disciplined yet different array of Federal personnel and alternative leadership positions may be deployed for other non-Stafford Act incidents. All necessary staffing options are provided for by the *Framework* and anticipated with its various incident scenario plans.

For example, a mass migration event in the Gulf of Mexico would entail a U.S. Coast Guard response lead. An oil spill for which the Coast Guard has cleanup responsibility under the Oil Pollution Act of 1990 does not result in establishment of a JFO, but it employs similar organizational structures under the leadership of the Coast Guard's On-Scene Coordinator.<sup>49</sup> Alternatively, the criminal investigation following a car bomb attack on an airport will be directed by the Attorney General, and would closely involve the Transportation Security Administration from the moment of an explosion to institute appropriate airport security measures, yet may not generate a Stafford Act declaration.

Key senior Federal officials that typically may be deployed with a Federal incident management team include those discussed below.

**Principal Federal Official (PFO).** By law and by Presidential directive, the Secretary of Homeland Security is the principal Federal official responsible for coordination of all domestic incidents requiring multiagency Federal response. **The Secretary may elect to designate a single individual to serve as his or her primary representative** to ensure consistency of Federal support as well as the overall effectiveness of the Federal incident management. When appointed, such an individual serves in the field as the PFO for the incident.

Congress has provided that, notwithstanding the general prohibition on appointing a PFO for Stafford Act incidents, "there may be instances in which FEMA should not be the lead agency in charge of the response, such as a pandemic outbreak or an Olympic event." In such cases, the Secretary may assign a PFO. Congress also recognized that there may be "major non-Stafford Act responses that may include a Stafford Act component." In such cases, also, the Secretary may assign a PFO.

The Secretary will only appoint a PFO for catastrophic or unusually complex incidents that require extraordinary coordination. When appointed, the PFO interfaces with Federal, State, tribal, and local jurisdictional officials regarding the overall Federal incident management strategy and acts as the primary Federal spokesperson for coordinated media and public communications. The PFO serves as a member of the Unified Coordination Group and provides a primary point of contact and situational awareness locally for the Secretary of Homeland Security.

**A PFO is a senior Federal official with proven management experience and strong leadership capabilities. The PFO deploys with a small, highly trained mobile support staff.** Both the PFO and support staff undergo specific training prior to appointment to their respective positions. Once formally designated for an ongoing incident, a PFO relinquishes the conduct of all previous duties to focus exclusively on his or her incident management responsibilities.

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<sup>49</sup> See U.S. Coast Guard *Marine Safety Manual*, available at <http://www.uscg.mil/hq/g-m/nmc/pubs/msm>.



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**The same individual will *not* serve as the Principal Federal Official and the Federal Coordinating Officer (*see below*) at the same time for the same incident.** When both positions are assigned, the FCO will have responsibility for administering Stafford Act authorities, as described below. The Secretary is not restricted to DHS officials when selecting a PFO.

**The PFO does not direct or replace the incident command structure established at the incident.** Nor does the PFO have directive authority over a Federal Coordinating Officer, a Senior Federal Law Enforcement Official, a DOD Joint Task Force Commander, or any other Federal or State official. Other Federal incident management officials retain their authorities as defined in existing statutes and directives. Rather, the PFO promotes collaboration and, as possible, resolves any Federal interagency conflict that may arise. The PFO identifies and presents to the Secretary of Homeland Security any policy issues that require resolution.

**Federal Coordinating Officer (FCO).** For Stafford Act incidents (i.e., emergencies or major disasters), upon the recommendation of the FEMA Administrator and the Secretary of Homeland Security, the President appoints an FCO. **The FCO is a senior FEMA official trained, certified, and well experienced in emergency management, and specifically appointed to coordinate Federal support in the response to and recovery from emergencies and major disasters.** The FCO executes Stafford Act authorities, including commitment of FEMA resources and the mission assignment of other Federal departments or agencies. If a major disaster or emergency declaration covers a geographic area that spans all or parts of more than one State, the President may decide to appoint a single FCO for the entire incident, with other individuals as needed serving as Deputy FCOs.

**In all cases, the FCO represents the FEMA Administrator in the field to discharge all FEMA responsibilities for the response and recovery efforts underway.** For Stafford Act events, the FCO is the primary Federal representative with whom the SCO and other State, tribal, and local response officials interface to determine the most urgent needs and set objectives for an effective response in collaboration with the Unified Coordination Group.

In Stafford Act incidents, the FCO is the focal point of coordination within the Unified Coordination Group, ensuring overall integration of Federal emergency management, resource allocation, and seamless integration of Federal activities in support of, and in coordination with, State, tribal, and local requirements.

Some FCOs are given additional, specialized training regarding unusually complex incidents. For example, one may be further trained for catastrophic earthquake response, whereas another might cultivate unique skills for response related to weapons of mass destruction or pandemic influenza.

**Pre-Designated PFOs and FCOs.** In certain scenarios, the Secretary of Homeland Security may pre-designate a PFO and/or FCO. Such pre-designation can focus on specified geographic areas or be based on specific potential threats – or a combination of both. For example, beginning in 2007, the Secretary pre-designated a national PFO and five regional PFOs together with a national FCO and regional FCOs, who will serve in the event of a nationwide outbreak of pandemic influenza or other similar nationwide biological event.



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Pre-designation of these leadership teams is allowing for sustained advance planning conducted with State, tribal, and local leaders.

**Federal Resource Coordinator (FRC).** In non-Stafford Act situations, when a Federal department or agency acting under its own authority has requested the assistance of the Secretary of Homeland Security to obtain support from other Federal departments and agencies, DHS may designate an FRC. In these situations, the FRC coordinates support through interagency agreements and memorandums of understanding. Relying on the same skill set, DHS may select the FRC from the FCO cadre or other personnel with equivalent knowledge, skills, and abilities. The FRC is responsible for coordinating timely delivery of resources to the requesting agency.

**Defense Coordinating Officer (DCO).** DOD has appointed 10 DCOs and assigned one to each FEMA region. If requested and approved, the DCO serves as DOD's single point of contact at the JFO for requesting assistance from DOD. With few exceptions, requests for Defense Support of Civil Authorities (DSCA) originating at the JFO are coordinated with and processed through the DCO. The DCO may have a Defense Coordinating Element consisting of a staff and military liaison officers to facilitate coordination and support to activated ESFs.

Specific responsibilities of the DCO (subject to modification based on the situation) include processing requirements for military support, forwarding mission assignments to the appropriate military organizations through DOD-designated channels, and assigning military liaisons, as appropriate, to activated ESFs.

**Senior Federal Law Enforcement Official (SFLEO).** The SFLEO is an official appointed by the Attorney General during an incident requiring a coordinated Federal response to coordinate all law enforcement, public safety, and security operations with intelligence or investigative law enforcement operations directly related to the incident. The SFLEO is a member of the Unified Coordination Group and, as such, is responsible to ensure that allocation of law enforcement requirements and resource allocations are coordinated as appropriate with all other members of the Group. In the event of a terrorist incident, the SFLEO will normally be a senior FBI official who has coordinating authority over all law enforcement activities related to the incident, both those falling within the Attorney General's explicit authority as recognized in HSPD-5 and those otherwise directly related to the incident itself.

**Joint Task Force (JTF) Commander.** Based on the complexity and type of incident, and the anticipated level of DOD resource involvement, DOD may elect to designate a JTF to command Federal (Title 10) military activities in support of the incident objectives. If a JTF is established, consistent with operational requirements, its command and control element will be co-located with the senior on-scene leadership at the JFO to ensure coordination and unity of effort. The co-location of the JTF command and control element does not replace the requirement for a DCO/Defense Coordinating Element as part of the JFO Unified Coordination Staff. The DCO remains the DOD single point of contact in the JFO for requesting assistance from DOD.

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The JTF Commander exercises operational control of Federal military personnel and most defense resources in a Federal response. Some DOD entities, such as the U.S. Army Corps of Engineers, may respond under separate established authorities and do not provide support under the operational control of a JTF Commander. Unless federalized, National Guard forces remain under the control of a State Governor. Close coordination between Federal military, other DOD entities, and National Guard forces in a response is critical.

**Other Senior Officials.** Based on the scope and nature of an incident, senior officials from other Federal departments and agencies, State, tribal, or local governments, and the private sector or NGOs may participate in a Unified Coordination Group. Usually, the larger and more complex the incident, the greater the number of entities represented.

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## CHAPTER III: RESPONSE ORGANIZATION

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## CHAPTER IV PLANNING: A CRITICAL ELEMENT OF EFFECTIVE RESPONSE

**This chapter emphasizes the importance of planning as the cornerstone of national preparedness and briefly summarizes planning structures that are relevant to the *Framework*.**

Federal, State, tribal, and local government planning is mutually supportive. Planning for low-probability, high-consequence scenarios is a Federal focus and complements a State, tribal, and local focus on more likely and frequently experienced smaller-scale events.

### THE *FRAMEWORK* AND PLANNING

Planning across the full range of homeland security operations is an inherent responsibility of every level of government. This *Framework* fosters unity of effort for emergency operations planning by providing common doctrine and purpose.

A plan is a continuous, evolving instrument of anticipated actions that maximize opportunities and guide response operations. Since planning is an ongoing process, a plan is an interim product based on information and understanding at the moment, and is subject to revision. That is why plans are best described as “living” documents.

### THE VALUE OF PLANNING

Planning provides three principal benefits: (1) it allows jurisdictions to influence the course of events in an emergency by determining in advance the actions, policies, and processes that will be followed; (2) it guides other preparedness activities; and (3) it contributes to unity of effort by providing a common blueprint for activity in the event of an emergency. Planning is a foundational element of both preparedness and response and thus is an essential homeland security activity. Emergency planning is a national priority, as reflected in the *National Preparedness Guidelines*.<sup>50</sup>

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<sup>50</sup> HSPD-8, “National Preparedness,” required the development of the National Preparedness Goal, since renamed the *National Preparedness Guidelines*.

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## CHAPTER IV: PLANNING: A CRITICAL ELEMENT OF EFFECTIVE RESPONSE

### NATIONAL PREPAREDNESS ARCHITECTURE

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A great deal has been accomplished in developing a rigorous national preparedness architecture that enables all levels of government to successfully plan for response operations. These efforts have yielded the *National Preparedness Guidelines*; the *National Infrastructure Protection Plan (NIPP)* and 17 sector-specific plans to protect critical infrastructure; the *National Incident Management System (NIMS)*; National Continuity policies and directives; a coordinated National Exercise Schedule; and support through an extensive portfolio of grant programs.

**A national focus on preparedness is imperative to develop the capabilities that empower the *Framework* and response planning.** The *National Preparedness Guidelines* and the *NIPP* focus on **preparedness activities** conducted in the absence of a specific threat or hazard. The *Framework* uses these programs and investments to build the capacity to respond to all manner and magnitude of threats and hazards.

The *National Preparedness Guidelines* are comprised of four critical elements:

- The **National Preparedness Vision** provides a concise statement of the core preparedness goal for the Nation.
- The **National Planning Scenarios** are planning tools that represent a minimum number of credible scenarios depicting the range of potential terrorist attacks and natural disasters and related impacts facing our Nation. They form a basis for coordinated Federal planning, training, and exercises.
- The **Universal Task List** is a menu of unique tasks that link strategies to prevention, protection, response, and recovery tasks for the major events represented by the National Planning Scenarios. It provides a common vocabulary of critical tasks that support development of essential capabilities among organizations at all levels. The List was used to assist in creating the Target Capabilities List.
- The **Target Capabilities List** defines specific capabilities that all levels of government should possess in order to respond effectively to incidents.

**The *NIPP* and its 17 sector-specific plans create a system for protection of critical infrastructure and key resources that includes both the public and private sectors.** It establishes protection standards and objectives developed in partnership with each of the 17 sectors, and creates consultative mechanisms, including those for sharing key threat information, with the private sector which owns or operates most of the Nation's critical infrastructure.

Publication of these strategic documents – supported by others developed at the Federal, State, tribal, and local levels – defines the essential architecture of our national preparedness system and marks a significant milestone in post-9/11 preparedness.



# APPENDIX 2: NATIONAL PLAN FOR INCIDENT MANAGEMENT

## CHAPTER IV: PLANNING: A CRITICAL ELEMENT OF EFFECTIVE RESPONSE

### THE FEDERAL PLANNING STRUCTURE

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The Federal planning structure supports the *Framework* and the State, tribal, and local planning structure through the *National Preparedness Guidelines*, including the National Planning Scenarios and core capabilities; the *NIMS*; the *NIPP* and sector-specific plans; Federal strategic and concept plans for each set of National Planning Scenarios, supported by department and agency operations plans; National Continuity policies and directives; and a National Exercise Schedule that incorporates Federal, State, tribal, and local exercises.

**The National Planning Scenarios are the focus of Federal planning efforts.** They represent examples of the gravest dangers facing the United States **and have been accorded the highest priority for Federal planning.** Using a shared set of scenarios provides a common yardstick for determining how to achieve expected planning results. Homeland Security Presidential Directive 8, "National Preparedness," Annex I (National Planning), describes use of the National Planning Scenarios. The 15 scenarios have been grouped into 8 key scenario sets that reflect common characteristics in order to integrate planning for like events, and to conduct cross-cutting capability development. The scenarios will be updated and amended on a biennial basis using risk-based analysis to ascertain the most likely or most dangerous threats to the homeland.

Building on the principles described within the *Framework*, the Federal planning structure calls for three levels of Federal plans for each National Planning Scenario:

- A **Strategic Guidance Statement** and **Strategic Plan** that together define the broad national strategic objectives; delineate authorities, roles, and responsibilities; determine required capabilities; and develop performance and effectiveness measures essential to prevent, protect against, respond to, and recover from domestic incidents.
- A **National-Level Interagency Concept Plan (CONPLAN)** that describes the concept of operations for integrating and synchronizing Federal capabilities to accomplish critical tasks, and describes how Federal capabilities will be integrated into and support regional, State, and local plans to meet the objectives described in the Strategic Plan.
- **Federal Department and Agency Operations Plans (OPLANs)** developed by and for each Federal department or agency describing detailed resource, personnel, and asset allocations necessary to support the concept of operations detailed in the CONPLAN.

The *Framework* and planning structure leverage existing plans and planning activities. For example, pandemic influenza is one of the scenarios in the *Guidelines*. A *National Strategy for Pandemic Influenza* was published in November 2005 for this scenario.<sup>51</sup> It included extensive public comment and collaboration with public health and emergency management professionals at all levels. That document is available at the **NRF Resource Center** in support of the *Framework*. A detailed concept of operations consistent with the *Framework* has been drafted, and each department and agency has drafted individual operational plans that describe how they will employ specific resources, personnel, and assets.

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<sup>51</sup> See <http://www.whitehouse.gov/homeland/pandemic-influenza.html>.

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### THE STATE, TRIBAL, AND LOCAL PLANNING STRUCTURE

State, tribal, and local governments have responsibility to develop detailed, robust all-hazards plans and hazard- or incident-specific annexes with supporting procedures and protocols to address their locally identified hazards and risks. They use hazard identification and risk assessment (HIRA) to identify hazards and associated risk to persons, property, and structures and to improve protection from natural- and human-caused hazards. HIRA serves as a foundation for planning, resource management, capability development, public education, and training and exercises.

The State, tribal, and local planning structure is supported by Federal preparedness assistance. This structure in turn supports the *Framework* and the Federal planning structure by building capabilities that contribute to national response capacity. The key scenario sets represent hazards of nationwide concern. They should be included in State, tribal, and local governments' HIRA processes in order to ensure plans are tested against all manner and magnitude of threats and hazards, and that national planning is fully integrated and mutually supportive.

In most instances, Federal plans are implemented when a State's resources are not sufficient to cope with an incident and the Governor has requested Federal assistance. The intersection of the Federal and State, tribal, and local plans and planning is described in the new Comprehensive Preparedness Guide (CPG) 101, "Producing Emergency Plans: A Guide for All-Hazard Emergency Operations Planning for State, Territorial, Local and Tribal Governments," which replaces State and Local Guide (SLG) 101, "Guide for All-Hazards Emergency Operations Planning."

### CRITERIA FOR SUCCESSFUL PLANNING

The *Framework* employs common criteria to measure key aspects of response planning:

- **Acceptability.** A plan is acceptable if it can meet the requirements of anticipated scenarios, can be implemented within the costs and timeframes that senior officials and the public can support, and is consistent with applicable laws.
- **Adequacy.** A plan is adequate if it complies with applicable planning guidance, planning assumptions are valid and relevant, and the concept of operations identifies and addresses critical tasks specific to the plan's objectives.
- **Completeness.** A plan is complete if it incorporates major actions, objectives, and tasks to be accomplished. The complete plan addresses the personnel and resources required and sound concepts for how those will be deployed, employed, sustained, and demobilized. It also addresses timelines and criteria for measuring success in achieving objectives, and the desired end state. Completeness of a plan can be greatly enhanced by including in the planning process all those who could be affected.
- **Consistency and Standardization of Products.** Standardized planning processes and products foster consistency, interoperability, and collaboration.



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- **Feasibility.** A plan is considered feasible if the critical tasks can be accomplished with the resources available internally or through mutual aid, immediate need for additional resources from other sources (in the case of a local plan, from State or Federal partners) are identified in detail and coordinated in advance, and procedures are in place to integrate and employ resources effectively from all potential providers.
- **Flexibility.** Flexibility and adaptability are promoted by decentralized decisionmaking and by accommodating all hazards ranging from smaller-scale incidents to wider national contingencies.
- **Interoperability and Collaboration.** A plan is interoperable and collaborative if it identifies other plan holders with similar and complementary plans and objectives, and supports regular collaboration focused on integrating with those plans to optimize achievement of individual and collective goals and objectives in an incident.

Table 3 shows the relationship of the scenario sets to the National Planning Scenarios.

**Table 3. Relationship of Scenario Sets to Planning Scenarios**

Key Scenario Sets	National Planning Scenarios
<b>1. Explosives Attack</b> – Bombing Using Improvised Explosive Device	• <b>Scenario 12:</b> Explosives Attack – Bombing Using Improvised Explosive Device
<b>2. Nuclear Attack</b>	• <b>Scenario 1:</b> Nuclear Detonation – Improvised Nuclear Device
<b>3. Radiological Attack</b> – Radiological Dispersal Device	• <b>Scenario 11:</b> Radiological Attack – Radiological Dispersal Device
<b>4. Biological Attack</b> – <i>With annexes for different pathogens</i>	<ul style="list-style-type: none"> <li>• <b>Scenario 2:</b> Biological Attack – Aerosol Anthrax</li> <li>• <b>Scenario 4:</b> Biological Attack – Plague</li> <li>• <b>Scenario 13:</b> Biological Attack – Food Contamination</li> <li>• <b>Scenario 14:</b> Biological Attack – Foreign Animal Disease</li> </ul>
<b>5. Chemical Attack</b> – <i>With annexes for different agents</i>	<ul style="list-style-type: none"> <li>• <b>Scenario 5:</b> Chemical Attack – Blister Agent</li> <li>• <b>Scenario 6:</b> Chemical Attack – Toxic Industrial Chemicals</li> <li>• <b>Scenario 7:</b> Chemical Attack – Nerve Agent</li> <li>• <b>Scenario 8:</b> Chemical Attack – Chlorine Tank Explosion</li> </ul>
<b>6. Natural Disaster</b> – <i>With annexes for different disasters</i>	<ul style="list-style-type: none"> <li>• <b>Scenario 9:</b> Natural Disaster – Major Earthquake</li> <li>• <b>Scenario 10:</b> Natural Disaster – Major Hurricane</li> </ul>
<b>7. Cyber Attack</b>	• <b>Scenario 15:</b> Cyber Attack
<b>8. Pandemic Influenza</b>	• <b>Scenario 3:</b> Biological Disease Outbreak – Pandemic Influenza

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## CHAPTER V ADDITIONAL RESOURCES

**As indicated earlier, the *National Response Framework* is comprised of the core document, the Emergency Support Function (ESF), Support, and Incident Annexes, and the Partner Guides. The *Framework* is supported by an online tool designed especially for emergency management practitioners, the NRF Resource Center (<http://www.fema.gov/NRF>). This online resource will grow and routinely evolve in support of the *Framework* and those who work with it. The core *Framework* should require significant change only infrequently. However, the operational planning and detailed work of developing stronger emergency management plans and capabilities will require a continued rapid pace of change in the months and years ahead.**

The **NRF Resource Center** is intended to supply a nimble, state-of-the-art forum for sharing and encouraging such improvement. **This chapter describes how additional resources and operational information will be made available, especially to emergency management practitioners, in support of the *Framework*.**

### SUPPORTING DOCUMENTS AND THE NRF RESOURCE CENTER

**To assist readers in implementing the *Framework*, the Resource Center is an online repository of supporting documents, resources, and educational materials.** It is intended especially to assist emergency management practitioners. This repository provides a single, Web-based portal for documents, information, training materials, and other tools needed for response partners to understand and execute their roles under the *Framework*.

Formally cleared annexes, resources, and other reference material associated with the *Framework* are posted on this portal. In addition, the Resource Center portal will be dynamic, providing links to additional preparedness resources and updating the *Framework's* formal supporting documents as necessary.

The online Resource Center's home page may be found at <http://www.fema.gov/NRF>. As all Resource Center postings will be routinely evaluated, updated, and augmented, the remainder of this chapter contains a roadmap of what initially conveys from the *National Response Plan (NRP)* and an outline of work to come.

The Resource Center contains multiple supporting documents, including ESF, Support, and Incident Annexes and several informational documents, such as an overview of the main Stafford Act provisions, a guide to authorities and references, and an acronym list. As noted in Chapter IV, ongoing planning activities will result in the development of additional strategic guidance and plans, which will be added to the Resource Center upon approval and as necessary.

As mentioned earlier, the Emergency Support Function Annexes group Federal resources and capabilities into functional areas that are most frequently needed in a national response. The revised ESF Annexes reflect real-world experience. For example, at a Joint

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## CHAPTER V: ADDITIONAL RESOURCES

Field Office, instead of working in separate ESF structures, the Operations Section Chief might establish a mass evacuation branch or group to examine cross-cutting issues and request representatives from *Transportation* (ESF #1), *Public Health and Medical Services* (ESF #8) and *Mass Care, Emergency Assistance, Housing, and Human Services* (ESF #6). This approach retains the functional expertise of ESFs but leverages cross-cutting teams to ensure an effective and integrated response.

The Support Annexes describe how Federal departments and agencies, the private sector, volunteer organizations, and NGOs coordinate and execute the common support processes and administrative tasks required during an incident. The actions described in the Support Annexes are not limited to particular types of events, but are overarching in nature and applicable to nearly every type of incident. In addition, they may support several ESFs.

The Support Annexes provide a starting point to understand support needed under the *Framework*. Further assessment is required to evaluate essential local, tribal, State, Federal, and private-sector resources needed to execute the capabilities specified by the *National Preparedness Guidelines*. We will then build repeatedly on these annexes to develop support tools tailored to meet the Nation's response requirements.

The Incident Annexes describe the concept of operations to address specific contingency or hazard situations or an element of an incident requiring specialized application of the *Framework*. The overarching nature of functions described in these annexes frequently involves either support to or cooperation of all Federal departments and agencies involved in incident management efforts to ensure seamless integration of and transitions between preparedness, prevention, response, recovery, and mitigation activities.

**Initial NRF Resource Center Documentation.** Initial postings to the Web page supporting the *Framework* include the following:

### 1. Emergency Support Function Annexes

- ESF #1 - Transportation
- ESF #2 - Communications
- ESF #3 - Public Works and Engineering
- ESF #4 - Firefighting
- ESF #5 - Emergency Management
- ESF #6 - Mass Care, Emergency Assistance, Housing, and Human Services
- ESF #7 - Logistics Management and Resource Support
- ESF #8 - Public Health and Medical Services
- ESF #9 - Search and Rescue
- ESF #10 - Oil and Hazardous Materials Response
- ESF #11 - Agriculture and Natural Resources
- ESF #12 - Energy
- ESF #13 - Public Safety and Security
- ESF #14 - Long-Term Community Recovery
- ESF #15 - External Affairs

### 2. Support Annexes

- Critical Infrastructure and Key Resources
- Financial Management
- International Coordination
- Private-Sector Coordination



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- Public Affairs
- Tribal Relations
- Volunteer and Donations Management
- Worker Safety and Health

### 3. Incident Annexes

- Biological Incident
- Catastrophic Incident
- Cyber Incident
- Food and Agriculture Incident
- Mass Evacuation Incident
- Nuclear/Radiological Incident
- Terrorism Incident Law Enforcement and Investigation

### 4. Partner Guides

- Local Government Response Partner Guide
- State Response Partner Guide
- Private-Sector and Nongovernmental Response Partner Guide
- Federal Response Partner Guide

### 5. References

- Glossary of Key Terms
- List of Acronyms
- Authorities and References
- Overview of Stafford Act
- Key resource references: *The National Incident Management System; National Infrastructure Protection Plan; sector-specific plans, etc.*

### 6. Learning Center

The *Framework* will incorporate a learning center that includes job aids, educational tools, links to the broader range of preparedness reports and documentation, and access to Web-based training courses. It will contain material that is routinely evaluated and updated for accuracy and currency.

## EFFECTIVE DATE AND *FRAMEWORK* IMPLEMENTATION

The *National Response Framework* builds upon and supersedes the *National Response Plan* (December 2004, as amended May 2006). The changes reflected in this document are not substantively dramatic, and in no regard does this *Framework* alter the basic *NIMS*-based structures adopted for field-based incident management structures and activities.

Because the *Framework* builds on capabilities developed under the *NRP*, its implementation will be streamlined and requirements for new training will be minimal.

The effective date for implementation will be 60 days after final publication.

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## ACRONYMS

<b>CIKR:</b> Critical Infrastructure and Key Resources	<b>JTF:</b> Joint Task Force
<b>CONPLAN:</b> [National-Level Interagency] Concept Plan	<b>MACS:</b> Multiagency Coordination System
<b>CPG:</b> Comprehensive Preparedness Guide	<b>MERS:</b> Mobile Emergency Response Support
<b>CSG:</b> Counterterrorism Security Group	<b>NCTC:</b> National Counterterrorism Center
<b>DCO:</b> Defense Coordinating Officer	<b>NGO:</b> Nongovernmental Organization
<b>DHS:</b> Department of Homeland Security	<b>NICC:</b> National Infrastructure Coordinating Center
<b>DOD:</b> Department of Defense	<b>NIMS:</b> <i>National Incident Management System</i>
<b>DRG:</b> Domestic Readiness Group	<b>NIPP:</b> <i>National Infrastructure Protection Plan</i>
<b>DSCA:</b> Defense Support of Civil Authorities	<b>NJTTF:</b> National Joint Terrorism Task Force
<b>EMAC:</b> Emergency Management Assistance Compact	<b>NMCC:</b> National Military Command Center
<b>EOC:</b> Emergency Operations Center	<b>NOC:</b> National Operations Center
<b>ESF:</b> Emergency Support Function	<b>NRCC:</b> National Response Coordination Center
<b>FBI:</b> Federal Bureau of Investigation	<b>NRF:</b> <i>National Response Framework</i>
<b>FCO:</b> Federal Coordinating Officer	<b>NRP:</b> <i>National Response Plan</i>
<b>FEMA:</b> Federal Emergency Management Agency	<b>NSC:</b> National Security Council
<b>FRC:</b> Federal Resource Coordinator	<b>OPLAN:</b> Operations Plan
<b>HIRA:</b> Hazard Identification and Risk Assessment	<b>P.L.:</b> Public Law
<b>HLT:</b> Hurricane Liaison Team	<b>PFO:</b> Principal Federal Official
<b>HSC:</b> Homeland Security Council	<b>RRCC:</b> Regional Response Coordination Center
<b>HSEEP:</b> Homeland Security Exercise and Evaluation Program	<b>SCO:</b> State Coordinating Officer
<b>HSIN:</b> Homeland Security Information Network	<b>SIOC:</b> Strategic Information and Operations Center
<b>HSPD:</b> Homeland Security Presidential Directive	<b>SLG:</b> State and Local Guide
<b>ICS:</b> Incident Command System	<b>SFLEO:</b> Senior Federal Law Enforcement Official
<b>IMAT:</b> Incident Management Assistance Team	<b>U.S.C.:</b> U.S. Code
<b>IMT:</b> Incident Management Team	<b>US&amp;R:</b> Urban Search and Rescue
<b>JFO:</b> Joint Field Office	<b>[National] VOAD:</b> Voluntary Organizations Active in Disaster
<b>JIC:</b> Joint Information Center	
<b>JOC:</b> Joint Operations Center	



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

**APPENDIX 3-1: DoDD 3025.12, MILITARY ASSISTANCE FOR CIVIL  
DISTURBANCES**

**Department of Defense**  
**DIRECTIVE**

NUMBER 3025.12  
February 4, 1994

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USD(P)

SUBJECT: Military Assistance for Civil Disturbances (MACDIS)

References:

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

1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to:

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

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

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

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

### 2. APPLICABILITY AND SCOPE

This Directive:

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

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

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

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

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

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

#### 4.1. National Policy

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

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

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

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

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

### 4.2. Department of Defense Policy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 4.4. MACDIS Policy

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

4.4.1.1. This Directive;

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

4.4.1.2. DoD 3025.12-R, if published;

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

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

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

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

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

### 4.5. Role of the National Guard

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

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

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

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

### 4.6. Cooperation With Civil Agencies

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

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

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

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

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

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

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

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

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

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

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

### 4.8. Domestic Terrorist Incidents

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

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

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

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Policy shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

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

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

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

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

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

5.10. The Secretary of the Navy shall:

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

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

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

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

5.11. The Secretary of the Air Force shall:

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

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

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

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

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

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

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

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

5.13. The Directors of the Defense Agencies shall:

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

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

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

### 6. INFORMATION REQUIREMENTS

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

### 7. EFFECTIVE DATE AND IMPLEMENTATION

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

/S/  
William J. Perry  
Secretary of Defense

Enclosures - 2  
E1. References, continued  
E2. Definitions

### E1. ENCLOSURE 1 REFERENCES, continued

- (e) [DoD 5025.1-M](#), "DoD Directives System Procedures," December 1990
- (f) [DoD Directive 5525.5](#), "DoD Cooperation with Civilian Law Enforcement Officials," January 15, 1986
- (g) [DoD Directive 5030.46](#), "Assistance to the District of Columbia Government in Combating Crime," March 26, 1971
- (h) DoD Directive 5138.3, "Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict)," January 4, 1988
- (i) DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances," January 26, 1970
- (j) [DoD Directive 3020.36](#), "Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components," November 2, 1988
- (k) Sections 331-335 and 672 of title 10, United States Code, "The Insurrection Act"
- (l) Section 1385 of title 18, United States Code, "The Posse Comitatus Act"
- (m) [DoD Directive 5200.27](#), "Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense," January 7, 1980
- (n) [DoD Directive 5240.1](#), "DoD Intelligence Activities," April 25, 1988
- (o) [DoD 8910.1-M](#), "DoD Procedures for Management of Information Requirements," November 1986
- (p) Section 1472i of title 49, United States Code, "The Federal Aviation Act of 1958"
- (q) Section 2251 of title 50, United States Code, "The Federal Civil Defense Act of 1950"
- (r) Section 5121 of title 42, United States Code, "The Robert T. Stafford Disaster Relief and Emergency Assistance Act"

### E2. ENCLOSURE 2 DEFINITIONS

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

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

E2.1.3. Civil Defense. All those activities and measures designed or undertaken to do the following:  
E2.1.3.1. Minimize the effects on the civilian population caused, or that would be caused, by an attack on the United States or by a natural or technological disaster.

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

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

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

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

E2.1.6. Civil Emergency Preparedness. The nonmilitary actions taken by Federal Agencies, the private sector, and individual citizens to meet essential human needs, to support the military effort, to ensure continuity of Federal authority at national and regional levels, and to ensure survival as a free and independent nation under all emergency conditions, including a national emergency caused by threatened or actual attack on the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

See next page.



Department of Defense

## DIRECTIVE

NUMBER 3025.15  
February 18, 1997

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ASD(SO/LIC)

SUBJECT: Military Assistance to Civil Authorities

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

### 1. PURPOSE

This Directive:

1.1. Establishes DoD policy and assigns responsibilities for providing military assistance to civil authorities.

1.2. Supersedes reference (a).

1.3. Cancels references (b) and (c).

### 2. APPLICABILITY AND SCOPE

This Directive:



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

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

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

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

### 3. DEFINITIONS

Definitions used in this Directive are defined in enclosure 2.

### 4. POLICY

It is DoD policy that:

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

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

4.2.1. Legality (compliance with laws).

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

4.2.3. Risk (safety of DoD Forces).

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

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

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

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

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

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

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

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

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

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

4.7.2.1. The Secretary of Defense is the approval authority for any requests for potentially lethal support (i.e., lethal to the public, a member of law enforcement, or a Service member) made by law enforcement agencies. Lethal support includes: loans of arms; combat and tactical vehicles, vessels or aircraft; or ammunition. It also includes: all requests for support under 10 U.S.C. 382 and 18 U.S.C. 831 (references (k) and (l)); all support to counter-terrorism operations; and all support to law enforcement when there is a potential for confrontation between law enforcement and specifically identified civilian individuals or groups.

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

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

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

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### 4.7.3. Support for Civil Disasters

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

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

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

4.7.3.4. Requests for loans of equipment, facilities, or personnel by law enforcement agencies shall be processed under subparagraph 4.7.2., above.

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

4.7.4. Support for Domestic Civil Disturbances. The employment of active duty military forces in domestic civil disturbances may be requested only by the President or Attorney General and authorized only by the President. When requested by the Attorney General and approved by the Secretary of Defense or when authorized by the President, the Secretary of Defense shall employ active Federal military forces under rules of engagement approved by General Counsel of the Department of Defense (GC, DoD) and the Attorney General. The Secretary of the Army, as Executive Agent for the Secretary of Defense, and with the advice and assistance of the Chairman of the Joint Chiefs of Staff, and the DOMS, shall direct the required DoD assistance, in accordance with DoD Directive 3025.12 (reference (e)), DoD Directive 5160.54 (reference (f)), and

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DoD Directive 3025.1 (reference (g)), unless otherwise directed by the Secretary of Defense. The Secretary of the Army, in coordination with the Chairman of the Joint Chiefs of Staff, shall at all times maintain contingency plans, with rules of engagement approved by the Department of Justice, for use in civil disturbance situations.

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

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

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

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

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

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

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

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4.7.7. Counter-drug Operational Support. Counter-drug operational support is not covered by this Directive.

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

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

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

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

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

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

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

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

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### 5. RESPONSIBILITIES

#### 5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Develop, coordinate, and oversee the implementation of policy for DoD assistance to civil authorities; and, in coordination with the GC, DoD, shall ensure that such assistance is in compliance with applicable law, Presidential Directives, Executive orders, and DoD Directives and CONPLANS and/or functional plans.

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

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

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

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

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

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

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

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

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

5.2.2. Coordinate long-range policies and procedures that govern the provision of non-emergency, non-counter-drug support to civilian law enforcement agencies or



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authorities in order to further DoD cooperation with public safety agencies under reference (i).

5.3. The Under Secretary of Defense (Comptroller) shall issue guidance for the funding of all DoD training and exercises involving DoD support to civil authorities, and shall designate the appropriate DoD office and/or command to consolidate DoD costs associated with DoD responses under the provisions of this and supporting DoD Directives.

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

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

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

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

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

5.7. The DoD Executive Secretary shall be the principal OSD official responsible for keeping the Secretary of Defense and cognizant senior OSD officials informed of emergency and routine DoD military assistance requests from civil authorities, and shall be the DoD office of record for all such assistance, to include all relevant memoranda of understanding or agreement negotiated between the DoD Components and any external agency under DoD Instruction 4000.19 (reference (n)). The DoD Executive Secretary shall establish specific procedures to carry out those responsibilities.

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5.8. The Secretary of the Army shall:

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

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

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

5.8.4. Approve the deployment and employment of Military Department, Defense Agency, and DoD Field Activity resources, and transmit appropriate orders directing such deployment and employment in DoD responses to natural or man-made disasters that do not include forces assigned to the Combatant Commands.

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

5.9. The Secretaries of the Military Departments shall:

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

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

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

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

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

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

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

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

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

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

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

5.10.7. To the extent feasible, ensure that the plans and operations for military support to civil authorities are compatible with other military plans. Inform the Secretary of Defense when such compatibility cannot be achieved or when plans and operations for

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military support to civil authorities will adversely affect military readiness. Adverse effects on military readiness shall also be reported to the USD(P&R).

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

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

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

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

### 6. INFORMATION REQUIREMENTS

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

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


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

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7. EFFECTIVE DATE

This Directive is effective immediately.



John P. White  
Deputy Secretary of Defense

Enclosures - 2  
E1. References, continued  
E2. Definitions

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### E1. ENCLOSURE 1

#### REFERENCES, continued

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

# APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

DODD 3025.15, February 18, 1997

## E2. ENCLOSURE 2

### DEFINITIONS

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

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

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

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

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

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

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

E2.1.8. Military Assistance to Civil Authorities. Those DoD activities and measures covered under MSCA (natural and manmade disasters, see definition E2.1.9.)



## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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plus DoD assistance for civil disturbances, counter-drug, sensitive support, counter-terrorism, and law enforcement.

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

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

**APPENDIX 3-3: DoDD 5525.5, DoD COOPERATION WITH CIVILIAN LAW  
ENFORCEMENT OFFICIALS**



Department of Defense

**DIRECTIVE**

**NUMBER 5525.5**  
January 15, 1986

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

SUBJECT: DoD Cooperation with Civilian Law Enforcement Officials

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

**1. REISSUANCE AND PURPOSE**

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

**2. APPLICABILITY AND SCOPE**

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

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

**3. DEFINITIONS**

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

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

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

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

### 4. POLICY

It is DoD policy to cooperate with civilian law enforcement officials to the extent practical. The implementation of this policy shall be consistent with the needs of national security and military preparedness, the historic tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law, as developed in enclosures 2 through 7.

### 5. RESPONSIBILITIES

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

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

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

interests of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) and the Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)).

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

5.1.6. Modify the sample report formats at enclosures 6 and 7.

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

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

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

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

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

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

5.4.2. Review training and operational programs to determine how and where assistance can best be provided civilian law enforcement officials consistent with the policy in section 4., above. This review should identify those programs under which reimbursement would not be required under enclosure 5.

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

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

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

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

5.6. The Joint Chiefs of Staff shall:

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

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

### 6. INFORMATION REQUIREMENTS

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

### 7. RELEASE OF INFORMATION

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

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

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

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

### 8. EFFECTIVE DATE AND IMPLEMENTATION

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

8.2. *Miscellaneous. The provisions of paragraph E4.1.3. of enclosure 4 of Department of Defense Directive 5525.5 reference (a), entitled "Restrictions on Direct Assistance," will continue to apply to all actions conducted by military personnel within the territorial boundaries of the United States. With regard to military actions conducted outside the territorial jurisdiction of the United States, however, the Secretary of Defense or the Deputy Secretary of Defense will consider for approval, on a case by case basis, requests for exceptions to the policy restrictions against direct assistance by military personnel to execute the laws. Such requests for exceptions to policy outside the territorial jurisdiction of the United States should be made only when there are compelling and extraordinary circumstances to justify them.*



William H. Taft, IV  
Deputy Secretary of Defense

#### Enclosures - 7

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

E1. ENCLOSURE 1

REFERENCES, continued

- (a) DoD Directive 5525.5, subject as above, March 22, 1982 (hereby canceled)
- (b) DoD Directive 5240.1, "Activities of DoD Intelligence Components that Affect U.S. Persons," December 3, 1982
- (c) DoD Directive 5106.1, "Inspector General of the Department of Defense," March 14, 1983
- (d) Title 10, United States Code (10 U.S.C.), §§331-334, 337, 371-378, 2576, and 2667; and Chapter 47 (Uniform Code of Military Justice)
- (e) DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," January 7, 1980
- (f) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982
- (g) DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982
- (h) DoD 4515.13-R, "Air Transportation Eligibility," January 1980
- (i) Public Law, "The Economy Act," (31 U.S.C. §1535)
- (j) Public Law, "The Intergovernmental Cooperation Act of 1968," (40 U.S.C. §§531-535 and 42 U.S.C. §§4201, 4211-4124, 4221-4225, 4231-4233, 4241-4244)
- (k) Public Law, "Federal Property and Administrative Services Act of 1949," (40 U.S.C. §§471-476, 481, 483, 483c, 484-492, 512, 514, 531-535, 541-544, 751-759; 41 U.S.C. §§5, 251-255, 257-260; 44 U.S.C., Chapters 21, 25, 29, 31; and 50 U.S.C. Appendix 1622)
- (l) DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (m) DoD Instruction 4160.23, "Sale of Surplus Military Equipment to State and Local Law Enforcement and Firefighting Agencies," January 27, 1981
- (n) DoD Instruction 4160.24, "Disposal of Foreign Excess Personal Property for Substantial Benefits or the Discharge of Claims," July 24, 1981
- (o) DoD Directive 4165.6, "Real Property Acquisition, Management and Disposal," December 22, 1976
- (p) DoD Directive 4165.20, "Utilization and Retention of Real Property," January 31, 1985
- (q) DoD Directive 5410.12, "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973
- (r) DoD Instruction 7230.7, "User Charges," January 29, 1985
- (s) DoD Instruction 7310.1, "Disposition of Proceeds from Sales of DoD Excess and Surplus Personal Property," November 15, 1984
- (t) DoD Instruction 7730.53, "Specialized or Technical Services Provided to State and Local Government," December 23, 1982
- (u) DoD Directive 5030.46, "Assistance to the District of Columbia Government in Combating Crime," March 26, 1971
- (v) Public Law, "Posse Comitatus Act," (18 U.S.C. §1385)
- (w) DoD Directive 5525.7, "Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," January 22, 1985
- (x) Appendix 3, Section 8(g) of title 5, United States Code



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- (y) Sections 23, 78, 593, and 1861(a) of title 16, United States Code
- (z) Sections 112, 351, 831, 1116, 1751, and 3056 of title 18, United States Code; "Presidential Protection Assistance Act of 1976," Public Law 94-524, 90 Stat. 2475
- (aa) Sections 408 and 461-462 of title 22, United States Code
- (bb) Section 180 of title 25, United States Code
- (cc) Sections 97, 1989, and 3789 of title 42, United States Code
- (dd) Section 1065 of title 43, United States Code
- (ee) Sections 1418, 1422, and 1591 of title 48, United States Code
- (ff) Section 220 of title 50, United States Code
- (gg) Public Law, "The Controlled Substances Act," (21 U.S.C. §801 et seq.)
- (hh) Public Law, "The Controlled Substances Import and Export Act," (21 U.S.C. §951 et seq.)
- (ii) Public Law, "The Immigration and Nationality Act," (8 U.S.C. §§1324-1328)
- (jj) Section 1401 of title 19, United States Code (The Tariff Act of 1930) and Section 1202 (Tariff Schedules of the United States)
- (kk) Section 873(b) of title 21, United States Code
- (ll) DoD 7220.9-M, "Department of Defense Accounting Manual," October 1983

E2. ENCLOSURE 2

USE OF INFORMATION COLLECTED DURING MILITARY OPERATIONS

E2.1. ACQUISITION AND DISSEMINATION

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

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

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

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

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

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

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

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

E2.1.8. The assistance provided under this enclosure may not include or permit direct participation by a member of a Military Service in the interdiction of a vessel, aircraft, or a land vehicle, a search or seizure, arrest, or other similar activity unless participation in such activity by the member is otherwise authorized by law. See enclosure 4.

### E2.2. MILITARY PREPAREDNESS

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

### E2.3. FUNDING

To the extent that assistance under this enclosure requires Military Departments and Defense Agencies to incur costs beyond those that are incurred in the normal course of military operations, the funding provisions of enclosure 5 apply.

E3. ENCLOSURE 3

USE OF MILITARY EQUIPMENT AND FACILITIES

E3.1. EQUIPMENT AND FACILITIES

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

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

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

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

E3.2. LIMITATIONS ON THE USE OF PERSONNEL

E3.2.1. A request for DoD personnel to operate or maintain or to assist in operating or maintaining equipment made available under section E3.1., above, shall be considered under the guidance in paragraph E4.1.6. (enclosure 4).

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

E3.3. MILITARY PREPAREDNESS

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

E3.4. APPROVAL AUTHORITY

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

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

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

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

E3.4.3.1. Requests for training, expert advice, or use of personnel to operate or maintain equipment shall be forwarded for consideration under section E4.5. of enclosure 4.

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

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

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

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

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

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

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

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

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

### E3.5. FUNDING

Funding requirements for assistance under this enclosure shall be established under the guidance in enclosure 5.

E4. ENCLOSURE 4

RESTRICTIONS ON PARTICIPATION OF DoD  
PERSONNEL IN CIVILIAN LAW ENFORCEMENT ACTIVITIES

E4.1. STATUTORY REQUIREMENTS

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

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

E4.1.2. Permissible Direct Assistance. The following activities are not restricted by reference (v).

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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E4.1.3.2. A search or seizure.

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

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

### E4.1.4. Training

E4.1.4.1. The Military Departments and Defense Agencies may provide training to Federal, State, and local civilian law enforcement officials. Such assistance may include training in the operation and maintenance of equipment made available under section E3.1. of enclosure 3. This does not permit large scale or elaborate training, and does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this enclosure.

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

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

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

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

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

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

E4.1.6.1. In general, the head of the civilian law enforcement agency may request a Military Department or Defense Agency to provide DoD personnel to operate or maintain or

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assist in operating or maintaining equipment for the civilian agency. This assistance shall be subject to the following guidance:

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

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

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

E4.1.6.2. Additional provisions concerning drug, customs, immigration, and certain other laws: a request under this provision for DoD personnel to operate or maintain or to assist in operating or maintaining equipment made available under section E3.1. of enclosure 3 may be made by the head of a civilian agency empowered to enforce the following laws:

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

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

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

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

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

E4.1.6.2.4.2. In an emergency circumstance, equipment operated by or with the assistance of DoD personnel may be used outside the land area of the United States (or any

## APPENDIX 3: DoD CBRNE CONSEQUENCE MANAGEMENT

Commonwealth, territory, or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law in subparagraph E4.1.2.3.1., above, and to transport such law enforcement officials in connection with such operations, subject to the following limitations:

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

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

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

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

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

E4.1.7. Other Permissible Assistance. The following forms of indirect assistance are not restricted by the Posse Comitatus Act (reference (d)) (see enclosure 3):

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

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

E4.2. EXCEPTIONS BASED ON STATUS

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

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

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

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

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

E4.3. EXCEPTIONS BASED ON MILITARY SERVICE

DoD guidance on the Posse Comitatus Act (reference (v)), as stated in enclosure 3, is applicable to the Department of the Navy and the Marine Corps as a matter of DoD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis.

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

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

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

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

E4.4. MILITARY PREPAREDNESS

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

E4.5. APPROVAL AUTHORITY

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

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

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

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

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

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

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

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

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

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



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

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

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

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

### E4.6. FUNDING

Funding requirements for assistance under this enclosure shall be established by the ASD(FM&P) under the guidance in enclosure 5.

E5. ENCLOSURE 5

FUNDING

E5.1. ESTABLISHMENT OF GUIDANCE

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

E5.2. PROCEDURAL REQUIREMENTS

E5.2.1. As a general matter, reimbursement is required when equipment or services are provided to agencies outside the Department of Defense. The primary sources of law for reimbursement requirements are the Economy Act (reference (i)) for Federal Agencies and the Leasing Statute, 10 U.S.C. §2667 (reference (d)). Other statutes may apply to particular types of assistance. (See section E3.1. of enclosure 3.)

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

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

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

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

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

E5.3. MILITARY PREPAREDNESS

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

E6. ENCLOSURE 6

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

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

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

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

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E7. ENCLOSURE 7

AVIATION ASSISTANCE TO LAW ENFORCEMENT AGENCIES  
(Sample Format)

Surveillance

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

Identification

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

Logistics/Miscellaneous Support

<u>Aircraft</u>	<u>Region</u> <u>State</u>	<u>Sorties</u>	<u>Flight</u> <u>Hours</u>	<u>Remarks</u>
UH-1N	Bahamas	332	299	Bahamas police seized 12,200# marijuana, 2000# cocaine.
RF-4C	Texas	4	7	Reconnaissance of remote airfields

Abbreviation Key:

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

Attachments - 1

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

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CIVILIAN LAW ENFORCEMENT

E7.A1. ENCLOSURE 7, ATTACHMENT 1

AID FOR COMPLETING AVIATION ASSISTANCE PORTION OF QUARTERLY  
REPORT

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

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



## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

### APPENDIX 4 MILITARY SUPPORT TO LAW ENFORCEMENT

#### Appendix 4-1: 18 U.S.C. § 1385 - The Posse Comitatus Act (PCA)

##### 18 U.S.C. §1385 (2002)

##### Crimes and Criminal Procedure

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

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

##### *Source*

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

##### *Historical and Revision Note*

<u>Revised Section</u>	<u>Source (U.S. Code)</u>	<u>Source (Statutes at Large)</u>
------------------------	---------------------------	-----------------------------------

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

##### *Amendments*

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

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

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

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

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**UPDATE:** None

#### Appendix 4-2: 10 U.S.C. §§ 371-382 - Military Support to Civilian Law Enforcement Agencies

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

Military Support for Civilian Law Enforcement Agencies

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

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

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

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

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

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

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

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

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

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

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

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

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

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

(A) a criminal violation of a provision of law specified in paragraph (4)(A);

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;

(C) a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

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

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

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

(C) Aerial reconnaissance.

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

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

(4)(A).

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

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

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

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

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

(4) In this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

### *Section 377. Reimbursement*

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) to obtain surplus military equipment.

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

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

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

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

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

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

(FOOTNOTE 1) See References in Text note below.

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

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

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

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

(2) in which -

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

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

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

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

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

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

(i) Arrest.

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

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

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

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

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

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

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

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

### UPDATES

Pub. L. 107-248

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

Pub. L. 108-87

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

Pub. L. 107-296

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

### Appendix 4-3: DODD 5200.27 - Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense

#### Department of Defense DIRECTIVE

NUMBER 5200.27

January 7, 1980

USD(P)

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

#### References:

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

#### 1. REISSUANCE AND PURPOSE

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

#### 2. APPLICABILITY AND SCOPE

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

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

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

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

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

### 3. POLICY

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

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

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

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

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

3.4.2. The competence of host-country investigative agencies;

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

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

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

### 4. AUTHORIZED ACTIVITIES

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

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

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

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

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

4.1.4. Unauthorized demonstrations on Active or Reserve DoD installations.

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

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



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

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

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

4.2.2. DoD civilian personnel and applicants for such status.

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

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

### 5. PROHIBITED ACTIVITIES

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

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

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

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

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

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

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

### 6. OPERATIONAL GUIDANCE

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

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

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

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

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

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

### 7. EFFECTIVE DATE AND IMPLEMENTATION

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

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

Enclosures - 1

E1. Delegation of Authority

#### E1. ENCLOSURE 1 DELEGATION OF AUTHORITY

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

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

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

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

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

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

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

### **Appendix 4-4: DOD 5240.1-R - Procedures Governing the Activities of DOD Intelligence Components that Affect U.S. Persons**

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

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

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

APPENDIX 4: MILITARY SUPPORT  
TO LAW ENFORCEMENT

DoD 5240 1-R



**DEPARTMENT OF DEFENSE**

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

**DECEMBER 1982**

**UNDER SECRETARY OF DEFENSE FOR POLICY**

# APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

DoD 5240.1-R, December 1982


## FOREWORD

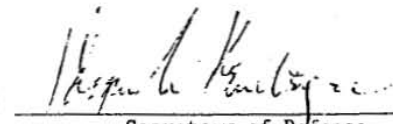
This DoD regulation sets forth procedures governing the activities of DoD intelligence components that affect United States persons. It implements DoD Directive 5240.1, and replaces the November 30, 1979 version of DoD Regulation 5240.1-R. It is applicable to all DoD intelligence components.

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

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

This regulation is effective immediately.

 10/4/82  
Attorney General of the  
United States

 12/7/82  
Secretary of Defense

# APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

*DoD 5240.1-R, December 1982*

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### REFERENCES

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

# APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

*DoD 5240.1-R, December 1982*

## DL1. DEFINITIONS

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

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

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

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

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

*DoD 5240.1-R, December 1982*

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

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

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

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

DL1.1.8.2. The Defense Intelligence Agency.

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

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

DL1.1.8.5. The Office of Naval Intelligence.

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

DL1.1.8.7. The Army Intelligence and Security Command.

DL1.1.8.8. The Naval Intelligence Command.

DL1.1.8.9. The Naval Security Group Command.

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

DL1.1.8.11. The Air Force Intelligence Service.

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

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

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

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

*DoD 5240.1-R, December 1982*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DL1.1.19. Personnel Security Investigation:

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

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

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

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

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

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

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

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

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### DL1.1.25. United States Person

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

DL1.1.25.1.1. A United States citizen;

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

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

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

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

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



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## C1. CHAPTER 1

### PROCEDURE 1. GENERAL PROVISIONS

#### C1.1. APPLICABILITY AND SCOPE

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

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

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

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

#### C1.2. PURPOSE

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

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### C1.3. INTERPRETATION

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

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

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

### C1.4. EXCEPTIONS TO POLICY

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

### C1.5. AMENDMENT

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

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## C2. CHAPTER 2

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

#### C2.1. APPLICABILITY AND SCOPE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C2.3.6.1. Present and former DoD employees;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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## C3. CHAPTER 3

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

#### C3.1. APPLICABILITY

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

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

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

#### C3.3. CRITERIA FOR RETENTION

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

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

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

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

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

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

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

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

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

### C3.4. ACCESS AND RETENTION

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

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

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

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## C4. CHAPTER 4

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

#### C4.1. APPLICABILITY AND SCOPE

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

#### C4.2. CRITERIA FOR DISSEMINATION

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

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

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

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

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

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

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

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

### C4.3. OTHER DISSEMINATION

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

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## C5. CHAPTER 5

### PROCEDURE 5. ELECTRONIC SURVEILLANCE

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

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

#### C5.1.2. General Rules

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

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

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

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

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

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

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

#### C5.2.2. Explanation of Undefined Terms

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### C5.3.1. Applicability and Scope

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

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

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

### C5.3.2. Explanation of Undefined Terms

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

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

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

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

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

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

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

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

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

### C5.3.3. Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### C5.5.2. Procedures

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

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

C5.5.2.1.1.1. Laboratory-generated signals.



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

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

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

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

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

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

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

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

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

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



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

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

C5.5.2.2.3. The content of any communication shall:

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

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

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

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

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

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

#### C5.6.2. Procedures

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

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

### C5.6.2.2. Training Limitations

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

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

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

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

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

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

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

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

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

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

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

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

#### C5.7.3. Procedures

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

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

C5.7.3.1.2. No transmission may be acquired aurally.

C5.7.3.1.3. No content of any transmission may be acquired by any means.

C5.7.3.1.4. No transmissions may be recorded.

C5.7.3.1.5. No report or log may identify any United States person or entity except to the extent of identifying transmission facilities that are vulnerable to surveillance by foreign powers. If the identities of the users of such facilities are not identical with the identities of the owners of the facilities, the identity of such users may be obtained but not from the content of the transmissions themselves, and may be included in such report or log. Reports may be disseminated. Logs may be disseminated only if required to verify results contained in reports.

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C5.7.3.2. Conduct of Hearability Surveys. The Director, National Security Agency, may conduct, or may authorize the conduct by other Agencies, of hearability surveys of telecommunications that are transmitted in the United States.

C5.7.3.2.1. Collection. When practicable, consent will be secured from the owner or user of the facility against which the hearability survey is to be conducted prior to the commencement of the survey.

C5.7.3.2.2. Processing and Storage. Information collected during a hearability survey must be processed and stored as follows:

C5.7.3.2.2.1. The content of communications may not be recorded or included in any report.

C5.7.3.2.2.2. No microwave transmission may be de-multiplexed or demodulated for any purpose.

C5.7.3.2.2.3. No report or log may identify any person or entity except to the extent of identifying the transmission facility that can be intercepted from the intercept site. If the identities of the users of such facilities are not identical with the identities of the owners of the facilities, and their identities are relevant to the purpose for which the hearability survey has been conducted, the identity of such users may be obtained provided such identities may not be obtained from the contents of the transmissions themselves.

C5.7.3.2.3. Dissemination. Reports may be disseminated only within the U.S. Government. Logs may not be disseminated unless required to verify results contained in reports.

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## C6. CHAPTER 6

### PROCEDURE 6. CONCEALED MONITORING

#### C6.1. APPLICABILITY AND SCOPE

C6.1.1. This procedure applies to concealed monitoring only for foreign intelligence and counterintelligence purposes conducted by a DoD intelligence component within the United States or directed against a United States person who is outside the United States where the subject of such monitoring does not have a reasonable expectation of privacy, as explained in section 6.2., below, and no warrant would be required if undertaken for law enforcement purposes.

C6.1.2. Concealed monitoring in the United States for foreign intelligence and counterintelligence purposes where the subject of such monitoring has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes shall be treated as "electronic surveillance within the United States" under Part 1 of Procedure 5, and processed pursuant to that procedure.

C6.1.3. Concealed monitoring for foreign intelligence and counterintelligence purposes of a United States person abroad where the subject of such monitoring has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes shall be treated as "electronic surveillance outside the United States" under Part 2 of Procedure 5, and processed pursuant to that procedure.

C6.1.4. Concealed monitoring for foreign intelligence and counterintelligence purposes when the monitoring is a signals intelligence activity shall be conducted pursuant to Part 3 of Procedure 5.

#### C6.2. EXPLANATION OF UNDEFINED TERMS

C6.2.1. Concealed monitoring means targeting by electronic, optical, or mechanical devices a particular person or a group of persons without their consent in a surreptitious and continuous manner. Monitoring is surreptitious when it is targeted in a manner designed to keep the subject of the monitoring unaware of it. Monitoring is continuous if it is conducted without interruption for a substantial period of time.

C6.2.2. Monitoring is within the United States if the monitoring device, or the target of the monitoring, is located within the United States.

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C6.2.3. Whether concealed monitoring is to occur where the subject has a reasonable expectation of privacy is a determination that depends upon the circumstances of a particular case, and shall be made only after consultation with the legal office responsible for advising the DoD intelligence component concerned. Reasonable expectation of privacy is the extent to which a reasonable person in the particular circumstances involved is entitled to believe his or her actions are not subject to monitoring by electronic, optical, or mechanical devices. For example, there are ordinarily reasonable expectations of privacy in work spaces if a person's actions and papers are not subject to ready observation by others under normal working conditions. Conversely, a person walking out of his or her residence into a public street ordinarily would not have a reasonable expectation that he or she is not being observed or even photographed; however, such a person ordinarily would have an expectation of privacy within his or her residence.

### C6.3. PROCEDURES

C6.3.1. Limitations On Use of Concealed Monitoring. Use of concealed monitoring under circumstances when the subject of such monitoring has no reasonable expectation of privacy is subject to the following limitations:

C6.3.1.1. Within the United States, a DoD intelligence component may conduct concealed monitoring only on an installation or facility owned or leased by the Department of Defense or otherwise in the course of an investigation conducted pursuant to the Agreement Between the Secretary of Defense and the Attorney General (reference (g)).

C6.3.1.2. Outside the United States, such monitoring may be conducted on installations and facilities owned or leased by the Department of Defense. Monitoring outside such facilities shall be conducted after coordination with appropriate host country officials, if such coordination is required by the governing Status of Forces Agreement, and with the Central Intelligence Agency.

C6.3.2. Required Determination. Concealed monitoring conducted under paragraph C6.3.1., requires approval by an official designated in paragraph C6.3.3., below, based on a determination that such monitoring is necessary to the conduct of assigned foreign intelligence or counterintelligence functions, and does not constitute electronic surveillance under Parts 1 or 2 of Procedure 5.

C6.3.3. Officials Authorized to Approve Concealed Monitoring. Officials authorized to approve concealed monitoring under this procedure include the Deputy

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Under Secretary of Defense (Policy); the Director, Defense Intelligence Agency; the Director, National Security Agency; the Assistant Chief of Staff for Intelligence, Department of Army; the Director, Naval Intelligence; the Director of Intelligence, U.S. Marine Corps; the Assistant Chief of Staff, Intelligence, U.S. Air Force; the Commanding General, Army Intelligence and Security Command; the Director, Naval Investigative Service; and the Commanding Officer, Air Force Office of Special Investigations.

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## C7. CHAPTER 7

### PROCEDURE 7. PHYSICAL SEARCHES

#### C7.1. APPLICABILITY

This procedure applies to nonconsensual physical searches of any person or property within the United States and to physical searches of the person or property of a United States person outside the United States by DoD intelligence components for foreign intelligence or counterintelligence purposes. DoD intelligence components may provide assistance to the Federal Bureau of Investigation and other law enforcement authorities in accordance with Procedure 12.

#### C7.2. EXPLANATION OF UNDEFINED TERMS

Physical search means any intrusion upon a person or a person's property or possessions to obtain items of property or information. The term does not include examination of areas that are in plain view and visible to the unaided eye if no physical trespass is undertaken, and does not include examinations of abandoned property left in a public place. The term also does not include any intrusion authorized as necessary to accomplish lawful electronic surveillance conducted pursuant to Parts 1 and 2 of Procedure 5.

#### C7.3. PROCEDURES

##### C7.3.1. Nonconsensual Physical Searches Within the United States

C7.3.1.1. Searches of Active Duty Military Personnel for Counterintelligence Purposes. The counterintelligence elements of the Military Departments are authorized to conduct nonconsensual physical searches in the United States for counterintelligence purposes of the person or property of active duty military personnel, when authorized by a military commander empowered to approve physical searches for law enforcement purposes pursuant to rule 315(d) of the Manual for Courts Martial, Executive Order 12198 (reference (h)), based upon a finding of probable cause to believe such persons are acting as agents of foreign powers. For purposes of this section, the term "agent of a foreign power" refers to an individual who meets the criteria set forth in subparagraph C7.3.1.2., below.



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C7.3.1.2. Other Nonconsensual Physical Searches. Except as permitted by section C7.1., above, DoD intelligence components may not conduct nonconsensual physical searches of persons and property within the United States for foreign intelligence or counterintelligence purposes. DoD intelligence components may, however, request the FBI to conduct such searches. All such requests, shall be in writing; shall contain the information required in subparagraphs C7.3.2.2.1., through C7.3.2.2.6., below; and be approved by an official designated in subparagraph C7.3.2.2.3., below. A copy of each such request shall be furnished the General Counsel, DoD.

### C7.3.2. Nonconsensual Physical Searches Outside the United States

C7.3.2.1. Searches of Active Duty Military Personnel for Counterintelligence Purposes. The counterintelligence elements of the Military Departments may conduct nonconsensual physical searches of the person or property of active duty military personnel outside the United States for counterintelligence purposes when authorized by a military commander empowered to approve physical searches for law enforcement purposes pursuant to rule 315(d) of the Manual for Courts Martial, Executive Order 12198 (reference (h)), based upon a finding of probable cause to believe such persons are acting as agents of foreign powers. For purposes of this section, the term "agent of a foreign power" refers to an individual who meets the criteria set forth in subparagraph C7.3.2.2.2., below.

C7.3.2.2. Other Nonconsensual Physical Searches. DoD intelligence components may conduct other nonconsensual physical searches for foreign intelligence and counterintelligence purposes of the person or property of United States persons outside the United States only pursuant to the approval of the Attorney General. Requests for such approval will be forwarded by a senior official designated in subparagraph C7.3.2.3., below, to the Attorney General and shall include:

C7.3.2.2.1. An identification of the person or description of the property to be searched.

C7.3.2.2.2. A statement of facts supporting a finding that there is probable cause to believe the subject of the search is:

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C7.3.2.2.2.1. A person who, for or on behalf of a foreign power, is engaged in clandestine intelligence activities (including covert activities intended to affect the political or governmental process), sabotage, or international terrorist activities, activities in preparation for international terrorist activities, or who conspires with, or knowingly aids and abets a person engaging in such activities;

C7.3.2.2.2.2. A person who is an officer or employee of a foreign power;

C7.3.2.2.2.3. A person unlawfully acting for, or pursuant to the direction of, a foreign power. The mere fact that a person's activities may benefit or further the aims of a foreign power does not justify a nonconsensual physical search without evidence that the person is taking direction from, or acting in knowing concert with, the foreign power;

C7.3.2.2.2.4. A corporation or other entity that is owned or controlled directly or indirectly by a foreign power; or

C7.3.2.2.2.5. A person in contact with, or acting in collaboration with, an intelligence or security service of a foreign power for the purpose of providing access to information or material classified by the United States to which such person has access.

C7.3.2.2.3. A statement of facts supporting a finding that the search is necessary to obtain significant foreign intelligence or counterintelligence.

C7.3.2.2.4. A statement of facts supporting a finding that the significant foreign intelligence or counterintelligence expected to be obtained could not be obtained by less intrusive means.

C7.3.2.2.5. A description of the significant foreign intelligence or counterintelligence expected to be obtained from the search.

C7.3.2.2.6. A description of the extent of the search and a statement of facts supporting a finding that the search will involve the least amount of physical intrusion that will accomplish the objective sought.

C7.3.2.2.7. A description of the expected dissemination of the product of the search, including a description of the procedures that will govern the retention and dissemination of information about United States persons acquired incidental to the search.

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C7.3.2.3. Requests for approval of nonconsensual physical searches under subparagraph C7.3.2.2., must be made by:

C7.3.2.3.1. The Secretary or the Deputy Secretary of Defense;

C7.3.2.3.2. The Secretary or the Under Secretary of a Military Department;

C7.3.2.3.3. The Director, National Security Agency; or

C7.3.2.3.4. The Director, Defense Intelligence Agency.

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## C8. CHAPTER 8

### PROCEDURE 8. SEARCHES AND EXAMINATION OF MAIL

#### C8.1. APPLICABILITY

This procedure applies to the opening of mail in United States postal channels, and the use of mail covers with respect to such mail, for foreign intelligence and counterintelligence purposes. It also applies to the opening of mail to or from United States persons where such activity is conducted outside the United States and such mail is not in United States postal channels.

#### C8.2. EXPLANATION OF UNDEFINED TERMS

##### C8.2.1. Mail Within United States Postal Channels includes:

C8.2.1.1. Mail while in transit within, among, and between the United States, its territories and possessions (including mail of foreign origin that is passed by a foreign postal administration, to the United States Postal Service for forwarding to a foreign postal administration under a postal treaty or convention, and mail temporarily in the hands of the United States Customs Service or the Department of Agriculture), Army-Air Force (APO) and Navy (FPO) post offices, and mail for delivery to the United Nations, NY; and

C8.2.1.2. International mail enroute to an addressee in the United States or its possessions after passage to United States Postal Service from a foreign postal administration or enroute to an addressee abroad before passage to a foreign postal administration. As a rule, mail shall be considered in such postal channels until the moment it is delivered manually in the United States to the specific addressee named on the envelope, or his authorized agent.

##### C8.2.2. To examine mail means to employ a mail cover with respect to such mail.

C8.2.3. Mail cover means the process by which a record is made of any data appearing on the outside cover of any class of mail matter as permitted by law, other than that necessary for the delivery of mail or administration of the Postal Service.

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### C8.3. PROCEDURES

#### C8.3.1. Searches of Mail Within United States Postal Channels

C8.3.1.1. Applicable postal regulations do not permit DoD intelligence components to detain or open first-class mail within United States postal channels for foreign intelligence and counterintelligence purposes, or to request such action by the U.S. Postal Service.

C8.3.1.2. DoD intelligence components may request appropriate U.S. postal authorities to inspect, or authorize the inspection, of the contents of second-, third-, or fourth-class mail in United States postal channels, for such purposes, in accordance with applicable postal regulations. Such components may also request appropriate U.S. postal authorities to detain, or permit the detention of, mail that may become subject to search under this section, in accordance with applicable postal regulations.

#### C8.3.2. Searches of Mail Outside United States Postal Channels

C8.3.2.1. DoD intelligence components are authorized to open mail to or from a United States person that is found outside United States postal channels only pursuant to the approval of the Attorney General. Requests for such approval shall be treated as a request for a nonconsensual physical search under subparagraph C7.3.2.2., of Procedure 7.

C8.3.2.2. Heads of DoD intelligence components may authorize the opening of mail outside U.S. postal channels when both the sender and intended recipient are other than United States persons if such searches are otherwise lawful and consistent with any Status of Forces Agreement that may be in effect.

#### C8.3.3. Mail Covers

C8.3.3.1. DoD intelligence components may request U.S. postal authorities to examine mail in U.S. postal channels, for counterintelligence purposes, in accordance with applicable postal regulations.

C8.3.3.2. DoD intelligence components may also request mail covers with respect to mail to or from a United States person that is outside U.S. postal channels, in accordance with appropriate law and procedure of the host government, and any Status of Forces Agreement that may be effect.

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## C9. CHAPTER 9

### PROCEDURE 9. PHYSICAL SURVEILLANCE

#### C9.1. APPLICABILITY

This procedure applies only to the physical surveillance of United States persons by DoD intelligence components for foreign intelligence and counterintelligence purposes. This procedure does not apply to physical surveillance conducted as part of a training exercise when the subjects are participants in the exercise.

#### C9.2. EXPLANATION OF UNDEFINED TERMS

The term physical surveillance means a systematic and deliberate observation of a person by any means on a continuing basis, or the acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance.

#### C9.3. PROCEDURES

C9.3.1. Criteria for Physical Surveillance In the United States. Within the United States, DoD Intelligence components may conduct nonconsensual physical surveillances for foreign intelligence and counterintelligence purposes against United States persons who are present or former employees of the intelligence component concerned; present or former contractors of such components or their present or former employees; applicants for such employment or contracting; or military persons employed by a non-intelligence element of a Military Service. Any physical surveillance within the United States that occurs outside a DoD installation shall be coordinated with the FBI and other law enforcement agencies, as may be appropriate.

C9.3.2. Criteria for Physical Surveillance Outside the United States. Outside the United States, DoD Intelligence components may conduct nonconsensual physical surveillance of United States persons in one of the categories identified in paragraph C9.3.1., above. In addition, such components may conduct physical surveillance of other United States persons in the course of a lawful foreign intelligence or counterintelligence investigation, provided:

C9.3.2.1. Such surveillance is consistent with the laws and policy of the host government and does not violate any Status of Forces Agreement that may be in effect;

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C9.3.2.2. That physical surveillance of a United States person abroad to collect foreign intelligence may be authorized only to obtain significant information that cannot be obtained by other means.

### C9.3.3. Required Approvals for Physical Surveillance

C9.3.3.1. Persons Within DoD Investigative Jurisdiction. Physical surveillances within the United States or that involve United States persons within DoD investigative jurisdiction overseas may be approved by the head of the DoD intelligence component concerned or by designated senior officials of such components in accordance with this procedure.

C9.3.3.2. Persons Outside DoD Investigative Jurisdiction. Outside the United States, physical surveillances of United States persons who are not within the investigative jurisdiction of the DoD intelligence component concerned will be forwarded through appropriate channels to the Deputy Under Secretary of Defense (Policy) for approval. Such requests shall indicate coordination with the Central Intelligence Agency.

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## C10. CHAPTER 10

### PROCEDURE 10. UNDISCLOSED PARTICIPATION IN ORGANIZATIONS

#### C10.1. APPLICABILITY

This procedure applies to participation by employees of DoD intelligence components in any organization within the United States, or any organization outside the United States that constitutes a United States person, when such participation is on behalf of any entity of the intelligence community. These procedures do not apply to participation in organizations for solely personal purposes.

#### C10.2. EXPLANATION OF UNDEFINED TERMS

C10.2.1. Domestic activities refers to activities that take place within the United States that do not involve a significant connection with a foreign power, organization or person.

C10.2.2. The term organization includes corporations and other commercial organizations, academic institutions, clubs, professional societies, associations, and any other group whose existence is formalized in some manner or otherwise functions on a continuing basis.

C10.2.3. An organization within the United States means all organizations physically located within the geographical boundaries of the United States whether or not they constitute a United States persons. Thus, a branch, subsidiary, or office of an organization within the United States, which is physically located outside the United States, is not considered as an organization within the United States.

C10.2.4. Participation refers to any action undertaken within the structure or framework of the organization involved. Such actions include serving as a representative or agent of the organization; acquiring membership; attending meetings not open to the public, including social functions for the organization as a whole; carrying out the work or functions of the organization; and contributing funds to the organization other than in payment for goods or services. Actions taken outside the organizational framework, however, do not constitute participation. Thus, attendance at meetings or social gatherings that involve organization members, but are not functions or activities of the organization itself does not constitute participation.



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C10.2.5. Participation is on behalf of an agency within the intelligence community when an employee is tasked or requested to take action within an organization for the benefit of such agency. Such employee may already be a member of the organization or may be asked to join. Actions undertaken for the benefit of an intelligence agency include collecting information, identifying potential sources or contacts, or establishing and maintaining cover. If a cooperating source furnishes information to an intelligence agency that he or she obtained by participation within an organization, but was not given prior direction or tasking by the intelligence agency to collect such information, then such participation was not on behalf of such agency.

C10.2.6. Participation is solely for personal purposes, if undertaken at the initiative and expense of the employee for the employee's benefit.

### C10.3. PROCEDURES FOR UNDISCLOSED PARTICIPATION

Except as permitted herein, employees of DoD intelligence components may participate on behalf of such components in organizations within the United States, or in organizations outside the United States that constitute United States persons, only if their affiliation with the intelligence component concerned is disclosed to an appropriate official of the organization in accordance with section C10.4., below. Participation without such disclosure is permitted only if it is consistent with the limitations set forth in paragraph C10.3.1., below, and has been approved in accordance with paragraph C10.3.2., below.

#### C10.3.1. Limitations On Undisclosed Participation

C10.3.1.1. Lawful Purpose. No undisclosed participation shall be permitted under this procedure unless it is essential to achieving a lawful foreign intelligence or counterintelligence purpose within the assigned mission of the collecting DoD intelligence component.

C10.3.1.2. Limitations On Use of Undisclosed Participation for Foreign Intelligence Purposes Within the United States. Undisclosed participation may not be authorized within the United States for the purpose of collecting foreign intelligence from or about a United States person, nor to collect information necessary to assess United States persons as potential sources of assistance to foreign intelligence activities. This does not preclude the collection of information about such persons, volunteered by cooperating sources participating in organizations to which such persons belong, however, if otherwise permitted by Procedure 2.

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C10.3.1.3. Duration of Participation. Authorization to participate under subparagraphs C10.3.2.1., and C10.3.2.2., shall be limited to the period covered by such participation, which shall be no longer than 12 months. Participation that lasts longer than 12 months shall be re-approved by the appropriate official on an annual basis in accordance with this procedure.

C10.3.1.4. Participation for the Purpose of Influencing the Activities of the Organization or Its Members. No participation under this procedure shall be authorized for the purpose of influencing the activities of the organization in question, or its members, unless such participation is undertaken on behalf of the FBI in the course of a lawful investigation, or the organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power. Any DoD intelligence component that desires to undertake participation for such purpose shall forward its request to the Deputy Under Secretary of Defense (Policy) setting forth the relevant facts justifying such participation and explaining the nature of its contemplated activity. Such participation may be approved by the DUSD(P) with the concurrence of the General Counsel, DoD.

### C10.3.2. Required Approvals

C10.3.2.1. Undisclosed Participation That May Be Approved Within the DoD Intelligence Component. Undisclosed participation on behalf of a DoD intelligence component may be authorized with such component under the following circumstances:

C10.3.2.1.1. Participation in meetings open to the public. For purposes of this section, a seminar or conference sponsored by a professional organization that is open to persons of a particular profession, whether or not they are members of the organization itself or have received a special invitation, shall be considered a meeting open to the public.

C10.3.2.1.2. Participation in organizations that permit other persons acknowledged to the organization to be employees of the U.S. Government to participate.

C10.3.2.1.3. Participation in educational or professional organizations for the purpose of enhancing the professional skills, knowledge, or capabilities of employees.

C10.3.2.1.4. Participation in seminars, forums, conferences, exhibitions, trade fairs, workshops, symposiums, and similar types of meetings, sponsored by organizations in which the employee is a member, has been invited to participate, or

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when the sponsoring organization does not require disclosure of the participants' employment affiliations, for the purpose of collecting significant foreign intelligence that is generally made available to participants at such meetings, and does not involve the domestic activities of the organization or its members.

C10.3.2.2. Participation That May Be Approved By Senior Intelligence Officials. Undisclosed participation may be authorized by the Deputy Under Secretary of Defense (Policy); the Director, Defense Intelligence Agency; the Assistant Chief of Staff for Intelligence, Department of Army; the Commanding General, U.S. Army Intelligence and Security Command; the Director of Naval Intelligence; the Director of Intelligence, U.S. Marine Corps; the Assistant Chief of Staff, Intelligence, United States Air Force; the Director, Naval Investigative Service; the Commanding Officer, Air Force Office of Special Investigations; or their single designees, for the following purposes:

C10.3.2.2.1. To collect significant foreign intelligence outside the United States, or from or about other than United States persons within the United States, provided no information involving the domestic activities of the organization or its members may be collected.

C10.3.2.2.2. For counterintelligence purposes, at the written request of the Federal Bureau of Investigation.

C10.3.2.2.3. To collect significant counterintelligence about other than United States persons, or about United States persons who are within the investigative jurisdiction of the Department of Defense, provided any such participation that occurs within the United States shall be coordinated with the Federal Bureau of Investigation.

C10.3.2.2.4. To collect information necessary to identify and assess other than United States persons as potential sources of assistance for foreign intelligence and counterintelligence activities.

C10.3.2.2.5. To collect information necessary to identify United States persons as potential sources of assistance to foreign intelligence and counterintelligence activities.

C10.3.2.2.6. To develop or maintain cover necessary for the security of foreign intelligence or counterintelligence activities.

C10.3.2.2.7. Outside the United States, to assess United States persons as potential sources of assistance to foreign intelligence and counterintelligence activities.

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### C10.4. DISCLOSURE REQUIREMENT

C10.4.1. Disclosure of the intelligence affiliation of an employee of a DoD intelligence component shall be made to an executive officer of the organization in question, or to an official in charge of membership, attendance, or the records of the organization concerned.

C10.4.2. Disclosure may be made by the DoD intelligence component involved, an authorized DoD official, or by another component of the Intelligence Community that is otherwise authorized to take such action on behalf of the DoD intelligence component concerned.

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## C11. CHAPTER 11

### PROCEDURE 11. CONTRACTING FOR GOODS AND SERVICES

#### C11.1. APPLICABILITY

This procedure applies to contracting or other arrangements with United States persons for the procurement of goods and services by DoD intelligence components within the United States. This procedure does not apply to contracting with government entities, or to the enrollment of individual students in academic institutions. The latter situation is governed by Procedure 10.

#### C11.2. PROCEDURES

C11.2.1. Contracts with Academic Institutions. DoD intelligence components may enter into a contract for goods or services with an academic institution only if prior to the making of the contract, the intelligence component has disclosed to appropriate officials of the academic institution the fact of sponsorship by a DoD intelligence component.

C11.2.2. Contracts with Commercial Organizations, Private Institutions, and Individuals. Contracting by or for a DoD intelligence component with commercial organizations, private institutions, or private individuals within the United States may be done without revealing the sponsorship of the intelligence component if:

C11.2.2.1. The contract is for published material available to the general public or for routine goods or services necessary for the support of approved activities, such as credit cards, car rentals, travel, lodging, meals, rental of office space or apartments, and other items incident to approved activities; or

C11.2.2.2. There is a written determination by the Secretary or the Under Secretary of a Military Department, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, or the Deputy Under Secretary of Defense (Policy) that the sponsorship of a DoD intelligence component must be concealed to protect the activities of the DoD intelligence component concerned.

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## C11.3. EFFECT OF NONCOMPLIANCE

No contract shall be void or voidable for failure to comply with this procedure.

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## C12. CHAPTER 12

### PROCEDURE 12. PROVISION OF ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

#### C12.1. APPLICABILITY

This procedure applies to the provision of assistance by DoD intelligence components to law enforcement authorities. It incorporates the specific limitations on such assistance contained in E.O. 12333 (reference (a)), together with the general limitations and approval requirements of DoD Directive 5525.5 (reference (i)).

#### C12.2. PROCEDURES

C12.2.1. Cooperation with Law Enforcement Authorities. Consistent with the limitations contained in DoD Directive 5525.5 (reference (i)), and paragraph C12.2.2., below, DoD intelligence components are authorized to cooperate with law enforcement authorities for the purpose of:

C12.2.1.1. Investigating or preventing clandestine intelligence activities by foreign powers, international narcotics activities, or international terrorist activities;

C12.2.1.2. Protecting DoD employees, information, property, and facilities;  
and

C12.2.1.3. Preventing, detecting, or investigating other violations of law.

C12.2.2. Types of Permissible Assistance. DoD intelligence components may provide the following types of assistance to law enforcement authorities:

C12.2.2.1. Incidentally acquired information reasonably believed to indicate a violation of Federal law shall be provided in accordance with the procedures adopted pursuant to section 1.7(a) of E.O. 12333 (reference (a));

C12.2.2.2. Incidentally acquired information reasonably believed to indicate a violation of State, local, or foreign law may be provided in accordance with procedures adopted by the Heads of DoD Components;

C12.2.2.3. Specialized equipment and facilities may be provided to Federal law enforcement authorities, and, when lives are endangered, to State and local law

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enforcement authorities, provided such assistance is consistent with, and has been approved by an official authorized pursuant to, Enclosure 3 of DoD Directive 5525.5 (reference (i)); and

C12.2.2.4. Personnel who are employees of DoD intelligence components may be assigned to assist Federal law enforcement authorities, and, when lives are endangered, State and local law enforcement authorities, provided such use is consistent with, and has been approved by an official authorized pursuant to, Enclosure 4 of DoD Directive 5525.5 (reference (i)). Such official shall ensure that the General Counsel of the providing DoD Component concurs in such use.

C12.2.2.5. Assistance may be rendered to law enforcement agencies and security services of foreign governments or international organizations in accordance with established policy and applicable Status of Forces Agreements; provided, that DoD intelligence components may not request or participate in activities of such agencies undertaken against United States persons that would not be permitted such components under these procedures.



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## C13. CHAPTER 13

### PROCEDURE 13. EXPERIMENTATION ON HUMAN SUBJECTS FOR INTELLIGENCE PURPOSES

#### C13.1. APPLICABILITY

This procedure applies to experimentation on human subjects if such experimentation is conducted by or on behalf of a DoD intelligence component. This procedure does not apply to experimentation on animal subjects.

#### C13.2. EXPLANATION OF UNDEFINED TERMS

C13.2.1. Experimentation in this context means any research or testing activity involving human subjects that may expose such subjects to the possibility of permanent or temporary injury (including physical or psychological damage and damage to the reputation of such persons) beyond the risks of injury to which such subjects are ordinarily exposed in their daily lives.

C13.2.2. Experimentation is conducted on behalf of a DoD intelligence component if it is conducted under contract to that component or to another DoD Component for the benefit of the intelligence component or at the request of such a component regardless of the existence of a contractual relationship.

C13.2.3. Human subjects in this context includes any person whether or not such person is a United States person.

#### C13.3. PROCEDURES

C13.3.1. Experimentation on human subjects conducted by or on behalf of a DoD intelligence component may be undertaken only with the informed consent of the subject, in accordance with guidelines issued by the Department of Health and Human Services, setting out conditions that safeguard the welfare of such subjects.

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C13.3.2. DoD intelligence components may not engage in or contract for experimentation on human subjects without approval of the Secretary or Deputy Secretary of Defense, or the Secretary or Under Secretary of a Military Department, as appropriate.

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## C14. CHAPTER 14

### PROCEDURE 14. EMPLOYEE CONDUCT

#### C14.1. APPLICABILITY

This procedure sets forth the responsibilities of employees of DoD intelligence components to conduct themselves in accordance with this Regulation and other applicable policy. It also provides that DoD intelligence components shall ensure, as appropriate, that these policies and guidelines are made known to their employees.

#### C14.2. PROCEDURES

C14.2.1. Employee Responsibilities. Employees shall conduct intelligence activities only pursuant to, and in accordance with, Executive Order 12333 (reference (a)) and this Regulation. In conducting such activities, employees shall not exceed the authorities granted the employing DoD intelligence component by law; Executive order, including E.O. 12333 (reference (a)), and applicable DoD Directives.

##### C14.2.2. Familiarity With Restrictions

C14.2.2.1. Each DoD intelligence component shall familiarize its personnel with the provisions of E.O. 12333 (reference (a)), this Regulation, and any instructions implementing this Regulation that apply to the operations and activities of such component. At a minimum, such familiarization shall contain:

C14.2.2.1.1. Applicable portions of Procedures 1 through 4;

C14.2.2.1.2. A summary of other procedures that pertains to collection techniques that are, or may be, employed by the DoD intelligence component concerned; and

C14.2.2.1.3. A statement of individual employee reporting responsibility under Procedure 15.

C14.2.2.2. The Assistant to the Secretary of Defense (Intelligence Oversight) (ATSD(IQ)) and each Inspector General responsible for a DoD intelligence component shall ensure, as part of their inspections, that procedures are in effect that will achieve the objectives set forth in subparagraph C14.2.2.1., above.

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C14.2.3. Responsibilities of the Heads of DoD Components. The Heads of DoD Components that constitute, or contain, DoD intelligence components shall:

C14.2.3.1. Ensure that all proposals for intelligence activities that may be unlawful, in whole or in part, or may be contrary to applicable Executive Branch or DoD policy are referred to the General Counsel responsible for such component.

C14.2.3.2. Ensure that no adverse action is taken against any employee because the employee reports activities pursuant to Procedure 15.

C14.2.3.3. Impose such sanctions as may be appropriate upon any employee who violates the provisions of this Regulation or any instruction promulgated thereunder.

C14.2.3.4. In any case involving serious or continuing breaches of security by either DoD or non-DoD employees, recommend to the Secretary of Defense appropriate investigative actions.

C14.2.3.5. Ensure that the General Counsel and Inspector General with responsibility for the component, as well as the General Counsel, DoD, and the ATSD(IO), have access to all information concerning the intelligence activities of that component necessary to perform their oversight responsibilities.

C14.2.3.6. Ensure that employees cooperate fully with the Intelligence Oversight Board and its representatives.

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## C15. CHAPTER 15

### PROCEDURE 15. IDENTIFYING, INVESTIGATING, AND REPORTING QUESTIONABLE ACTIVITIES

#### C15.1. APPLICABILITY

This procedure provides for the identification, investigation, and reporting of questionable intelligence activities.

#### C15.2. EXPLANATION OF UNDEFINED TERMS

C15.2.1. The term "questionable activity," as used herein, refers to any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any Executive order or Presidential directive, including E.O. 12333 (reference (a)), or applicable DoD policy, including this Regulation.

C15.2.2. The terms "General Counsel" and "Inspector General," as used herein, refer, unless otherwise specified, to any General Counsel or Inspector General with responsibility for one or more DoD intelligence components. Unless otherwise indicated, the term "Inspector General" shall also include the ATSD(IO).

#### C15.3. PROCEDURES

##### C15.3.1. Identification

C15.3.1.1. Each employee shall report any questionable activity to the General Counsel or Inspector General for the DoD intelligence component concerned, or to the General Counsel, DoD, or ATSD(IO).

C15.3.1.2. Inspectors General, as part of their inspection of DoD intelligence components, and General Counsels, as part of their oversight responsibilities shall seek to determine if such components are involved in any questionable activities. If such activities have been or are being undertaken, the matter shall be investigated under paragraph C15.3.2., below. If such activities have been undertaken, but were not reported, the Inspector General shall also ascertain the reason for such failure and recommend appropriate corrective action.

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C15.3.1.3. Inspectors General, as part of their oversight responsibilities, shall, as appropriate, ascertain whether any organizations, staffs, or offices within their respective jurisdictions, but not otherwise specifically identified as DoD intelligence components, are being used for foreign intelligence or counterintelligence purposes to which Part 2 of E.O. 12333 (reference (a)), applies, and, if so, shall ensure the activities of such components are in compliance with this Regulation and applicable DoD policy.

C15.3.1.4. Inspectors General, as part of their inspection of DoD intelligence components, shall ensure that procedures exist within such components for the reporting of questionable activities, and that employees of such components are aware of their responsibilities to report such activities.

### C15.3.2. Investigation

C15.3.2.1. Each report of a questionable activity shall be investigated to the extent necessary to determine the facts and assess whether the activity is legal and is consistent with applicable policy.

C15.3.2.2. When appropriate, questionable activities reported to a General Counsel shall be referred to the corresponding Inspector General for investigation, and if reported to an Inspector General, shall be referred to the corresponding General Counsel to determine whether the activity is legal and consistent with applicable policy. Reports made to the DoD General Counsel or the ATSD(IO) may be referred, after consultation between these officials, to the appropriate Inspector General and General Counsel for investigation and evaluation.

C15.3.2.3. Investigations shall be conducted expeditiously. The officials responsible for these investigations may, in accordance with established procedures, obtain assistance from within the component concerned, or from other DoD Components, when necessary, to complete such investigations in a timely manner.

C15.3.2.4. To complete such investigations, General Counsels and Inspectors General shall have access to all relevant information regardless of classification or compartmentation.

### C15.3.3. Reports

C15.3.3.1. Each General Counsel and Inspector General shall report immediately to the General Counsel, DoD, and the ATSD(IO) questionable activities of a serious nature.

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C15.3.3.2. Each General Counsel and Inspector General shall submit to the ATSD(IO) a quarterly report describing those activities that come to their attention during the quarter reasonably believed to be illegal or contrary to Executive order or Presidential directive, or applicable DoD policy; and actions taken with respect to such activities. The reports shall also include significant oversight activities undertaken during the quarter and any suggestions for improvements in the oversight system. Separate, joint, or consolidated reports may be submitted. These reports should be prepared in accordance with DoD Directive 5000.11 (reference (j)).

C15.3.3.3. All reports made pursuant to subparagraphs C15.3.3.1., and C15.3.3.2., above, which involve a possible violation of Federal criminal law shall be considered by the General Counsel concerned in accordance with the procedures adopted pursuant to section 1.7(a) of E.O. 12333 (reference (a)).

C15.3.3.4. The General Counsel, DoD, and the ATSD(IO) may review the findings of other General Counsels and Inspectors General with respect to questionable activities.

C15.3.3.5. The ATSD(IO) and the General Counsel, DoD, shall report in a timely manner to the White House Intelligence Oversight Board all activities that come to their attention that are reasonably believed to be illegal or contrary to Executive order or Presidential directive. They will also advise appropriate officials of the Office of the Secretary of Defense of such activities.

C15.3.3.6. These reporting requirements are exempt from format approval and licensing in accordance with paragraph VII.G. of Enclosure 3 to DoD Directive 5000.19 (reference (k)).

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**Appendix 4-5: DODD 5240.1 - Activities of DOD Intelligence Components  
that Affect U.S. Persons**

See next page.



# APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT



## Department of Defense **DIRECTIVE**

NUMBER 5240.01  
August 27, 2007

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USD(I)

SUBJECT: DoD Intelligence Activities

- References:
- (a) DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988 (hereby canceled)
  - (b) DoD Directive 5143.01, "Under Secretary of Defense for Intelligence," November 23, 2005
  - (c) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, as amended by Executive Order 13284, January 23, 2003, and Executive Order 13355, August 27, 2004
  - (d) Executive Order 13388, "Further Strengthening the Sharing of Terrorism Information to Protect Americans," October 25, 2005
  - (e) through (k), see Enclosure 1

### 1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues Reference (a) and implements References (b), (c), and (d); section 188 of Public Law 108-458 (Reference (e)); Executive Order 12863 (Reference (f)); and chapter 36 of title 50, United States Code (Reference (g)).

1.2. Updates policy and provides direction for DoD intelligence activities.

1.3. Shall be the primary authority used as guidance by the Defense Intelligence Components and those performing an intelligence or counterintelligence (CI) function to collect, process, retain, or disseminate information concerning U.S. persons.

1.4. Continues to authorize the publication of DoD 5240.1-R (Reference (h)).

### 2. APPLICABILITY AND SCOPE

This Directive:

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*DoDD 5240.01, August 27, 2007*

2.1. Applies to the Office of the Secretary of Defense (OSD), 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 Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. Applies to all intelligence activities conducted by the DoD Components.

2.3. Does not apply to authorized law enforcement activities carried out by the Defense Intelligence Components, or to individuals executing law enforcement missions while assigned to the Defense Intelligence Components.

### 3. DEFINITIONS

Terms used in this Directive are defined in Enclosure 2.

### 4. POLICY

It is DoD policy that:

4.1. All DoD intelligence and CI activities shall be carried out pursuant to the authorities and restrictions of the U.S. Constitution, applicable law, Reference (c), the policies and procedures authorized herein, and other relevant DoD policies authorized by Reference (b). Special emphasis shall be given to the protection of the constitutional rights and privacy of U.S. persons.

4.2. DoD intelligence and CI activities shall conform to U.S. law and Presidential guidance concerning the authorities and responsibilities of the Director of National Intelligence (DNI).

4.3. Defense Intelligence and CI shall be the all-source information collection, analysis, sharing, and dissemination capability derived from intelligence and CI activities, operations, and campaign plans, provided to national and defense decision makers and warfighters for military planning and operations.

4.4. Defense Intelligence shall provide accurate and timely warning of threats and of foreign capabilities and intent to national and defense decision makers to allow for consideration of the widest range of options. While Defense Intelligence must be timely, it also must be substantive, thorough, contextual, and useful in form and format.

4.5. Consistent with the need to protect intelligence sources and methods and the provisions of Director of Central Intelligence Directive 8/1 (Reference (i)), the Defense Intelligence and CI Components have an affirmative responsibility to share collected and stored information, data, and resulting analysis with other Defense Intelligence and CI Components, the national Intelligence Community (IC), other relevant Federal agencies, and civilian law enforcement officials, as appropriate. This also applies to the exchange and sharing of terrorism-related

## APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT

information pursuant to Reference (d). Information sharing shall adhere to the requirements and restrictions imposed by Federal law, Executive order, and DoD and DNI policies.

4.5.1. The Defense Intelligence and CI Components shall share collected or stored information in a manner consistent with both the need to protect sources and methods and the need to enable the Defense Intelligence and DoD Components, other Government agencies, and the Intelligence Community, as appropriate, to accomplish their missions and responsibilities.

4.5.2. The broadest possible sharing of intelligence with coalition and approved partner countries shall be accomplished unless otherwise precluded from release by law, explicit direction, or policy.

4.5.3. Original classifiers shall draft intelligence products with a presumption of release and in such a manner as to allow the widest dissemination to allies, coalitions, and international organizations.

4.6. No Defense Intelligence or CI Component shall request any person or entity to undertake unauthorized activities on behalf of the Defense Intelligence or CI Component. No Defense Intelligence or CI Component shall request any person or entity to undertake intelligence activities on behalf of the Defense Intelligence or CI Component that do not follow the procedures described in Reference (h). The collection techniques described in Reference (h) shall be employed only to perform intelligence or CI functions assigned to the Defense Intelligence Component concerned. Use of such techniques to collect information about U.S. persons shall be limited to the least intrusive means feasible and shall not violate law, Executive order, Presidential guidance, or DoD or DNI policy.

4.7. The Defense Intelligence and CI Components and their employees shall report all intelligence or CI activities that may violate law, Executive order, Presidential directive, or applicable DoD policy through the Component chain of command to the Inspector General or General Counsel responsible for the Defense Intelligence Component concerned, or to the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)).

4.8. The Defense Intelligence Components shall only conduct, or provide support for the conduct of, covert activities in times of war declared by Congress, during a period covered by a report from the President to Congress consistent with sections 1541-1548 of Reference (g), or when such actions have been approved by the President and directed by the Secretary of Defense.

4.9. Under no circumstances shall any DoD Component or DoD employee engage in, or conspire to engage in, assassination.

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### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Intelligence (USD(I)), according to Reference (b), shall provide overall policy guidance for the conduct of DoD intelligence, CI, security, and intelligence-related activities. Pursuant to Reference (b), the USD(I) shall:

5.1.1. Serve as the focal point for the Secretary of Defense, according to the responsibilities and functions prescribed herein, with other U.S. Government entities and agencies, including the National Security Council, the DNI, the Homeland Security Council, the Department of the Treasury, the Department of State, the Department of Justice, and the Department of Homeland Security as well as State agencies, the IC, and Congress.

5.1.2. Serve as the focal point for the Secretary of Defense, according to the responsibilities and functions prescribed herein, with foreign governments, international organizations, and non-governmental organizations.

5.1.3. Promote coordination, cooperation, information sharing, and cross-Service management of intelligence, CI, security, and related programs within the Department of Defense and between the Department and other Federal agencies.

5.1.4. Provide oversight and policy guidance on sensitive intelligence activities; serve as the DoD lead for Departmental participation in all such activities.

5.2. The Department of Defense General Counsel shall:

5.2.1. Serve as the focal point for contact with, and reporting to, the Attorney General regarding legal matters arising under this Directive.

5.2.2. Interpret this Directive and Reference (h), as required.

5.3. The ATSD(IO) shall serve as the focal point for all contacts with the Intelligence Oversight Board of the President's Foreign Intelligence Advisory Board pursuant to Reference (f), and shall perform the responsibilities assigned in DoD Directive 5148.11 (Reference (j)).

5.4. The Secretaries of the Military Departments with IC elements shall:

5.4.1. Organize, staff, train, and equip the intelligence assets of the Military Departments, including CI, signals intelligence, geospatial intelligence, measurement and signatures intelligence, and human intelligence assets, to support operational forces, national-level policy-makers, and the acquisition community.

5.4.2. Develop intelligence capabilities including interoperable and compatible systems, databases, and procedures for joint operational forces according to DoD guidance; Combatant Commander and Director, Defense Intelligence Agency, requirements; the Defense Intelligence Information System Network-Centric Architecture; and the Joint Technical Architecture.

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5.4.3. Fulfill assigned Defense Intelligence Analysis Program responsibilities, both national-level and Military Department-unique, for national intelligence activities in support of national and DoD entities through timely, tailored, all-source intelligence tasking, collection, processing/exploitation, analysis/production, and dissemination/integration.

### 6. EFFECTIVE DATE

This Directive is effective immediately.



Gordon England

Enclosures – 2

- E1. References, continued
- E2. Definitions

### E1. ENCLOSURE 1

#### REFERENCES, continued

- (e) Section 188 of Public Law 108-458, “Intelligence Reform and Terrorism Prevention Act of 2004,” December 17, 2004
- (f) Executive Order 12863, “President’s Foreign Intelligence Advisory Board,” September 13, 1993, as amended by Executive Order 13070, December 15, 1997; Executive Order 13301, May 14, 2003; and Executive Order 13376, April 13, 2005
- (g) Chapter 36 and sections 401a(2), 413, and 1541-1548 of title 50, United State Code
- (h) DoD 5240.1-R, “Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons,” December 11, 1982
- (i) Director of Central Intelligence Directive 8/1, “Intelligence Community Policy on Intelligence Information Sharing,” June 4, 2004
- (j) DoD Directive 5148.11, “Assistant to the Secretary of Defense (Intelligence Oversight),” May 21, 2004
- (k) Joint Publication 1-02, “DoD Dictionary of Military and Associated Terms,” as amended

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### E2. ENCLOSURE 2

#### DEFINITIONS

- E2.1. All-Source Analysis. An intelligence activity involving the integration, evaluation, and interpretation of information from all available data sources and types, to include human intelligence, signals intelligence, geospatial intelligence, measurement and signature intelligence, and open source intelligence.
- E2.2. CI. Defined in Joint Publication 1-02 (Reference (k)).
- E2.3. Defense CI Components. Defined in Reference (b).
- E2.4. Defense Intelligence. Defined in Reference (b).
- E2.5. Defense Intelligence Components. Defined in Reference (b).
- E2.6. Foreign Intelligence. Defined in section 401a(2) of Reference (g).
- E2.7. Intelligence Activities. The collection, analysis, production, and dissemination of foreign intelligence and CI pursuant to References (b) and (c).
- E2.8. National Intelligence. Defined in Reference (b).
- E2.9. Covert Action. Defined in section 413 of Reference (g).
- E2.10. U.S. Person. Defined in Reference (c).

### **Appendix 4-6: SECNAVINST 5820.7C - Cooperation with Civilian Law Enforcement Officials**

# APPENDIX 4: MILITARY SUPPORT TO LAW ENFORCEMENT



DEPARTMENT OF THE NAVY  
OFFICE OF THE SECRETARY  
1000 NAVY PENTAGON  
WASHINGTON, DC 20350-1000

SECNAVINST 5820.7C  
N3/N5  
26 January 2006

SECNAV INSTRUCTION 5820.7C

From: Secretary of the Navy

Subj: COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS

Ref: (a) DOD Directive 5525.5 of 15 Jan 86  
(b) DOD Directive 3025.12 of 4 Feb 94  
(c) Title 10, U.S. Code, Sections 371-382  
(d) SECNAVINST 5211.5D  
(e) DOD 4515.13-R, Air Transportation Eligibility, of Nov 94  
(f) SECNAVINST 5430.107  
(g) SECNAVINST 3820.3E  
(h) Title 18, U.S. Code, Section 1385  
(i) CJCSI 3121.01B

1. Purpose. This instruction implements reference (a) and Department of the Navy (DON) policy, responsibilities, and procedures for the transfer of relevant information, and the provision of equipment, facilities and personnel to Federal, State, and local civilian law enforcement officials. This instruction has been administratively revised and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 5820.7B.

3. Scope. This instruction applies to all DON commands and activities. This instruction does not apply to cooperation with foreign officials (which follows the guidance of applicable international agreements and the administrative and operational chain of command). Use of DON personnel in civil disturbances and related matters is addressed by reference (b). Assistance to the government of the District of Columbia is addressed by separate Department of Defense (DOD) guidance.

4. Policy. It is DON policy to cooperate with civilian law enforcement officials (employees with the responsibility for enforcement of the laws within the jurisdiction of U.S. Federal, State, or local governmental agency) 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

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26 January 2006

civilian law enforcement activities, and applicable law. Assistance provided under this instruction shall be at the lowest cost practicable. Assistance may not be provided under this instruction if such assistance could adversely affect national security or military preparedness.

### 5. Procedures for Prompt Transfer of Relevant Information

a. In accordance with reference (c), DON commands and activities are encouraged to provide 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. In the event that a system of records maintained by DON to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature arising by general statute (or by rule, regulation, or order issued pursuant to the statute), the relevant records in the system of records may be referred, as a routine use under reference (d), to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute (or rule, regulation, or order issued pursuant to it). An exception may be made when information is acquired and disseminated to a civilian agency through separate channels established and approved by the Chief of Naval Operations, the Commandant of the Marine Corps, Director, Naval Criminal Investigative Service, or higher authority.

b. The planning, scheduling, and execution of compatible military training or operations may take into account the needs of civilian law enforcement officials when the collection of information is an incidental aspect of training performed for a military purpose. This does not permit the planning, scheduling or execution of military training or operations for the primary purpose of aiding civilian law enforcement officials, or 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 (which may be provided only in accordance with reference (e)).

c. The transfer of such information shall be in accordance with reference (f) (providing Naval Criminal Investigative



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Service exclusive authority for some matters, and primary authority for other matters). Naval commands are authorized to established local contact points with civilian agencies in routine law enforcement matters; commands shall coordinate with the local Naval Criminal Investigative Service Office for other matters.

d. Nothing in this section modifies DON policies or procedures concerning collection or dissemination of information for intelligence purposes under reference (g).

### 6. Procedures for Request for Equipment, Facilities, Personnel

a. All requests from civilian law enforcement officials for the use of DON equipment, facilities, or personnel under this instruction will be submitted by the requested command via the chain of command to the designated approval authority (unless approval by higher authority is required by statute or DOD guidance). On Marine Corps installations with Provost Marshals, requests shall be coordinated with the Provost Marshal. Requests requiring DoD approval must be forwarded with a recommendation and justification to approve or deny the request. Requests may be communicated by telephone when time and circumstances require immediate action. When forwarding a request, the command will provide all available relevant information concerning:

(1) The ability to provide the assistance requested without adversely affecting national security or military preparedness, and

(2) The incremental costs DON would incur in providing the requested assistance.

### b. Approval Authority for Use of Equipment and Facilities:

(1) Requests for the loan or use of equipment or facilities for more than 60 days (including a permanent disposition) or for arms, ammunition, combat vehicles, vessels, and aircraft must be approved by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)).

(2) All other requests may be approved by any of the following commands (or superiors to these commands): Naval Component and Fleet Commanders; Commanders and Commanding Officers of major Navy shore commands; Commanding Generals of Marine Corps operating forces; Commanders of Marine Corps bases, camps, aviation installations, logistics installations, and unit

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training centers; Commanding Generals of Marine Corps Reserve support activities.

### c. Approval Authority for Use of Personnel:

(1) The Secretary of Defense, via the Joint Staff (and Assistant Secretary of Defense (Reserve Affairs) for requests involving reserve personnel), is the approval authority for personnel requests that involve assignment of 50 or more DON personnel, or a period of assignment of more than 30 days, or DON intelligence components.

(2) The ASN (M&RA) may approve requests for the following use of DON personnel, except as provided above, in accordance with reference (a):

(a) To provide training or expert advice;

(b) For equipment maintenance;

(c) To monitor and communicate the movement of air and sea traffic;

(3) The Under Secretary of Defense for Personnel and Readiness, via the Joint Staff (and ASD(RA)) for requests involving reserve personnel) is the approval authority for other requests that involve the assignment of personnel.

d. Delegated Denial Authority: Requests for assistance from civilian law enforcement officials that may be approved at the Secretary of the Navy level or below may be denied by the appropriate Echelon 2 command if appropriate under this instruction.

### 7. Permissible Forms of Equipment and Facilities Assistance

a. DON activities may make equipment and facilities (base and research) available to Federal, State, or local civilian law enforcement officials for law enforcement purposes when approved as above.

b. Approval authorities shall ensure that assistance provided under this paragraph follows applicable provisions of Title 10, U.S. Code, Sections 372, 2576, 2667, Title 31, U.S. Code, Sections 1535-1536, and other applicable laws and directives (see reference (a)).

### 8. Permissible and Impermissible Forms of Personnel Assistance

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a. DoD policy (reference (a), making the Posse Comitatus Act applicable to the DON) reflects the historic tradition of limiting direct military involvement in civilian law enforcement activities. The Posse Comitatus Act (reference (h)) states:

"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."

Pursuant to reference (a), commands must adhere to this paragraph in deciding on the provision of military personnel to civilian law enforcements requests.

b. Restrictions on Direct Assistance: Except as otherwise provided in this instruction, reference (a) prohibits the following forms of direct assistance by military personnel:

(1) Interdiction of a vehicle, vessel, aircraft, or other similar activity.

(2) A search or seizure.

(3) An arrest, apprehension, stop and frisk, or similar activity.

(4) Use of military personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators.

(5) With regard to such actions described above that are conducted outside the territorial jurisdiction of the United States, 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.

(6) Further, the Secretary of the Navy may provide exceptions to the limitations contained in this instruction on a case-by-case basis:

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(a) Such exceptions shall include requests from the Attorney General for assistance under Title 21, U.S. Code, Section 873(b).

(b) Prior approval from the Secretary of Defense shall be obtained for exceptions that are likely to involve participation by members of the Navy or Marine Corps in an interdiction of a vessel or aircraft, a law enforcement search or seizure, an arrest, apprehension, or other activity that is likely to subject civilians to use of military power that is regulatory, proscriptive, or compulsory. Such approval may be granted only when the head of the civilian agency concerned verifies that:

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

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.

c. Permissible Direct Assistance. The following activities are permissible:

(1) Primary Purpose Military or Foreign Affairs:  
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 the instruction. 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:

(a) Investigations and other actions related to enforcement of the Uniform Code of Military Justice (UCMJ).

(b) 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.



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(c) Investigations and other actions related to the commander's inherent authority to maintain law and order on a military installation or facility.

(d) Protection of classified military information or equipment.

(e) Protection of DoD personnel, equipment and official guests.

(f) Such other actions that are undertaken primarily for a military or foreign affairs purpose.

(2) Department of Defense Inspector General (DOD IG): Audits and investigations conducted by, under the direction of, or at the request of the DoD Inspector General. This includes drug investigations conducted by Naval Criminal Investigative Service under DoD IG Criminal Investigations Policy Memorandum Number Five on Criminal Drug Investigative Activities of 1 October 1987.

(3) Preserve Public Order: Actions that are taken under the inherent right of the U.S. Government under the 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 reference (b), which permits use of this power in two circumstances:

(a) The emergency authority authorizes prompt and vigorous Federal action, including use of military forces, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disasters, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation.

(b) The emergency authority 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.

(4) Insurgency: Actions taken pursuant to DOD responsibilities under Title 10, U.S. Code, Sections 331-334 and

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reference (b), 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.

(5) Assistance to Executive Officials. 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, but are not limited to, the following:

(a) Protection of national parks and certain other Federal lands. Title 16, U.S. Code, Sections 23, 78 and 593.

(b) Enforcement of the Fishery Conservation and Management Act of 1976. Title 16, U.S. Code, Section 1861(a).

(c) Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons. Title 18, U.S. Code, Sections 112 and 1116.

(d) Assistance in the case of crimes against members of Congress. Title 18, U.S. Code, Section 351.

(e) Assistance in the case of crimes involving nuclear materials. Title 18, U.S. Code, Section 831.

(f) Protection of the President, Vice President, and other designated dignitaries. Title 18, U.S. Code, Section 1751 and the Presidential Protection Assistance Act of 1976.

(g) Actions taken in support of the neutrality laws. Title 22, U.S. Code, Sections 408 and 461-462.

(h) Removal of persons unlawfully present on Indian lands. Title 25, U.S. Code, Section 180.

(i) Execution of quarantine and certain health laws. 42 U.S.C. § 97.

(j) Execution of certain warrants relating to enforcement of specified civil rights laws. 42 U.S.C. § 1989.

(k) Removal of unlawful inclosures from public lands. 43 U.S.C. § 1065.

**APPENDIX 5  
CIVIL DISTURBANCE OPERATIONS**

**APPENDIX 5-1: 10 U.S.C. §§ 331-335 - THE INSURRECTION ACT**

10 USC CHAPTER 15 - 01/05/99  
TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

CHAPTER REFERRED TO IN OTHER SECTIONS  
This chapter is referred to in sections 101, 115 of this title; title 38 section 4312.

10 USC Sec. 331 01/05/99

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 331. Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

CROSS REFERENCES

Army National Guard in Federal service, call, see section 12406 of this title.

Use of Army and Air Force as posse comitatus, see section 1385 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323.

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## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

10 USC Sec. 332 01/05/99

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 332. Use of militia and armed forces to enforce Federal authority

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323.

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10 USC Sec. 333 01/05/99

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 333. Interference with State and Federal law

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it -

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect

that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 6323.

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## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

10 USC Sec. 334 01/05/99

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 334. Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2662 of this title.

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10 USC Sec. 335 01/26/98

TITLE 10 - ARMED FORCES  
Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 15 - INSURRECTION

Sec. 335. Guam and Virgin Islands included as "State" For purposes of this chapter, the term "State" includes the unincorporated territories of Guam and the Virgin Islands.

SOURCE (Added Pub. L. 90-497, Sec. 11, Sept. 11, 1968, 82 Stat. 847; amended Pub. L. 96-513, title V, Sec. 511(11)(A), Dec. 12, 1980, 94 Stat. 2920.)

### **APPENDIX 5-2: 10 U.S.C. § 2667 - Leases: Non-Excess Property of Military Departments**

**TITLE 10--ARMED FORCES**

**Subtitle A--General Military Law**

**PART IV--SERVICE, SUPPLY, AND PROCUREMENT**

**CHAPTER 159--REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY**

**SEC. 2667. LEASES: NON-EXCESS PROPERTY OF MILITARY DEPARTMENTS**

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

(a) Whenever the Secretary of a military department considers it advantageous to the United States, he may lease to such lessee and upon such terms as he considers will promote the national defense or be in the public interest, real or personal property that is--

(1) under the control of that department;

(2) not for the time needed for public use; and

(3) not excess property, as defined by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) A lease under subsection (a)-

(1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;

(2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(3) shall permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;

(4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary; and

(5) may provide, notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), or any other provision of law, for the improvement, maintenance, protection, repair, or restoration, by the lessee, of the property leased, or of the entire unit or installation where a substantial part of it is leased, as the payment of part or all of the consideration for the lease.

(c) This section does not apply to oil, mineral, or phosphate lands.

(d)(1)(A) All money rentals received pursuant to leases entered into by the Secretary of a military department under this section shall be deposited in a special account in the Treasury established for such military department, except--

(i) amounts paid for utilities and services furnished lessees by the Secretary; and

(ii) money rentals referred to in paragraph (4) or (5).

(B) Sums deposited in a military department's special account pursuant to subparagraph (A) shall be available to such military department, as provided in appropriation Acts, as follows:

(i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the leased property is located.

(ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department concerned.

(2) Payments for utilities and services furnished lessees pursuant to leases entered into under this section shall be credited to the appropriation account or working capital fund from which the cost of furnishing the utilities and services was paid.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

(3) As part of the request for authorizations of appropriations submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives for each fiscal year, the Secretary of Defense shall include--

(A) an accounting of the receipt and use of all money rentals that were deposited and expended under this subsection during the fiscal year preceding the fiscal year in which the request is made; and

(B) a detailed explanation of each lease entered into, and of each amendment made to existing leases, during such preceding fiscal year.

(4) Money rentals received by the United States directly from a lease under this section for agricultural or grazing purposes of lands under the control of the Secretary of a military department (other than lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power) may be retained and spent by the Secretary concerned in such amounts as the Secretary considers necessary to cover the administrative expenses of leasing for such purposes and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary.

(5) Money rentals received by the United States from a lease under subsection (f) shall be deposited into the account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(e) The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.

(f)(1) Notwithstanding subsection (a)(3), pending the final disposition of real property and personal property located at a military installation to be closed or realigned under a base closure law, the Secretary of the military department concerned may lease the property to any individual or entity under this subsection if the Secretary determines that such a lease would facilitate State or local economic adjustment efforts.

(2) Notwithstanding subsection (b)(4), the Secretary concerned may accept consideration in an amount that is less than the fair market value of the lease interest if the Secretary concerned determines that--

(A) a public interest will be served as a result of the lease; and

(B) the fair market value of the lease is (i) unobtainable, or (ii) not compatible with such public benefit.

(3) Before entering into any lease under this subsection, the Secretary shall consult with the Administrator of the Environmental Protection Agency in order to determine whether the environmental condition of the property proposed for leasing is such that the lease of the property is advisable. The Secretary and the Administrator shall enter into a memorandum of understanding setting forth procedures for carrying out the determinations under this paragraph.

(4) The Secretary concerned may accept under subsection (b)(5) services of a lessee for an entire installation to be closed or realigned under a base closure law, or for any part of such installation, without regard to the requirement in subsection (b)(5) that a substantial part of the installation be leased.

(5)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would--

(i) significantly affect the quality of the human environment; or

(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.

(g)(1) If a proposed lease under subsection (a) involves only personal property, the lease term exceeds one year, and the fair market value of the lease interest exceeds \$100,000, as determined by the Secretary concerned, the Secretary shall use competitive procedures to select the lessee.

(2) Not later than 45 days before entering into a lease described in paragraph (1), the Secretary concerned shall submit to Congress written notice describing the terms of the proposed lease and the competitive procedures used to select the lessee.

(h) In this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) Section 2687 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 150; Oct. 7, 1975, Pub. L. 94-107, title VI, Sec. 607(7), 89 Stat. 566; Sept. 14, 1976, Pub. L. 94-412, title V, Sec. 501(b), 90 Stat. 1258; Dec. 12, 1980, Pub. L. 96-513, title V, Sec. 511(92), 94 Stat. 2928; Oct. 12, 1982, Pub. L. 97-295, Sec. 1(34), 96 Stat. 1296; Oct. 15, 1982, Pub. L. 97-321, title VIII, Sec. 803, 96 Stat. 1572; Nov. 5, 1990, Pub. L. 101-510, div. B, title XXVIII, Sec. 2806, 104 Stat. 1787; Dec. 5, 1991, Pub. L. 102-190, div. B, title XXVIII, Sec. 2862, 105 Stat. 1559; Oct. 23, 1992, Pub. L. 102-484, div. B, title XXVIII, Sec. 2851, 106 Stat. 2625; Nov. 30, 1993, Pub. L. 103-160, div. B, title XXIX, Sec. 2906, 107 Stat. 1920; Feb. 10, 1996, Pub. L. 104-106, div. B, title XXVIII, Sec. 2831, 110 Stat. 558; Feb. 10, 1996, Pub. L. 104-106, div. B, title XXVIII, Sec. 2832, 110 Stat. 559; Feb. 10, 1996, Pub. L. 104-106, div. B, title XXVIII, Sec. 2833, 110 Stat. 559.)

### Historical and Revision Notes

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Revised section	Source (U.S. Code)	Source (Statutes at Large)
2667(a)	5:626s-3 (1st sentence). 10:1270 (1st sentence).	Aug. 5, 1947, ch. 493, Secs. 1, 6, 61 Stat. 774, 775; Sept. 28, 1951, ch. 434, Sec. 605 (as

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2667(b)	34:522a (1st sentence). 5:626s-3 (2d through 6th sentences). 10:1270 (2d through 6th sentences). 34:522a (2d through 6th sentences).	applicable to Act of Aug. 5, 1947, ch. 493, Sec. 1), 65 Stat. 366.
2667(c)	5:626s-3 (last sentence). 10:1270 (last sentence). 34:522a (last sentence).	
2667(d)	5:626s-3 (less 1st 6 sentences). 10:1270 (less 1st 6 sentences). 34:522a (less 1st 6 sentences).	
2667(e)	5:626s-6. 10:1270d. 34:522e.	

In subsection (a), the words "considers \* \* \* United States" are substituted for the words "shall deem \* \* \* Government". The words "and conditions" are omitted as surplusage. The words "he considers" are substituted for the words "in his judgment".

In subsection (a)(3), the words "excess property, as defined by section 472 of title 40" are substituted for the words "surplus to the needs of the Department within the meaning of the Surplus Property Act of 1944 [Act of October 3, 1944 (58 Stat. 765)]", in 5:626s-3, 10:1270, and 34:522a, since the words "excess property" are so defined by the Federal Property and Administrative Services Act of 1949.

In subsection (b)(2), the words "may give" are substituted for the first 12 words of the third sentence of 5:626s-3, 10:1270, and 34:522a.

The words "if the lease is revoked to allow the United States to sell the property" are substituted for the words "in the event of the revocation of the lease in order to permit sale thereof by the Government". The words "under any other provision of law" are inserted for clarity. The words "the first right to buy" are substituted for the words "a right of first refusal". The words "but this section shall not be construed as authorizing the sale of any property unless the sale thereof is otherwise authorized by law" are omitted as surplusage, since the revised section deals only with leases of property.

In subsection (b)(3), the words "must permit" are substituted for the words "Each such lease shall contain a provision permitting". The words "from the lease" are omitted as surplusage.

In subsection (b)(5), the words "any such lease" and "of such property" are omitted as surplusage.

In subsection (c), the words "This section does" are substituted for the words "The authority herein granted shall".

In subsection (e), the words "of property" are inserted for clarity. The words "leased under" are substituted for the words "made or created pursuant to". The words "may be taxed by State or local governments" are substituted for the words "shall be made subject to State or local taxation". The last sentence is substituted for the last sentence of 5:626s-6, 10:1270d, and 34:522e.

### Amendments

1993-Subsec. (f). Pub. L. 103-160, Sec. 2906(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

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Notwithstanding clause (3) of subsection (a), real property and associated personal property, which have been determined excess as the result of a defense installation realignment or closure, may be leased to State or local governments pending final disposition of such property if--

(1) the Secretary concerned determines that such action would facilitate State or local economic adjustment efforts, and

(2) the Administrator of General Services concurs in the action."

Subsec. (g). Pub. L. 103-160, Sec. 2906(b), added subsec. (g).

1992-Subsec. (b)(4). Pub. L. 102-484 inserted `, in the case of the lease of real property," after `shall provide".

1991-Subsec. (b)(3). Pub. L. 102-190, Sec. 2862(a)(1), substituted `shall permit" for `must permit" and struck out `and" at end.

Subsec. (b)(4). Pub. L. 102-190, Sec. 2862(a)(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(5). Pub. L. 102-190, Sec. 2862(a)(2), (4), redesignated par. (4) as (5) and inserted `improvement," before `maintenance" and `the payment of" before `part or all".

Subsec. (d)(3). Pub. L. 102-190, Sec. 2862(b), redesignated subpar. (B) as par. (3), substituted `As part of the request for authorizations of appropriations submitted to the Committees on Armed Services of the Senate and House of Representatives for each fiscal year" for `As part of the request for authorizations of appropriations to such Committees for each fiscal year after fiscal year 1992", redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and struck out former subpar. (A) which read as follows: `As part of the request for authorizations of appropriations for fiscal year 1992 to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an explanation of each lease from which money rentals will be received and deposited under this subsection during fiscal year 1991, together with an estimate of the amount to be received from each such lease and an explanation of the anticipated expenditures of such receipts."

1990-Subsec. (d). Pub. L. 101-510 added pars. (1) to (3), redesignated former par. (2) as (4), and struck out former par. (1) which read as follows: `Except as provided in paragraph (2), money rentals received by the United States directly from a lease under this section shall be covered into the Treasury as miscellaneous receipts. Payments for utilities or services furnished to the lessee under such a lease by the department concerned may be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid."

1982-Subsec. (b)(4). Pub. L. 97-295 substituted `of" for `entitled `An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved" after `section 321 of the Act".

Subsec. (d). Pub. L. 97-321 designated existing provisions as par. (1), substituted `Except as provided in paragraph (2), money" for `Money", and added par. (2).

1980-Subsec. (a)(3). Pub. L. 96-513, Sec. 511(92)(A), substituted `section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)" for `section 472 of title 40".

Subsec. (b)(4). Pub. L. 96-513, Sec. 511(92)(B), substituted `section 321 of the Act entitled `An act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b)," for `section 303b of title 40".

Subsec. (e). Pub. L. 96-513, Sec. 511(92)(C), substituted `Act" for `act".

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Subsec. (f). Pub. L. 96-513, Sec. 511(92)(D), substituted ``the Secretary" for ``The Secretary", and substituted ``the Administrator of General Services" for ``The Administrator of the General Services Administration".

1976-Subsec. (b)(4), (5). Pub. L. 94-412 struck out par. (4) which required leases of nonexcess property of a military department include a provision making the lease revocable during a national emergency declared by the President, and redesignated par. (5) as (4).

1975-Subsec. (f). Pub. L. 94-107 added subsec. (f).

### Change of Name

Committee on Armed Services of House of Representatives changed to Committee on National Security of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

### Effective Date of 1980 Amendment

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

### Savings Provision

Amendment by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of amendment, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

### Leasing of Defense Property; Notification of Congress; Waiver; Report to Congress; Definition

Pub. L. 96-533, title I, Sec. 109(a)-(e), Dec. 16, 1980, 94 Stat. 3137, which provided that before the Secretary of a military department exercised his authority under section 2667 of title 10, United States Code, in order to lease defense property to a foreign government for a period of more than six months, the President had to transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a written notification of the particulars of the proposed lease, was repealed by Pub. L. 97-113, title I, Sec. 109(d)(1), Dec. 29, 1981, 95 Stat. 1526. See section 2795 et seq. of Title 22, Foreign Relations and Intercourse.

### Section Referred to in Other Sections

This section is referred to in title 16 section 670a; title 22 section 2796.

### SEC. 2667a. Leases: non-excess property of Defense Agencies

(a) LEASE AUTHORITY.—Whenever the Secretary of Defense considers it advantageous to the United States, the Secretary may lease to such lessee and upon such terms as the Secretary considers will promote the national defense or to be in the public interest, personal property that is—

(1) under the control of a Defense Agency;

(2) not for the time needed for public use; and

(3) not excess property, as defined by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) LIMITATION, TERMS, AND CONDITIONS.—A lease under subsection (a)—

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

- (1) may not be for more than five years unless the Secretary of Defense determines that a lease for a longer period will promote the national defense or be in the public interest;
  - (2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;
  - (3) shall permit the Secretary to revoke the lease at any time, unless the Secretary determines that the omission of such a provision will promote the national defense or be in the public interest;
  - (4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary; and
  - (5) may provide, notwithstanding any other provision of law, for the improvement, maintenance, protection, repair, restoration, or replacement by the lessee, of the property leased as the payment of part or all of the consideration for the lease.
- (c) **COMPETITIVE SELECTION.**—(1) If the term of a proposed lease under subsection (a) exceeds one year and the fair market value of the lease interest exceeds \$100,000, as determined by the Secretary of Defense, the Secretary shall use competitive procedures to select the lessee.
- (2) Not later than 45 days before entering into a lease described in paragraph (1), the Secretary shall submit to Congress a written notice describing the terms of the proposed lease and the competitive procedures used to select the lessee.
- (d) **DISPOSITION OF MONEY RENT.**—Money rentals received pursuant to a lease entered into by the Secretary of Defense under subsection (a) shall be deposited in a special account in the Treasury established for the Defense Agency whose property is subject to the lease. Amounts in a Defense Agency's special account shall be available, to the extent provided in appropriations Acts, solely for the maintenance, repair, restoration, or replacement of the leased property.

### APPENDIX 5-3: 18 U.S.C. § 231 - Civil Disorders

#### Sec. 231. - Civil disorders

**(a)**

- (1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or
- (2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or
- (3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function –



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Shall be fined under this title or imprisoned not more than five years, or both.

(b) Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his official duties

### **APPENDIX 5-4: 18 U.S.C. § 1382 - Entering Military, Naval, or Coast Guard Property**

#### **Sec. 1382. - Entering military, naval, or Coast Guard property**

Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof -

Shall be fined under this title or imprisoned not more than six months, or both

### **APPENDIX 5-5: 28 U.S.C. § 1346, 2671-2680 - Federal Tort Claims Act**

**28 U.S.C. §1346, 2002**  
United States as Defendant

#### *Sec. 1346. United States as defendant*

(a) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;

(2) Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

(b)(1) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.

(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 6226, 6228(a), 7426, or 7428 (in the case of the United States district court for the District of Columbia) or section 7429 of the Internal Revenue Code of 1986.

(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.

(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

### *SOURCE*

(June 25, 1948, ch. 646, 62 Stat. 933; Apr. 25, 1949, ch. 92, Sec. 2(a), 63 Stat. 62; May 24, 1949, ch. 139, Sec. 80(a), (b), 63 Stat. 101; Oct. 31, 1951, ch. 655, Sec. 50(b), 65 Stat. 727; July 30, 1954, ch. 648, Sec. 1, 68 Stat. 589; Pub. L. 85-508, Sec. 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 88-519, Aug. 30, 1964, 78 Stat. 699; Pub. L. 89-719, title II, Sec. 202(a), Nov. 2, 1966, 80 Stat. 1148; Pub. L. 91-350, Sec. 1(a), July 23, 1970, 84 Stat. 449; Pub. L. 92-562, Sec. 1, Oct. 25, 1972, 86 Stat. 1176; Pub. L. 94-455, title XII, Sec. 1204(c)(1), title XIII, Sec. 1306(b)(7), Oct. 4, 1976, 90 Stat. 1697, 1719; Pub. L. 95-563, Sec. 14(a), Nov. 1, 1978, 92 Stat. 2389; Pub. L. 97-164, title I, Sec. 129, Apr. 2, 1982, 96 Stat. 39; Pub. L. 97-248, title IV, Sec. 402(c)(17), Sept. 3, 1982, 96 Stat. 669; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102-572, title IX, Sec. 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104-134, title I, Sec. 101((a)) (title VIII, Sec. 806), Apr. 26, 1996, 110 Stat. 1321, 1321-75; renumbered title I, Pub. L. 104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-331, Sec. 3(b)(1), Oct. 26, 1996, 110 Stat. 4069.)

### *HISTORICAL AND REVISION NOTES*

#### 1948 ACT

Based on title 28, U.S.C., 1940 ed., Sec. 41(20), 931(a), 932 (Mar. 3, 1911, ch. 231, Sec. 24, par. 20, 36 Stat. 1093; Nov. 23,

1921, ch. 136, Sec. 1310(c), 42 Stat. 311; June 2, 1924, ch. 234, Sec. 1025(c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, Sec. 1122(c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, Sec. 410(a), 411, 60 Stat. 843).

Section consolidates provisions of section 41(20) conferring jurisdiction upon the district court, in civil actions against the United States, with the first sentence of section 931(a) relating to jurisdiction of the district courts in tort claims cases, and those provisions of section 932 making the provisions of said section 41(20), relating to counterclaim and set-off, applicable to tort claims cases, all of title 28, U.S.C., 1940 ed.

Provision in section 931(a) of title 28, U.S.C., 1940 ed., for trials without a jury, is incorporated in section 2402 of this revised title. For other provisions thereof, see Distribution Table.

Words "commencing an action under this section" in subsec. (c) of this revised section cover the provision in section 932 of title 28, U.S.C., 1940 ed., requiring that the same provisions "for counterclaim and set-off" shall apply to tort claims cases brought in the district courts.

The phrase in section 931(a) of title 28, U.S.C., 1940 ed., "accruing on and after January 1, 1945" was omitted because

executed as of the date of the enactment of this revised title. Provisions in section 41(20) of title 28, U.S.C., 1940 ed., relating to time for commencing action against United States and jury trial constitute sections 2401 and 2402 of this title. (See reviser's notes under said sections.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., "commenced after passage of the Revenue Act of 1921" were not

included in revised subsection (a)(1) because obsolete and superfluous. Actions under this section involving erroneous or

illegal assessments by the collector of taxes would be barred unless filed within the 5-year limitation period of section 1113(a) of the Revenue Act of 1926, 44 Stat. 9, 116. (See *United States v. A. S. Kreider Co.*, 1941, 61 S.Ct. 1007, 313 U.S. 443, 85 L.Ed. 1447.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., "if the collector of internal revenue is dead or is not in office at the

time such action or proceeding is commenced" were omitted. The revised section retains the language of section 41(20) of

title 28, U.S.C., 1940 ed., with respect to actions against the United States if the collector is dead or not in office when action is commenced, and consequently maintains the long existing distinctions in practice between actions against the United States and actions against the collector who made the assessment or collection. In the latter class of actions either party may demand a jury trial while jury trial is denied in actions against the United States. See section 2402 of this title. In reality all such actions are against the United States and not against local collectors. (See *Lowe v. United States*, 1938, 58 S.Ct. 896, 304 U.S. 302, 82 L.Ed. 1362; *Manseau v. United States*, D.C.Mich. 1943, 52 F.Supp. 395, and *Combined Metals Reduction Co. v. United States*, D.C.Utah 1943, 53 F.Supp. 739.)

The revised subsection (c)(1) omitted clause: "but no suit pending on the 27th day of June 1898 shall abate or be

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affected by this provision," contained in section 41(20) of title 28, U.S.C., 1940 ed., as obsolete and superfluous. The words contained in section 41(20) of title 28, U.S.C., 1940 ed., "claims growing out of the Civil War, and commonly known as 'war-claims,' or to hear and determine other claims which had been reported adversely prior to the 3d day of March 1887 by any court, department, or commission authorized to have and determine the same," were omitted for the same reason.

The words "in a civil action or in admiralty," in subsection (a)(2), were substituted for "either in a court of law, equity, or admiralty" to conform to Rule 2 of the Federal Rules of Civil Procedure.

Words in section 41(20) "in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable" were omitted from subsection (a)(2) of this revised section as unnecessary. See reviser's note under section 1491 of this title.

For jurisdiction of The Tax Court to review claims for refunds of processing taxes collected under the unconstitutional Agriculture Adjustment Act, see sections 644-659 of title 7, U.S.C., 1940 ed., Agriculture, and the 1942 Revenue Act, Act Oct. 21, 1942, ch. 610, title V, Sec. 510(a), (c), (d), 56 Stat. 667. (See, also, *Lamborn v. United States*, C.C.P.A. 1939, 104 F.2d 75, certiorari denied 60 S.Ct. 115, 308 U.S. 589, 84 L.Ed. 493.) See, also, reviser's note under section 1491 of this title as to jurisdiction of the Court of Claims in suits against the United States generally. For venue of actions under this section, see section 1402 of this title and reviser's note thereunder. Minor changes were made in phraseology.

### SENATE REVISION AMENDMENT

The provision of title 28, U.S.C., Sec. 932, which related to application of the Federal Rules of Civil Procedure, were originally set out in section 2676 of this revised title, but such section 2676 was eliminated by Senate amendment. See 80th Congress Senate Report No. 1559, amendment No. 61.

### 1949 ACT

This section corrects typographical errors in section 1346(a)(1) of title 28, U.S.C., and in section 1346(b) of such title.

### REFERENCES IN TEXT

The internal-revenue laws, referred to in subsec. (a)(1), are classified generally to Title 26, Internal Revenue Code. Sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978, referred to in subsec. (a)(2), are classified to sections 607(g)(1) and 609(a)(1) of Title 41, Public Contracts. Sections 6226, 6228(a), 7426, 7428, and 7429 of the Internal Revenue Code of 1986, referred to in subsec. (e), are classified to sections 6226, 6228(a), 7426, 7428, and 7429, respectively, of Title 26, Internal Revenue Code.

### AMENDMENTS

1996 - Subsec. (b). Pub. L. 104-134 designated existing provisions as par. (1) and added par. (2). Subsec. (g). Pub. L. 104-331 added subsec. (g).

1992 - Subsec. (a). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1986 - Subsec. (e). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1982 - Subsec. (a). Pub. L. 97-164 substituted "United States Claims Court" for "Court of Claims". Subsec. (e). Pub. L. 97-248 substituted "section 6226, 6228(a), 7426, or" for "section 7426 or section".

1978 - Subsec. (a)(2). Pub. L. 95-563 excluded from the jurisdiction of district courts civil actions or claims against the United States founded upon any express or implied contract with the United States or for damages in cases not sounding in tort subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978.

1976 - Subsec. (e). Pub. L. 94-455 inserted "or section 7429" and "or section 7428 (in the case of the United States district court for the District of Columbia)", after "section 7426".

1972 - Subsec. (f). Pub. L. 92-562 added subsec. (f).

1970 - Subsec. (a)(2). Pub. L. 91-350 specified that the term "express or implied contracts with the United States" includes express or implied contracts with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration.

1966 - Subsec. (e). Pub. L. 89-719 added subsec. (e).

1964 - Subsec. (d). Pub. L. 88-519 struck out provisions which prohibited district courts from exercising jurisdiction of civil actions or claims to recover fees, salary, or compensation for official services of officers or employees of the United States.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

1958 - Subsec. (b). Pub. L. 85-508 struck out reference to District Court for Territory of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1954 - Subsec. (a)(1). Act July 30, 1954, struck out language imposing jurisdictional limitation of \$10,000 on suits to recover taxes.

1951 - Subsec. (d). Act Oct. 31, 1951, inserted references to "claim" and "employees".

1949 - Subsec. (a)(1). Act May 24, 1949, Sec. 80(a), inserted ", (i) if the claim does not exceed \$10,000 or (ii)". Subsec. (b). Acts Apr. 25, 1949, and May 24, 1949, Sec. 80(b), made a technical change to correct "chapter 173" to read "chapter 171", and inserted "on and after January 1, 1945" after "for money damages".

### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-331 effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as an Effective Date note under section 1296 of this title.

### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

### EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as an Effective Date note under section 6221 of Title 26, Internal Revenue Code. Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978 and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

### EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91-350 provided that:

"(a) In addition to granting jurisdiction over suits brought after the date of enactment of this Act (July 23, 1970), the provisions of this Act (amending this section and section 1491 of this title and section 724a of former Title 31, Money and Finance) shall also apply to claims and civil actions dismissed before or pending on the date of enactment of this Act if the claim or civil action is based upon a transaction, omission, or breach that occurred not more than six years prior to the date of enactment of this Act (July 23, 1970).

"(b) The provisions of subsection (a) of this section shall apply notwithstanding a determination or judgment made prior to the date of enactment of this Act that the United States district courts or the United States Court of Claims did not have

jurisdiction to entertain a suit on an express or implied contract with a nonappropriated fund instrumentality of the United States described in section 1 of this Act."

### EFFECTIVE DATE OF 1966 AMENDMENT

Section 203 of title II of Pub. L. 89-719 provided that: "The amendments made by this title (amending this section and sections 1402 and 2410 of this title) shall apply after the date of the enactment of this Act (Nov. 2, 1966)."

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

### TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the "transition period", being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 995, 1295, 1402, 1413, 2402, 2409a, 2671, 2676, 2677, 2678, 2679, 2680, 3901, 3902, 3903, 3905 of this title; title 2 section 190g; title 3 sections 435, 451, 453; title 5 sections 3373, 3374, 8477; title 10 sections 1054, 1089; title 14 sections 821, 823a; title 16 sections 450ss-3, 698v-5; title 18 section 2712; title 22 sections 2702, 3761, 4606; title 25 sections 640d-17, 1680c; title 26 section 7422; title 29 section 938; title 32 section 509; title 38 sections 515, 1151, 7316; title 41 sections 113, 602; title 42 sections 233, 238q, 405, 2212, 2221, 2223, 2458a, 4654, 5055, 7142c; title 43 section 1737; title 46 App. section 1242; title 47 section 606; title 48 section 1905; title 49 section 44309; title 50 App. sections 9, 2410.

Source: <http://uscode.house.gov/usc.htm>

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### UPDATE: None

#### **28 U.S.C. §2671, et seq., 2002**

Federal Tort Claims Act

##### *Section 2671. Definitions*

As used in this chapter and sections 1346(b) and 2401(b) of this title, the term "Federal agency" includes the executive departments, the judicial and legislative branches, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States.

"Employee of the government" includes officers or employees of any federal agency, members of the military or naval forces of the United States, members of the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

"Acting within the scope of his office or employment", in the case of a member of the military or naval forces of the United States or a member of the National Guard as defined in section 101(3) of title 32, means acting in line of duty.

##### *Section 2672. Administrative adjustment of claims*

The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred: Provided, That any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award,

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

compromise, or settlement in an amount in excess of \$2,500 made pursuant to this section or made by the Attorney General in any amount pursuant to section 2677 of this title shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments and compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the government whose act or omission gave rise to the claim, by reason of the same subject matter.

### *Section 2673. Reports to Congress*

The head of each federal agency shall report annually to Congress all claims paid by it under section 2672 of this title, stating the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim.

### *Section 2674. Liability of United States*

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.

With respect to any claim under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.

With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter.

### *Section 2675. Disposition by federal agency as prerequisite; evidence*

(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim.

(b) Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages.

### *Section 2676. Judgment as bar*

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The judgment in an action under section 1346(b) of this title shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the government whose act or omission gave rise to the claim.

### *Section 2677. Compromise*

The Attorney General or his designee may arbitrate, compromise, or settle any claim cognizable under section 1346(b) of this title, after the commencement of an action thereon.

### *Section 2678. Attorney fees; penalty*

No attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 25 per centum of any judgment rendered pursuant to section 1346(b) of this title or any settlement made pursuant to section 2677 of this title, or in excess of 20 per centum of any award, compromise, or settlement made pursuant to section 2672 of this title.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

### *Section 2679. Exclusiveness of remedy*

(a) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

(b)(1) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a civil action against an employee of the Government--

(A) which is brought for a violation of the Constitution of the United States, or

(B) which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized.

(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

(d)(1) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as



## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

the party defendant. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action or proceeding shall be deemed to be an action or

proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. A copy of the petition shall be served upon the United States in accordance with the provisions of Rule 4(d)(4) of the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Attorney General to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any action or proceeding subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of this title and shall be subject to the limitations and exceptions applicable to those actions.

(5) Whenever an action or proceeding in which the United States is substituted as the party defendant under this subsection is dismissed for failure first to present a claim pursuant to section 2675(a) of this title, such a claim shall be deemed to be timely presented under section 2401(b) of this title if--

(A) the claim would have been timely had it been filed on the date the underlying civil action was commenced, and

(B) the claim is presented to the appropriate Federal agency within 60 days after dismissal of the civil action.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.

### *Section 2680. Exceptions*

The provisions of this chapter and section 1346(b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.

(d) Any claim for which a remedy is provided by sections 741-752, 781-790 of Title 46, relating to claims or suits in admiralty against the United States.

(e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1-31 of Title 50, Appendix.

(f) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.

[ (g) Repealed. Sept. 26, 1950, c. 1049, § 13(5), 64 Stat. 1043.]

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights: Provided, That, with regard to

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this chapter and section 1346(b) of this title shall apply to any claim arising, on or after the date of the enactment of this proviso, out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. For the purpose of this subsection, "investigative or law enforcement officer" means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.

- (i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.
- (j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.
- (k) Any claim arising in a foreign country.
- (l) Any claim arising from the activities of the Tennessee Valley Authority.
- (m) Any claim arising from the activities of the Panama Canal Company.
- (n) Any claim arising from the activities of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives.

*Source:* <http://uscode.house.gov/usc.htm>

### APPENDIX 5-6: 31 U.S.C. § 1535 - Agency Agreements

#### Sec. 1535. - Agency agreements

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if -

- (1) amounts are available;
- (2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;
- (3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
- (4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

(b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request 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 -

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not -

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds

### APPENDIX 5-7: Table 2-1 and 2-2, AR 700-131 – Loan, Lease and Donation of Army Materiel

Table 2-1. Equipment normally executed on a reimbursable basis: agreements, bonds, and insurance requirements				
Borrower	Loan or lease agreement required	Surety bond required	Vehicular insurance required	Radioactive material license (as applicable)
Army or other DOD activities	See <a href="#">note (1)</a>	No	No	Yes ( 5 , 6 )
Non-DOD Federal department and agencies	Yes	No	No	Yes
Civil authorities (State and local governments)	Yes	Yes ( 2 )	Yes (2)	Yes ( 7 )
Civilian activities (veteran's organizations, youth groups, etc.)	Yes	Yes	Yes	Yes (7)
Commercial Corporations	Yes	Yes ( 3 )	Yes ( 4 )	Yes (7)

**Notes:**

1. A hand receipt or other document assigning responsibility will suffice for retail activities. A loan agreement will be required for material on loan from wholesale activities.
2. In emergency disaster relief cases, bonds and insurance will be provided within 5 days after receipt of the materiel.
3. This applies when the [Federal Acquisition Regulation \(FAR\) Part 45](#) and subparts are not applicable.
4. The requirement for a surety bond or insurance may be waived if one or the other is in effect.
5. For radioactive commodities, existing Army Commodity Licenses may cover the requirement. Contact the item manager for details.
6. For other DOD organizations, the service or agency license will probably cover the requirement. The DOD (recipient) representative must coordinate the license information.
7. An NRC license or a license from an NRC approved "Agreement State" will satisfy the requirement.

Table 2-2. Loan or lease approval authority				
Requester	Category of equipment	Loan period/extension	Action office	Approval authority
Authorized recipients	Wholesale (Army	120 days/none	AMC MSC	HQAMC (AMCOPS-

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

( para 2-11 )	Working Capital Fund) loans (nonexpendable items)	(1-year repair program — other Services)		SLA)
All (leases)	Prototype/ developmental major items	As required	SARD-SA	ASA (ALT)
Army and other DOD activities (RDT&E)	MACOM owned	1 year/none	Installation	Installation commander
	ARNG owned	1 year/none	USPFO	State AG
	USAR owned	1 year/none	Installation	USARC MSC
	Historical property (to include military art, arms, combat/ tactical vehicles, vessels and aircraft)	2 years/2years	DAMH-MD	Chief, CMH
	Prime Power Program	1 year/1 year	HQDA (ZCM)	Asst Chief of Engineers
	Floating plant	As negotiated	Water resource support center	Asst Chief of Engineers
	COMSEC	1 year/none	USACCSLA	USACCSLA
	Wholesale equipment (no readiness/DAMPL impact)	1 year/1 year	AMC MSC	HQAMC (AMCOPS-SLA)
	Wholesale equipment (readiness/DAMPL impact)	1 year/none	AMC MSC	HQDA ODCS, G-4
Army RDT&E activities; or Army procurement agencies for use by contractor personnel or Government contractor	Wholesale equipment (no readiness/DAMPL impact)	2 years/none	AMC MSC	HQAMC (AMCOPS-SLA)
	Wholesale equipment (readiness/DAMPL impact)	2 years/none	AMC MSC	HQDA ODCS, G-4 (DALO-SMP)
	Prime Power Program	1 year/1 year	HQDA (DAEN-ZCM)	Asst Chief of Engineers
	Floating plant	As negotiated	Water resource support center	Asst Chief of Engineers
	COMSEC	2 years/none	USACSLA	USACSLA
Federal departments and agencies (non-DOD)	All arms, combat/ tactical vehicles, vessels and aircraft (fielded equipment)	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
	Prime Power Program	1 year/1 year	HQDA (DAEN-ZCM)	Asst Chief of Engineers
	Floating Plant	As negotiated	Water Resource Support Center	Asst Chief of Engineers
	Wholesale equipment (no readiness/DAMPL	1 year/1 year	AMC MSC	HQAMC (AMCOPS-SLA)

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

	impact), other than arms, combat/ tactical vehicles, vessels and aircraft			
	Wholesale equipment (readiness/DAMPL impact), other than arms, combat/ tactical vehicles, vessels and aircraft	1 year/none	AMC MSC	HQDA ODCS, G-4 (DALO-SMP)
	Medical (other than combat/tactical vehicles, vessels and aircraft)	Over 180 days	DASG-LOZ	HQDA (DASG-LOZ)
	Medical (ARNG owned, other than combat/tactical vehicles, vessels and aircraft)	Fewer than 180 days	USFPO	State AG
	Medical (MACOM owned, other than combat/ tactical vehicles, vessels and aircraft)	Fewer than 180 days	Commander, U.S. Army Medical Center (MEDCEN)/ Medical Department Activity (MEDDAC)	Installation commander
	Medical (USAR owned, other combat/ vehicles, vessels and aircraft)	Fewer than 180 days	Installation	USAR MSC
	Medical (wholesale owned), other than combat/ tactical vehicles, vessels and aircraft	Fewer than 180 days	U.S. Army Medical Materiel Agency	Commander, USAMMA
	MACOM owned (other equipment), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	Installation commander
	Historical property (to include military art, arms, combat/ tactical vehicles, vessels and aircraft)	2 years/2 years	DAMH-MD	Chief, CMH
	USAR owned (other equipment), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	USAR MSC
	ARNG owned (other equipment), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	USPFO	State AG
National Museum	Historical property, to include military art, arms, combat/ tactical vehicles, vessels and aircraft	As required for exhibition	DAMH-MD	Chief, CMH
Activities outside				

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

Federal Government:				
State; local government agencies; schools; churches; commercial activities	All arms, combat/tactical vehicles, vessels and aircraft (fielded equipment)	As required	HQDA (DALO-SMP)	ASA (ALT)
	Medical (other than combat/tactical vehicles, vessels and aircraft)	Over 180 days	HQDA (DASG-LOZ)	HQDA (DASG-LOZ)
	Medical (MACOM owned), except arms, combat/ tactical vehicles, vessels and aircraft	Fewer than 180 days	MEDCEN MEDDAC	Installation commander
	Other equipment, wholesale (no readiness/DAMPL impact), except arms, combat/tactical vehicles, vessels and aircraft	1 year/ 1 year	AMC MSC	HQAMC (AMCOPS-SLA)
	Other equipment, wholesale (readiness/DAMPL impact), except arms, combat/tactical, vehicles, vessels and aircraft	1 year/none	AMC MSC	HQ ODCS, G-4 (DALO-SMP)
	MACOM owned, except arms, combat/tactical, vehicles, vessels and aircraft	Fewer than 180 days	Installation	Installation
	ARNG owned, except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	USPFO	State AG
	USAR owned, except arms, combat/tactical, vehicles, vessels and aircraft	Fewer than 180 days	Installation	USAR MSC
Manufacturers for lease of previously produced materiel for demonstration purposes involving foreign	All equipment except prototype and nonstandard equipment	As required	ASA (ALT)	DASA (DEC)
	All prototype and nonstandard equipment	As required	ASA (ALT)	ASA (ALT)
Manufacturers for lease of previously produced materiel in support of R&D initiatives within the United States	All equipment except prototype and nonstandard	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
	All prototype and	As required	HQDA ODCS,	ASA (ALT)

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	nonstandard equipment		G-4 (DALO-SMP)	
Department of Agriculture:				
U.S. Forest Service	Protection against wildlife	90 days/90 days	HQDA ODCS, G-3 (DAMO-OD)	ASA (ALT)
	Avalanche control	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Animal Disease Eradication Program	All equipment except arms, combat/tactical vehicles, vessels and aircraft	90 days	HQDA ODCS, G-3 (DAMO-OD)	Operations and Readiness
DOJ, FBI	Aircraft piracy/all equipment except arms, combat/tactical vehicles, vessels and aircraft	Minimum essential	HQDA ODCS, G-3	DOD General Counsel or designee; in urgent cases, Deputy Director for Operations
Department of Treasury, United States Secret Service	All equipment except arms, combat/tactical vehicles, vessels and aircraft	Minimum essential	HQDA ODCS, G-3	Executive Secretary of the Department of Defense Military Assistant to the President
Civilian law enforcement:				
Civil disturbances and terrorist activities and planned events with potential for lethal force	All personnel, arms, combat/ tactical vehicles, vessels, and aircraft, even if applicable under other categories	15 days/15 days	HQDA ODCS, G-3 (DAMO-OD) through ASA (ALT)	SECDEF
	Riot control agents, concertina wire, and other equipment to be employed in control of civil disturbances	15 days/15 days	HQDA ODCS, G-3 (DAMO-OD) through ASA (ALT)	SECDEF
	Fire fighting resources and equipment of a protective nature (masks, helmets, body armor, vests) and use of Army facilities	15 days/15 days	Installation	Installation commander, State AG, Commander Military District of Washington/CG Unified Commands outside continental United States (OCONUS)/ HQAMC
Other law/drug enforcement activities	Medical, except combat/tactical vehicles, vessels and aircraft	Over 180 days	HQDA (DASG-LOZ)	HQDA (DASG-LOZ)
	Medical (MACOM owned), except combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Commander (MEDCEN/MEDDAC)	Installation commander

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

	Medical (ARNG owned), except, combat/tactical and aircraft	Fewer than 180 days	USPFO	State AG
	Medical (USAR owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	USARC MSC
	Medical wholesale, except combat/ tactical vehicles, vessels, aircraft	Less than 180 days	USAMMA	Commander, USAMMA
	Other wholesale equipment (no readiness/DAMPL impact), except combat/tactical vehicles, vessels and aircraft	1 year/1 year	AMC MSC	HQDA AMC (AMCOPS-SLA)
	Other wholesale equipment (readiness/DAMPL impact), except combat/tactical vehicles, vessels and aircraft	1 year/none	AMC MSC	HQDA ODCS, G-4 (DALO-SMP)
	Other equipment (MACOM owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	Installation commander
	Other equipment (ARNG owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	USFPO	State AG
	Other equipment (USAR owned), except arms, combat/tactical vehicles, vessels and aircraft	Fewer than 180 days	Installation	USARC MSC
Federal law enforcement agencies (only)	Ammunition	As required	HQDA ODCS, G-4 (DALO-SMP/Supply Management Army (SMA)	ASA (ALT)
Red Cross (aid to DOD in time of war)	Administrative and general support	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Foreign governments	All equipment, except combat/ tactical vehicles, vessels and aircraft	As required, not to exceed 5 years	HQDA ODCS, G-4 (DALO-SMP)	Director, Defense Security Assistance Agency
Youth groups:				
Boy and Girl Scouts of America (world or national jamborees); Civil Air Patrol; Camp	MACOM owned	As required for event	Installation	Installation commander



APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

Fire Girls, Inc; YMCA; YWCA; Boy's Club of America; Four-H Clubs; and similar groups				
	Wholesale	As required for event	AMC MSC	HQAMC
	USAR owned	As required for event	Installation	USARC MSC
	ARNG owned	As required for event	USFPO	State AG
Army flying clubs	Aircraft	As negotiated	Installation	ASA (ALT), Command General (CG) FORSCOM continental United State (CONUS)
Veterans organizations	Convention assistance (furniture)	15 days/15 days	Installation	Installation commander
	Furniture (MACOM owned)	15 days/15 days	Installation	Installation commander
	Furniture (ARNG owned)	15 days/15 days	USPFO	State AG
	Burial functions (obsolete rifles)	As required	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
Aid to District of Columbia Government in combating crime	Materiel and supplies	As negotiated	HQDA ODCS, G-3 (DAMO-OD)	ASA (ALT)
Disaster relief: Federal Emergency Management Agency (FEMA)	Materiel and supplies	For minimum essential period	HQDA (DAMO-OD)	SECDEF
	For rehabilitation reconstruction (bridges, etc.)	For minimum essential period when requested by FEMA	HQDA ODCS, G-4 (DALO-SMP)	ASA (ALT)
USACE District Commander	Flood fighting equipment and supplies	For minimum essential period	USACE District	
American National Red Cross in support of local civilian Government disaster relief	Materiel and supplies	For minimum essential period	Installation	Installation commander
	USAR owned, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	Installation	USARC MSC
	ARNG-owned, except	For minimum	USPFO	State AG

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	arms, combat/tactical and aircraft	essential period		
Environmental Protection Agency and U.S. Coast Guard (oil and petroleum spills)	Materiel, supplies, and equipment	For minimum essential period	HQDA ODCS, G-3 (DAMO-OD)	ASA (ALT)
Environmental Protection Agency and U.S. Coast Guard	Equipment/supplies, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	HQDA ODCS, G-3 (DAMO-OD)	ASD (&L)
Foreign Disaster Assistance	Equipment/supplies, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	Through Department of State to HQDA ODCS, G-3 (DAMO-OD)	ASD (International Security Affairs)
Civil Defense	Equipment/supplies, except arms, combat/tactical vehicles, vessels and aircraft	For minimum essential period	Installation	CG, FORSCOM
Museums and Similar Activities	Historical arms, combat/tactical vehicles, vessels and aircraft	2 year/2 year	DAMH-MD	ASA (ALT)
	Historical property other than arms, combat/tactical vehicles, vessels and aircraft	2 years/2years	DAMH-MD	Chief, CMH
	Military art	2 years/2years	DAMH-MD	Chief, CMH
Community relations and domestic action programs (Youth Conservation Corps)	Equipment for instructional purposes	As negotiated	Installation	Installation commander
	ARNG owned	As negotiated	USPFO	State AG
	USAR owned	As negotiated	Installation	USARC MSC
Authorized military health care recipients	Military	As required	HQDA (DASG-LOZ)	HQDA (DASG-LOZ)
SSF Installations	Class VII (wholesale equipment/DAMPL impact)	1 year/1 year	AMC MSC	AMC MSC
HQDA	Class VII wholesale equipment (readiness/DAMPL impact)	1 year/1 year	AMC MSC	ODCS, G-4

The full text of this regulation can be found at:

[https://akocomm.us.army.mil/usapa/epubs/xml\\_pubs/r700\\_131/head.xml](https://akocomm.us.army.mil/usapa/epubs/xml_pubs/r700_131/head.xml)

**APPENDIX 5-8: NGR 500-1/ANGI 10-8101 - Military Support to Civil Authorities**

See next page.

**National Guard Regulation 500-1/  
ANGI 10-8101**

**Emergency Employment of Army and Other  
Resources**

**National Guard  
Domestic  
Operations**

Departments of the Army and the Air Force  
National Guard Bureau  
Arlington, VA 22202-3231  
13 June 2008

**UNCLASSIFIED**

NGR 500-1/ANGI 10-8101

13 June 2008

## *SUMMARY of CHANGE*

NGR 500-1/ANGI 10-8101  
National Guard Domestic Operations  
dated 13 June 2008

- o Reflects the growth and changes in the responsibilities for Domestic Operations of the National Guard and the National Guard Bureau.
- o Incorporates the *National Response Framework*, the National Defense Authorization Act of 2008, as well as changes to the U.S. Code and other National Policies and Strategies.
- o Addresses the full range of National Guard Domestic Operations, including National Guard Homeland Defense and National Guard Civil Support and standardizes the terminology and concepts of these operations and mission areas.

# APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

Departments of the Army and the Air Force  
National Guard Bureau  
Arlington, VA 22202-3231  
13 June 2008

\*NGR 500-1/ANGI 10-8101

## Emergency Employment of Army and Other Resources

### National Guard Domestic Operations

By Order of the Secretaries of the Army and the Air Force:

**H STEVEN BLUM**  
Lieutenant General, USA  
Chief, National Guard Bureau

Official:

**GEORGE R. BROCK**  
Chief, Strategy and Policy Division

**History.** This publication is a major revision. While both the U.S. Armed Forces and the National Guard have a long history of conducting domestic operations; the scale, scope, and complexity of these operations have expanded significantly since September 11, 2001. Prior to then, military involvement in domestic operations was almost exclusively in the area of civil support operations; generally limited to providing support to civil authorities in response to natural disasters or accidents. Post 9/11, the National Guard's role has expanded to include additional Homeland Defense and Homeland Security missions.

**Summary.** This regulation/instruction prescribes policies, procedures, responsibilities, and direction for activities required for the operational employment or training of Army and Air National Guard units, personnel, and equipment. It governs the training, planning, preparations, and operations of National Guard units and forces in the Homeland, hereafter referred to as National Guard Domestic Operations (NGDO).

**Applicability.** This regulation/instruction applies to the National Guard Bureau (NGB) and to the Army and Air National Guards of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands, hereafter referred to as the several states. It does not apply to National Guard units or forces when they are serving in their federal role in the Army National Guard of the United States or the Air National Guard of the United States. When operating in their federal role, these units and forces are under Department of Defense (DoD) direction and control.

**Proponent and exception authority.** The proponent of this regulation/instruction is the National Guard Bureau Director of Domestic Operations (NGB-J3/DO). The proponent has the authority to approve exceptions to this regulation/instruction that are consistent with controlling law and regulation. Requests for exception to policy as set forth in this regulation/instruction must be submitted to the Chief, National Guard Bureau (CNGB), ATTN: NGB-J3/DO, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231. All requests must contain information detailing the reason(s) for the exception, that it will meet applicable federal, state, tribal, and local laws and how it will affect any related state program(s).

**Management Control Process.** This regulation/instruction contains management control provisions, but does not identify key management controls that must be evaluated.

**Supplementation.** Supplementation of this regulation/instruction is prohibited without prior approval from the Chief, National Guard Bureau (CNGB), ATTN: NGB-J3/DO, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231.

**Suggested Improvements.** Users are encouraged to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Chief, National Guard Bureau (CNGB), ATTN: NGB-J3/DO, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231.

\* This publication supersedes NGR 500-1/ANGI 10-8101, 1 February 1996

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**Effective Date and Implementation.** This regulation/instruction is effective immediately. The NGB Joint Staff and Service Directorates and the National Guard of the several states shall revise existing documents or develop implementing documents as necessary to comply with this regulation/instruction.  
Distribution: B/F.

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## Chapter 1 Introduction

### 1-1. Purpose

- a. Update and consolidate the policy and responsibilities for National Guard Domestic Operations.
- b. Define consistent terminology and concepts for use by the National Guard Bureau and the National Guard of the several states for the planning and conduct of National Guard Domestic Operations.
- c. Provide direction for the planning and reporting requirements for National Guard Domestic Operations.
- d. Define National Guard capabilities for NGDO.

### 1-2. References

Required and related publications and prescribed and referenced forms are listed in Appendix A. Supporting regulations and instructions, grouped by subject, are provided in Appendix B.

### 1-3. Explanation of Abbreviations and Terms

Abbreviations, terms, and special terms used in this publication are listed in the glossary.

## Chapter 2 Responsibilities

### 2-1. The Chief of the National Guard Bureau (CNGB)

- a. Serves as the principal advisor to the Secretaries of the Army and Air Force and to the Army and Air Force Chiefs of Staff on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.
- b. Serves as a principal advisor to the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff, on matters involving non-federalized National Guard forces and on other matters as determined by the Secretary of Defense.
- c. Ensures the National Guard Bureau performs those functions contained in the National Guard Bureau Charter in AR 130-5/AFMD 10, as defined in regulations, or such other functions as may be prescribed by the Secretary of Defense, the Secretary of the Army, or the Secretary of the Air Force.
- d. Acts as the channel of communication to The Adjutants General, but has no authority to command the National Guard and does not have command authority over the National Guard. However, the CNGB may direct the National Guard on matters to include force structure, training, and appropriations.
- e. Directs six appropriations: three for the Army National Guard and three for the Air National Guard (pay and allowance, operations and maintenance, and construction for each organization).
- f. Supports, as required, the reporting requirements of the Secretary of Defense on National Guard readiness for National Guard Domestic Operations including the Annual Report on National Guard and Reserve Component Equipment and Quarterly Personnel and Unit Readiness reports.
- g. Supports the Secretary of Defense in his annual reporting requirement to the Congress on National Guard and Reserve Component Equipment by certifying the inventory of authorized and appropriated National Guard equipment (Title 10 U.S. Code, § 10541).
- h. Issues such other publications as necessary, provided that such publications are consistent with approved policies of the Secretary and Chief of Staff of the Department concerned. Such publications may cover areas of operation not fully clarified or detailed in departmental publications but will be binding only upon the Army or Air National Guard, as appropriate.
- i. Issues and maintains the additional NG 500-series regulations that establish the standards and responsibilities for the National Guard capabilities for domestic operations.
- j. Develops, maintains, and promulgates NGDO readiness and reporting systems and processes.

### 2-2. The Director of the Joint Staff of the National Guard Bureau (NGBDJS)

- a. Directs the Joint Staff of the National Guard Bureau. The NGB DJS is a Major General and is subordinate to the CNGB.
- b. Leads and directs NGB Joint Staff actions to assist the CNGB in accomplishing his/her responsibilities for the strategic direction of the National Guard forces; their operation under unified command; and their integration into an efficient team of land and air forces.

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c. Assists the CNGB in the decision making and execution process of NG missions and performs such other duties as the CNGB may prescribe.

### **2-3. The Director, Army National Guard (DARNG)**

- a. Directs resources to provide combat-ready units under the supervision and control of the CNGB. The DARNG is a Lieutenant General.
- b. Performs those administrative and operational functions of the CNGB pertaining to the Army National Guard and the Army National Guard of the United States.
- c. Formulates long range plans, programs, and budgets for input to the Department of the Army in support of state and federal missions.
- d. Administers Army Guard resources for force structure, personnel, facilities, training, and equipment.
- e. Serves as the conduit between the Army Chief of Staff and the CNGB in all matters relating to ARNG involvement in NGDO.
- f. Is responsible for sourcing support requests for ARNG assets.

### **2-4. The Director, Air National Guard (DANG)**

- a. Directs resources to provide combat-ready units under the supervision and control of the CNGB. The DANGs a Lieutenant General.
- b. Performs those administrative and operational functions of the CNGB pertaining to the Air National Guard and the Air National Guard of the United States.
- c. Formulates long range plans, programs, and budgets for input to the Department of the Air Force in support of state and federal missions.
- d. Administers Air Guard resources for force structure, personnel, facilities, training, and equipment.
- e. Serves as the conduit between the Air Force Chief of Staff and the CNGB in all matters relating to ANG involvement in NGDO.
- f. Is responsible for sourcing support requests for ANG assets.

### **2-5. The Adjutants General (TAGs) of the Several States**

- a. Generally exercises the command authority of the Governor over state National Guard units and forces within their jurisdiction, in accordance with applicable state laws.
- b. Typically serves, in accordance with state law, as the principal advisor to the Governor on military matters. The Adjutant General (or Commanding General, where appropriate) directs and oversees the daily activities of the state National Guard in order to accomplish the statutory and regulatory functions assigned.
- c. Supports the CNGB in his/her advisory role to senior leaders of the Department of Defense and other federal agencies.
- d. Supports the Secretary of Defense and the CNGB in their requirement to prepare an annual plan for the military response to natural disasters, acts of terrorism, and other man-made disasters and terrorism by gathering and submitting required information from their respective state or territory.
- e. Supports the Secretary of Defense and the CNGB in preparing the Annual Report on National Guard and Reserve Component Equipment and Quarterly Personnel and Unit Readiness reports.
- f. Maintains the training and readiness of their assigned forces to conduct all assigned state and federal missions.
- g. Monitors the implementation of this publication and ensures that all directed actions are completed in a timely manner.
- h. Revises existing documents or develops implementing documents as necessary to comply with this publication and other instructions/regulations related to NGDO.
- i. Complies with the reporting requirements specified in this publication.
- j. Prepares and submits plans for NGDO as directed in this publication.
- k. Supports the CNGB in his/her role as the channel of communications between the several states and the Secretary of Defense on matters relating to the National Guard. Operates and maintains a Joint Operations Center (JOC) with the capability to receive and respond to classified messages, execute command and control operations, and provide situational awareness of NG activities and operations.

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**Chapter 3**  
**Authorities for National Guard Domestic Operations**

**3-1. The National Guard Bureau**

a. Under the provisions of Title 10 U.S. Code, section (§) 10501, as revised by the National Defense Authorization Act for Fiscal Year 2008, the National Guard Bureau is: first, a joint activity of the Department of Defense and second, the channel of communications between the Departments of the Army and the Air Force and the several states on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

b. Under the provisions of Title 10 U.S. Code, § 10503, the NGB is also responsible for:

(1) Prescribing the training discipline and training requirements for the Army National Guard (ARNG) and the Air National Guard (ANG)

(2) Assisting the Secretary of Defense in facilitating and coordinating the use of National Guard personnel and resources operating under Title 32 status or in support of state missions with other federal agencies, the TAGs of the several states, U.S. Joint Forces Command, and with the Combatant Commands with geographic responsibility for the United States

(3) Ensuring that units and members of the ARNG and ANG are trained by the several states in accordance with approved programs, policies, and guidance from the Secretaries of the Army, Air Force, and the respective Service Chiefs of Staff

(4) Facilitating and supporting the training of members and units of the National Guard to meet state requirements.

c. Pursuant to the requirements of Title 10 U.S. Code, § 10503, the Secretary of the Army and the Secretary of the Air Force jointly developed Army Regulation 130-5/Air Force Mission Directive 10 to define the organization and functions of the National Guard Bureau and to promulgate a charter for the NGB. The National Defense Authorization Act for Fiscal Year 2008 directs the Secretary of Defense, in consultation with the Secretaries of the Army and the Air Force, and the Chairman of the Joint Chiefs of Staff to develop and prescribe a revised charter for the National Guard Bureau.

d. The National Guard Bureau is the federal military coordination, administrative, policy, and logistical coordination center for the Army and Air National Guard.

e. During National Guard Domestic Operations, the National Guard Bureau provides policy guidance and facilitates assistance, when needed, by locating and coordinating National Guard units and resources.

f. In its role as the channel of communication, the National Guard Bureau assists the Secretary of Defense in preparing a plan for coordinating the use of the National Guard and members of the Armed Forces on active duty when responding to natural disasters, acts of terrorism, and other man-made disasters by providing information gathered from Governors, the Adjutants General, and other state civil authorities responsible for homeland preparation and response.

**3-2. The National Guard of the Several States**

The National Guard maintains a unique "dual status" -- with both state and federal roles and missions. This dual status is rooted in Article 1, § 8 of the Constitution. These constitutionally-based dual roles and missions result in each Guardsman holding memberships in both the Army or Air National Guard of his or her state -- for their state role and missions -- and also in the Army or Air National Guard of the United States -- for their federal role and missions.

a. The Duty Statuses in which the Guard Operates. Determining whether National Guard Soldiers and Airmen are operating in a federal status or in a state status is critical to defining their roles, responsibilities, and authorities. Status is also the primary factor for determining the applicability of law for such issues as benefits, protections, and liabilities. For instance, some laws apply to Soldiers and Airmen when they are in federal status but not when they are in state status. National Guard personnel should check with their legal office to determine a particular law's applicability.

(1) The distinction between state and federal status often assumes critical legal and financial importance. Two key principles are crucial in clarifying the status of National Guard personnel:

(a) Unless ordered into federal service, National Guard Soldiers and Airmen serve in a State Active Duty or Title 32 status, under a state chain of command, with the Governor as commander in chief.

(b) The determination of whether these Soldiers or Airmen are in federal or state status does not rest on the entity that funds the activity, but rather on the entity exercising command and control.

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(2) The President and the Governor define the circumstances under which Guardsmen would be involved in National Guard Domestic Operations in their federal and state roles respectively.

b. Authorities for Guard Operations in a Federal Status. Members of the Army National Guard and the Air National Guard are not in active federal service except when ordered or called into active federal service under proper authority. National Guard Soldiers and Airmen serving in federal status as members of the Army or Air National Guard of the United States are governed by the same authorities as their respective Title 10 Service Components.

(1) Combatant Commands

(a) United States Northern Command (USNORTHCOM) is the DoD Combatant Commander (CCDR) with responsibility for most of the United States Homeland. USNORTHCOM anticipates and conducts Homeland Defense and civil support operations involving Title 10 military forces within its assigned Area of Responsibility (AOR) to defend, protect, and secure the United States and its interests. USNORTHCOM's AOR includes air, land and sea approaches and encompasses the continental United States, Alaska, Canada, and Mexico. It also includes the surrounding continental waters out to approximately 500 nautical miles, the Gulf of Mexico and the Straits of Florida.

(b) Currently, USNORTHCOM is responsible for Defense Support to Civil Authorities (DSCA) involving Title 10 military forces for Puerto Rico and the U.S. Virgin Islands for natural disaster responses.

(c) For all situations not pertaining to natural disasters, United States Southern Command (USSOUTHCOM) is responsible for DSCA involving Title 10 military forces for Puerto Rico and the U.S. Virgin Islands.

(d) United States Pacific Command (USPACOM) is responsible for Homeland Defense and DSCA involving Title 10 military forces for Hawaii and U.S. territories and possessions in the Pacific.

(2) When National Guard Soldiers and Airmen are called to active federal service by the President or Secretary of Defense to conduct Domestic Operations in the Homeland, they will receive orders assigning them to an appropriate CCDR.

c. Authorities for National Guard Operations in a State Status. When not in active federal service, members of the National Guard are administered, armed, equipped, and trained in their status as members of the Army National Guard and the Air National Guard of the several states per Title 10 U. S. Code, § 10107 and § 10113. Members of the National Guard in a state status, Military Technicians, and Title 32 Active Guard/Reserve (AGR) members are governed by the authorities found in Title 32 U.S. Code, regulation, and by the laws of their respective state or territory.

(1) Title 32 U.S. Code, § 502 provides the authority for the use of National Guard Soldiers and Airman for training and other duty as prescribed by the Secretary of the Army or the Secretary of the Air Force. In accordance with Title 32 U.S. Code, § 502 (f) (1), the National Guard may be ordered to perform "other duty" to respond to domestic emergencies or other needs. This authority has been employed to provide airport security, to protect the borders, and to respond to natural disasters. In accordance with Title 32 U.S. Code, § 502 (f) (2) (a), the President or Secretary of Defense may request that the National Guard to perform other operations or missions. In accordance with Title 32 U.S. Code, § 502 (f) (2) (b), the National Guard may also provide instruction to Active Duty forces, foreign military forces, DoD contractors, or DoD civilians, but only in the United States, Puerto Rico, or U.S. possessions. Although these duties are wholly federally funded, for all such duty, the National Guard remains under the command and control of the respective Governor.

(2) When National Guard units or forces are not under federal control, they report to the Governor of their respective state, territory (Puerto Rico, Guam, Virgin Islands) or the Commanding General of the District of Columbia National Guard. Each of the 54 National Guard organizations is supervised by The Adjutant General (TAG) (or Commanding General, where appropriate) of the state or territory who normally exercises command of its National Guard forces for the state Governor. Under state law, the National Guard provides for the protection of life and property as well as preserving peace, order, and public safety.

(3) Army regulations and Air Force instructions govern the National Guard not in the active federal service in the same manner as they do the regular components, when such regulations or instructions have been made applicable to the National Guard. Specific applicability is indicated in departmental regulations and instructions.

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#### Chapter 4 National Guard Domestic Operations Missions

##### 4-1. The Mission of the National Guard Bureau

The National Guard Bureau is a joint activity of the Department of Defense and the Chief of the National Guard Bureau (CNGB) is a principal advisor to the Secretary of Defense. As defined in AR 130-5/AFMD 10, the mission of the National Guard Bureau is to:

- a. Participate with the Army and the Air Force staffs in the formulation, development, and coordination of all programs, policies, concepts, and plans pertaining to or affecting the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.
- b. Develop and administer such detailed operating programs as are required for the operation of the Army National Guard and the Air National Guard, based on approved programs, policies, and guidance from the Department of the Army and the Department of the Air Force.
- c. Participate with and assist the several states in the organization, maintenance, and operation of their National Guard units so as to provide trained and equipped units capable of immediate expansion to war strength, and available for service in time of war or emergency to augment the Active Army and Air Force.

##### 4-2. National Guard Domestic Operations Missions

- a. National Guard Domestic Operations fall into three mission areas:
  - (1) Homeland Defense — for which DoD serves as the primary federal agency and military forces are used to conduct military operations in defense of the Homeland
  - (2) National Guard Civil Support — for which the National Guard normally serves in a supporting role to other primary state or federal agencies by providing assistance to U.S. civil authorities at the federal, state, tribal, and local levels
  - (3) The National Guard Baseline Operating Posture — in which the National Guard conducts required planning, training, and exercises, as well as some ongoing mandated domestic operations.
- b. It is important to point out that in some circumstances National Guard Civil Support and Homeland Defense missions may overlap.
- c. National Guard Homeland Defense Missions. Homeland Defense operations are conducted in the air, land, maritime, and space domains and in the information environment. DoD is the primary federal agency for Homeland Defense, supported by other agencies. On order of the President or Secretary of Defense, National Guard units may be called to defend the Homeland against external threats. Certain National Guard units have been assigned roles in support of Homeland Defense missions, including the Air Defense of the Homeland and the Anti-Missile Defense of the Homeland. The general focus of National Guard Homeland Defense missions is on deterring and detecting external threats to the Homeland.
  - (1) While conducting Homeland Defense missions, the Guard is typically in a federal Title 10 duty status. Training and preparations for Homeland Defense missions may be conducted in Title 32 duty status. Extensive deliberate planning and preparation are required for Homeland Defense missions, as well as mission specific planning and training. National Guard forces may be required to assist civil authorities in mitigating the consequences of any attack. The National Guard must always be prepared to conduct National Guard Civil Support missions.
  - (2) Title 32 U.S. Code, Chapter 9 provides that the Secretary of Defense may provide funds to a Governor to employ National Guard units or members to conduct homeland defense activities that the Secretary determines to be necessary and appropriate for participation by the National Guard units or members, as the case may be. DoD has not yet published regulations implementing this provision of law and it has never been used.
- d. National Guard Civil Support Missions. DoD defines Civil Support (CS) as “Department of Defense support to civil authorities for domestic emergencies, and for designated law enforcement and other activities.” Civilian authorities retain primary responsibility during Civil Support operations with DoD supporting mission requirements. When federally activated, National Guard Soldiers and Airmen conduct Civil Support missions as members of the Army or Air National Guard of the United States.
  - (1) The National Guard Bureau defines National Guard Civil Support (NGCS) as, “Support provided by the National Guard of the several states while in State Active Duty status or Title 32 duty status to civil authorities for domestic emergencies, and for designated law enforcement and other activities.” National Guard Soldiers and Airmen conduct National Guard Civil Support missions in their state role.
  - (2) The National Guard supports local, state, and federal civil authorities. Almost all National Guard Civil Support is provided in Title 32 duty status or in State Active Duty status under the command and control of the

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Governors. Under the Insurrection Act and other federal statutory authorities, the President may utilize the National Guard in its federal status as members of the Army National Guard of the United States and the Air National Guard of the United States.

(3) National Guard Civil Support missions are conducted to assist in:

(a) Supporting civil authorities whose capabilities or capacity is insufficient to meet current requirements with general purpose, specialized, or unique Guard forces or capabilities

(b) Protecting the life, property, and safety of U.S. citizens and U.S. persons

(c) Protecting critical U.S. infrastructure

(d) Providing humanitarian assistance during disaster response and domestic emergencies

(e) Providing support to designated law enforcement activities and operations

(f) Providing support to designated events, programs, and other activities.

(4) The National Guard is frequently called on to conduct disaster response and domestic emergency missions. These missions are a specific subset of the National Guard Civil Support mission area. The primary responsibility for disaster relief is with the local and/or state government. Due to the local nature of most disasters, most disaster response and domestic emergency NGCS operations will be carried out under the guidance and direction of the Governor, keeping National Guard personnel under state control (either State Active Duty or Title 32 duty status). NGDO activities should be coordinated to maximize interstate cooperation during major events.

(5) Disaster response and domestic emergency missions have distinct characteristics and traits from the other missions in the National Guard Civil Support mission area. The focus of these missions is usually on providing humanitarian support and no threat or hostility is normally anticipated. While some generalized deliberate planning and preparation is possible, conditions often dictate an immediate response is required with minimal preparation or planning time available. While some specialized National Guard units and capabilities are utilized for disaster response and domestic emergency missions, normally the bulk of the forces and units employed are general purpose forces. The duration of National Guard disaster response and domestic emergency missions is typically days to weeks.

(6) In addition to the disaster response and domestic emergency missions, there are a wide range of other National Guard Civil Support missions. They range from providing support to law enforcement agencies, supporting National Special Security Events (NSSE), and protecting critical infrastructure, among others. The general focus of these NGCS missions is usually on providing support that is security-related. Normally, some level of threat or hostility is either possible or anticipated. While some generalized deliberate planning and preparation may be possible for these missions, normally mission specific planning and training will be required once National Guard support has been requested and approved. The forces utilized for National Guard Civil Support missions are typically units and/or force packages tailored and trained for the mission requirements and possessing the capabilities necessary for the specific mission. The duration of these National Guard Civil Support missions is typically weeks to months.

(7) In accordance with Title 10 U.S. Code, § 377, reimbursement may be required from a federal agency to which law enforcement support or support to a National Special Security Event is provided by National Guard personnel performing duty under Title 32 U.S. Code, § 502 (f). The Secretary of Defense may waive reimbursement.

e. The National Guard Baseline Operating Posture

(1) The National Guard of the several states operate on a day to day basis in the National Guard Baseline Operating Posture. They conduct required planning, training, and exercises, as well as ongoing mandated domestic operations in this posture. Additionally they deploy from this posture to conduct domestic operations in either the National Guard Homeland Defense or National Guard Civil Support domestic mission areas.

(2) The general focus of the National Guard Baseline Operating Posture is to maintain National Guard readiness to conduct all assigned missions in both its state and federal roles. Additionally, the National Guard maintains situational awareness of the Homeland operational environment and conducts mandated ongoing operations. Extensive training, deliberate planning, and preparation are required as well as mission specific planning and training. All National Guard forces not otherwise assigned either overseas or domestically operate on a day to day basis in this posture. National Guard Baseline Operating Posture missions are typically either long duration or ongoing requirements.

(3) The National Guard Baseline Operating Posture is intended to:

(a) Assist in deterring and preventing attacks on the U.S. Homeland.

(b) Maintain well trained and well equipped units prepared to conduct or support state or federal missions.

(c) Maintain situational awareness and detect threats or concerns.

(d) Conduct mandated ongoing domestic operations e.g., counterdrug operations.



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(4) While operating in its Baseline Operating Posture, the National Guard is typically in Title 32 status working as a state asset for the Governor.

## **Chapter 5 National Guard Capabilities for Domestic Operations**

### **5-1. Introduction**

a. The National Guard of the several states maintain unique capabilities for domestic operations. The National Guard Bureau establishes the requirements for these capabilities and defines their standards. This ensures consistency, commonality, and interoperability when National Guard units and forces conduct NGDO outside their respective state or territorial borders. The required standards for these unique capabilities for NGDO are established by the NGB in NG 500-series regulations.

b. In addition to their unique capabilities for domestic operations, a number of the National Guard's other inherent capabilities, designed to respond quickly and decisively to global requirements, also allow its rapid response to requirements within the United States.

c. The National Guard Bureau is committed to the fundamental principle that each state and territory must possess ten core capabilities for homeland readiness. Governors count on National Guard assets to be available to them within the first hours of a domestic incident. To meet the Governors' requirements, the CNGB established the following list of 10 essential capabilities for National Guard Domestic Operations:

- (1) Aviation/Airlift
- (2) Command and Control (C2)
- (3) Chemical, Biological, Radiological, Nuclear, and high-yield Explosives (CBRNE) response
- (4) Engineering
- (5) Medical
- (6) Communications
- (7) Transportation
- (8) Security
- (9) Logistics
- (10) Maintenance

### **5-2. National Guard Joint Force Headquarters-State (JFHQ-State)**

AR 130-5/AFMD 10 requires the establishment of state military headquarters in each of the several states. The JFHQ-State provides command and control of all National Guard forces in the state or territory for the Governor, or in the case of the District of Columbia, the Secretary of the Army, and can act as a joint service headquarters for national-level response efforts during contingency operations. The JFHQ-State is also responsible for providing situational awareness/common operating picture information to the NGB and other national level headquarters before and during selected domestic operations and for providing joint reception, staging, onward movement, and integration (JRSOI) of all inbound forces.

### **5-3. National Guard Joint Task Force-State (JTF-State)**

The National Guard JTF-State provides command and control for all state military assets deployed in support of civil authorities or for a specific domestic operation and facilitates the flow of information between the Joint Force Headquarters-State (JFHQ-State) and the deployed units. When National Guard units or forces are deployed to conduct NGDO, a National Guard JTF-State may be created to maintain command and control of those forces, and, as directed, other supporting state and federal forces.

### **5-4. The National Guard Counterdrug Program (NGCD)**

The National Guard Counterdrug Program is part of the U.S. national drug control strategy. As initially authorized by the President and Congress in 1989, the Department of Defense provides funds on a yearly basis to Governors of states who submit plans specifying how that state's National Guard is to be used to support drug interdiction and counterdrug activities. Support generally falls into two categories - providing support to help law enforcement stop illegal drugs from being imported, manufactured and distributed; and supporting drug demand reduction programs. These operations are conducted under the command and control of the state Governor, and not in a federal military status. Specific direction for personnel, equipment, and training for the National Guard Counterdrug Program is contained in NGR 500-2/ANGI 10-801.

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**5-5. National Guard Weapons of Mass Destruction - Civil Support Team (WMD-CST)**

WMD-CSTs perform duties in support of emergency preparedness programs to prepare for or respond to emergencies involving the use or threatened use of a Weapon of Mass Destruction (WMD), a terrorist attack or threatened terrorist attack that results in or could result in catastrophic loss of life or property, the intentional or unintentional release of nuclear, biological, radiological or toxic or poisonous chemicals that result in or could result in catastrophic loss of life or property, or a natural or manmade disaster that results in or could result in catastrophic loss of life or property. WMD-CSTs respond only to emergencies in the United States. Per Title 10 U.S. Code, § 12310, Guardsmen assigned to a WMD-CST may only conduct WMD-CST operations within the geographical limits of the United States, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands. Specific direction for personnel, equipment, and training for the National Guard Weapons of Mass Destruction - Civil Support Teams is contained in NGR 500-3/ANGI 10-2503.

**5-6. National Guard Reaction Force (NGRF)**

NGRFs provide every state with a ready force capable of delivering, when requested, a unit of 50-75 personnel within 4-8 hours and a follow-on force of up to 400 personnel within 24-36 hours. They can provide site security, presence patrols/show of force, establish roadblocks and/or checkpoints, control civil disturbances, provide force protection/security for WMD-CST or Chemical, Biological, Radiological, Nuclear, and high-yield Explosives Enhanced Response Force Package (CERFP) operations, or respond to and assist in protecting selected assets as required.

**5-7. Critical Infrastructure Protection-Mission Assurance Assessment (CIP-MAA) Detachments**

The 2005 Defense Authorization Act included modifications to Title 32 U.S. Code that allow an enhanced role for the National Guard in assessing and protecting critical infrastructure, leveraging the Guard's unique strength as a member of the local community, with its close relationship to commercial and private sector entities. CIP-MAA Detachments conduct all hazard risk assessments on prioritized federal and state critical infrastructure in support of the Defense Critical Infrastructure Program (DCIP).

**5-8. Chemical, Biological, Radiological, Nuclear, and high-yield Explosives (CBRNE) Enhanced Response Force Package (CERFP)**

CERFPs respond to a CBRNE incident and support local, tribal, state, and federal agencies managing the consequences of the event by providing capabilities to conduct casualty/patient decontamination, medical support, and casualty search and extraction. They provide immediate response capabilities to the Governor to include searching an incident site (including damaged buildings); rescuing any casualties (including extracting anyone trapped in the rubble); personnel decontamination; and performing medical triage (including trauma resuscitation and stabilization).

**5-9. Joint CONUS Communications Support Environment (JCCSE)**

JCCSE encompasses all of the vital organizations and supporting net-centric IT capabilities required by the National Guard to support DoD and the federal military and other National Guard Domestic Operations mission partners by extending interagency trusted information sharing and collaboration capabilities to and from the national level, the several states, and local incident sites.

**5-10. National Guard Modular Airborne Fire Fighting System (MAFFS)**

MAFFS provides the United States Forest Service with additional aerial fire fighting assets to assist after the capabilities of contract air tankers have been exhausted. Congress established the Modular Airborne Fire Fighting System to assist in wildfire suppression. MAFFS use Air National Guard aircraft to release retardant or water from special tanks through tubes at the rear of the plane. MAFFS units do not require any aircraft modifications and can be loaded or unloaded using specially designed trailers located at each MAFFS operational unit.

**5-11. Other National Guard Capabilities for Domestic Operations**

The National Guard of the several states provide and maintain the following additional capabilities for National Guard Domestic Operations:

- a. National Guard Expeditionary Medical Support (EMEDS). EMEDS is a modular, scalable, rapid response medical package that can be used in domestic operations such as humanitarian relief and disaster response. EMEDS comes in four modular building blocks: the Small Portable Expeditionary Aerospace Rapid Response (SPEARR)

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package, EMEDS Basic, EMEDS+10, and EMEDS+25. EMEDS facilities provides 24 hour emergency medical care plus the following capabilities: Medical Command and Control, preventive medicine, primary care, force medical protection, trauma resuscitation and stabilization, limited surgery, primary care, aeromedical evacuation coordination, aerospace medicine, urgent care, dental care, and limited ancillary services for the force and the population at risk.

b. ANG Fatality & Services Recovery Response Team (FSRT). FSRT is activated in response to mass fatality operations or accidents that may require support to local, tribal, state, or federal agencies. The FSRT is not only associated with natural or man-made disasters, but may include military aircraft mishaps and military mass casualty operations. The FSRT is a reach back capability for the National Guard CBRNE Enhanced Response Force Package (CERFP). FSRT capabilities include fatality management, food service, beddown, and water requirements.

## Chapter 6

### Planning and Reporting Requirements

#### 6-1. Planning Requirements

a. National Guard Domestic Operations vary in scale, scope, and complexity and are most frequently conducted in support of local, tribal, and state authorities. However, NGDO can include operations in support of federal agencies and the Department of Defense while simultaneously serving the Governors of their respective states. The complexity of this operational environment requires comprehensive planning to enable mission success when responding to both immediate and deliberate requests for support. Consequently, states will prepare and maintain plans for employment of their respective National Guard organizations in support of NGDO.

b. Plans should consider an all hazards approach to potential emergency situations and contain provisions for actions to be taken before, during, and after disasters. Plans should be developed and aligned with local, tribal, state, and federal response plans. Consideration should be given to continuity of operations, command and control, survivability, equipment evacuation, alert procedures, communications, and requests for support external to the state. Rules for the use of force should be specified in advance of NGDO. Plans should contain provisions for the potential transition to federal status. Plans should be exercised on a regular basis.

#### 6-2. The National Response Framework (NRF)

a. The *National Response Framework* (NRF), was developed to build upon the *National Response Plan* (NRP) and to establish a more comprehensive and streamlined national all hazards approach to domestic incident management. It forms the basis of how the federal government coordinates with state, local, and tribal governments and the private sector during incidents.

b. The National Guard of the several states and the National Guard Bureau shall consider the NRF in the planning and conduct of NGDO.

#### 6-3. Compliance with the National Incident Management System (NIMS)

a. NIMS provides a consistent nationwide approach for federal, state, tribal, and local governments to work effectively and efficiently together to prepare for, prevent, respond to, recover from and mitigate domestic incidents, regardless of cause, size or complexity. NIMS includes a core set of concepts, principles, terminology, and technologies covering the Incident Command System (ICS); Multiagency Coordination Systems (MCS); unified command; training; identification and management of resources (including systems for classifying types of resources); qualifications and certification; and the collection, tracking, and reporting of incident information and incident resources. This framework forms the basis for interoperability and compatibility that will subsequently enable a diverse set of public and private organizations to conduct well integrated and effective incident management operations.

b. The Air Force established the Air Force Information Management System (AFIMS) in AFI 10-2501. AFIMS is based on the NIMS methodology and aligns Air Force EM planning and response with the NRP as directed by Homeland Security Presidential Directive 5 (HSPD-5).

c. The National Guard and the National Guard Bureau shall operate consistent with NIMS as implemented within each state unless doing so would lead to compromising operational missions or disrupting military command authority.

**6-4. The Emergency Management Assistance Compact (EMAC)**

a. The Emergency Management Assistance Compact is a congressionally approved interstate mutual aid compact that provides a legal structure by which states affected by an emergency may request assistance from other states. Signatories to the compact resolve potential legal and financial obstacles that states might otherwise encounter as they provide assistance to the stricken state or states. The compact sets out the responsibilities of the signatory states, provides authority to officials responding from other states (except the power of arrest) equal to that held by residents of the affected state, ensures reciprocity in recognizing professional licenses or permits for professional skills, and provides liability protection (in certain areas) to responders from other states. The National Emergency Management Association (NEMA), a professional association of state emergency managers, administers the compact.

b. Since being ratified by Congress and signed into law, in 1996, (Public Law 104-321), 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands have enacted legislation to become members of EMAC. The compact establishes immunities, authorities, and liabilities for missions executed under its authority. It allows the states to rely upon each other in responding to, among other things, emergencies such as man-made or natural disasters, insurgencies, or enemy attack.

c. The National Guard and the National Guard Bureau will include options to utilize personnel and resources as outlined in EMAC in their planning for NGDO.

**6-5. Contingency Plan Development and Submission**

a. The JFHQ-States will develop and maintain written Level 3 (Base Plan plus selected Annexes) "All Hazards" contingency plans to address threats/potential disasters as specified by their respective Adjutant General. (Such plans should address at least those potential contingencies addressed in the Homeland Security Council's National Planning Scenarios, as identified in Homeland Security Presidential Directive 8/Annex I.) Such plans may be prepared as part of state interagency plans, and need not be standalone National Guard plans. (OPR: NGB-J5, Plans and Policy Division)

b. Upon Combatant Commander (CCDR) request, through the NGB, the JFHQ-States may develop supporting plans to CCDR contingency plans for NGDO missions. These plans will be standalone National Guard plans, and will be provided to the requesting CCDR through the NGB.

c. JFHQ-States are encouraged to coordinate their plans with adjacent states, and to review the plans at least annually. NGB-J5 is available to assist with plan development and coordination, and will from time to time suggest planning issues, share observed best practices, and host workshops and training activities focused on plans issues.

d. Copies of Level 3 plans prepared by the JFHQ-States will be provided to the NGB upon Adjutant General approval of the plan, and after each review. In the event the National Guard plan is a portion of a state interagency plan which may not be released to the NGB, an extract of the state plan showing the National Guard C2 Construct/Task Organization, task and purpose of all National Guard capabilities and forces accounted for in that plan will be prepared and provided to the NGB.

e. Annually in October, each JFHQ-State will provide a list of such plans it maintains, showing at least number and unclassified name of the plan, and date of publication or most recent review.

**6-6. Reporting Requirements**

a. The status of National Guard Domestic Operations is a matter of national interest at the highest civil and military levels of government. Directed by both law and regulation, the National Guard Bureau and the CNGB are responsible for the timely and accurate flow of information between the several states and the federal government. This primary mission of the NGB and the CNGB can only be accomplished with the support of the National Guard of the several states. To enable compliance with law and regulation, the National Guard Bureau has established reporting requirements for the National Guard.

b. Additionally, the CNGB is required to submit to the Secretary of Defense, through the Secretaries of the Army and the Air Force, an annual report on the state of the National Guard and the ability of the National Guard to meet its missions.

c. Reports submitted by the several states to the NGB are analyzed, compiled, and forwarded to senior leaders within the National Guard, the Department of Defense and other supporting agencies. These reports are vital to the effective and efficient management of National Guard personnel and equipment, and are critical to the conduct of NGDO and the national response to domestic emergencies.

d. NGR 500-series regulations direct the unique reporting requirements of specific domestic operations capabilities. For example, the unique reporting requirements associated with the WMD-CST capability are contained within NGR 500-3/ANGI 10-2503.

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### 6-7. Mission Reporting

a. The timely and accurate submission of information during a civil emergency, natural disaster or WMD incident is essential for decision-making at all levels of leadership. It is imperative that National Guard units provide accurate assessments of their operational environment to enable situational awareness and support local, tribal, state, and federal decision processes. National Guard units supporting NGDO will provide standard situation reports as directed by the states and the National Guard Bureau.

b. On 30 May 2006, the NGB Director of Domestic Operations issued a memorandum for the states and territories with the subject: State Situational Reporting Time and Format Change. This memorandum directs specific situational reporting requirements for state Joint Operations Centers. A reporting template designed to standardize reports is attached to the memorandum. These reports are to be submitted to the NGB JOC.

c. AFI 10-206 provides additional guidance for Air National Guard units.

d. Serious Incidents/Accidents that occur while conducting NGDO training and missions will be reported in accordance with NGR 385-10, AR 190-40 and AFI 91-301.

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**Appendix A**  
**References**

**Section I**  
**Required References**

This section contains no entries.

**Section II**  
**Related References**

**AFI 10-206/ANGSUP 1**  
Operational Reporting

**AFI 10-2501**  
Air Force Emergency Management (EM) Program Planning And Operations

**AFI 91-301/ANGSUP 1**  
Air Force Occupational and Environmental Safety, Fire Prevention, and Health (AFOSH) Program

**AR 130-5/AFMD 10**  
Organization and Functions of the National Guard Bureau

**AR 190-40**  
Serious Incident Report

**The Constitution of the United States of America**

**HSPD-5**  
Management of Domestic Incidents

**JP 1-02**  
Department of Defense Dictionary of Military and Associated Terms

**NGR 385-10**  
Army National Guard Safety & Occupational Health Program

**NGR 500-2/ANGI 10-801**  
National Guard Counterdrug Support

**NGR 500-3/ANGI 10-2503**  
Weapons of Mass Destruction Civil Support Team Management

**National Response Framework**

**National Incident Management System**

**10 USC**  
Armed Forces

**32 USC**  
National Guard

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### Section III Prescribed Forms

This section contains no entries.

### Section IV Related Forms

This section contains no entries.

### Appendix B Supporting Regulations and Instructions by Subject

<u>Subject</u>	<u>Supporting Regulations and Instructions</u>
Active Guard / Reserve Program (Title 32)	NGR (AR) 600-5, <i>The Active Guard/Reserve (AGR) Program, Title 32, Full-Time National Guard Duty (FTNGD)</i> , 20 Feb 90 AR 135-18, <i>The Active Guard Reserve (AGR) Program</i> , 1 Nov 04 ANGI 36-101, <i>The Active Guard/Reserve (AGR) Program</i> , 3 May 02
Aircraft - Use of Army and Air National Guard Aircraft	NG PAM 95-5, <i>Use of Army National Guard Aircraft</i> , 30 Jun 97 AR 700-131, <i>Loan, Lease and Donation of Army Material</i> , 23 Aug 04 AFI 65-503, <i>USAF Cost and Planning Factors</i> , 4 Feb 94 DOD Directive 4500.56, <i>DOD Policy on the use of Government Aircraft and Air Travel</i> , 2 Mar 97, CH 1- 19 Apr 99
Airlift	NGR (AR) 59-1/NGR (AF) 55-100, <i>ANG Airlift Operational Procedures</i> , 1 Feb 91
Air Transportation of Civilian Passengers and Cargo	DOD Directive 4513-R, <i>Air Transportation Eligibility</i> , 1 Nov 94, CH 1- 20 Oct 95, CH 2- 18 Nov 96, CH 3- 9 Apr 98 DOD Directive 4500.09E, <i>Transportation and Traffic Management</i> , 11 Sep 07 AR 95-1, <i>Flight Regulations</i> , 3 Feb 06 NGR 95-1, <i>ARNG Flight Regulations</i> , 1 Aug 91 ANGI 10-201, <i>Air Transportation</i> , 29 Nov 04
Aviation Training	NGR (AR) 95-210, <i>Army National Guard: General Provisions and Regulations for Aviation Training</i> , 1 Jul 91
Civilian Law Enforcement – Support to Civilian Law Enforcement Officials	DOD Directive 5525.5, <i>DOD Cooperation with Civilian Law Enforcement Officials</i> , 15 Jan 86, CH 1- 20 Dec 89
Counterdrug Program	NGR 500-2/ANGI 10-801, <i>National Guard Counterdrug Support</i> , 31 Mar 00 ANGMAN 10-1101, <i>Counterdrug (CD) Tactics C-26B and UC-26C Aircraft</i> , 31 Jan 97

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### Critical Infrastructure Program

DOD Directive 3020.40, *Defense Critical Infrastructure Program (DCIP)*, 19 Aug 2005

### Equipment Authorization

NG PAM (AR) 71-13, *Equipment Authorization Guide*, 31 Dec 91  
AFMAN 23-110/ANGSUP1, *Equipment Management*, 15 Sep 04

### Equipment – Loans and Lease of Equipment

AR 700-131, *Loan, Lease and Donation of Army Material*, 23 Aug 04  
AFI 23-119, *Exchange, Sale or Temporary Custody of Nonexcess Personal Property*,  
5 Jun 01

### Flight Safety

NG CIR 385-95, *Army National Guard (ARNG) Aviation Safety Program and Aviation  
Accident Prevention Plan (AAPP)*, 29 Mar 02  
AFI 91-202 of 1 Aug 98 / ANGSUP 1 of 27 Jan 06, *The US Air Force Mishap Prevention  
Program*

### Financial Management

NG PAM (AR) 37-1, *Financial Management Guide for National Guard Executives*, 15  
Sep 99  
NGR 37-108, *Fiscal Accounting and Reporting, Army National Guard*, 11 Aug 80,  
CH 1- 30 Apr 82  
NGR 37-110/ANGR 177-08, *Control of TDY Travel and Per Diem Costs*, 31 Aug 83  
NGR 37-111, *Administration of Training and Special Work Workdays*, 1 Mar 89, CH 1-  
30 Sep 93

### Intelligence

DOD Directive 5240.01, *DoD Intelligence Activities*, 27 Aug 07  
AR 381-10, *US Army Intelligence Activities*, 3 May 07

### Logistics

NG PAM 11-1, *Command Logistics Review Program (CLRP)*, 16 Jan 90  
AR 130-400, *Logistical Policies for Support*, 5 Jan 77

### Manning – Full-Time Support Manning

NGB PAM 570- Series, *Manning Staffing Guides for the Army National Guard  
AR 135-2, Army National Guard (ARNG) and US Army Reserve (USAR) Full-Time  
Support Program*, 15 Jan 06

### Military Emergency Preparedness Liaison Officers

DOD Directive 3025.16, *Military Emergency Preparedness Officer (EPLO) Program*,  
18 Dec 00

### National Guard Bureau – Organization and Functions

AR 130-5/AFMD 10, *Organization and Functions of National Guard Bureau*, 30  
Dec 01

### Reports

AR 190-40, *Serious Incident Report*, 9 Feb 06  
AR 220-1, *Unit Status Reporting*, 19 Dec 06  
ARNGR 220-1, *Unit Status Reporting*, 1 Aug 90  
AFI 10-201, *Status of Resources and Training System*, 13 Apr 06  
AFI 10-206, *Operational Reporting*, 4 Oct 04

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### Public Affairs

NGB PAM 360-5/ANGP 35-1, *National Guard Public Affairs Guidelines*, 29 Jun 01  
AFI 35-101, *Public Affairs Policies and Procedures*, 29 Nov 05

### Safety - Occupational Health, Prevention and Reporting

NGR 385-10, *Army National Guard Safety & Occupational Health Program*, 7 Oct 88  
AR 385-40, *Accident Reporting and Records*, 1 Nov 94  
AFI 91-301/ANGSUP 1, *Air Force Occupational and Environmental Safety, Fire Prevention, and Health (AFOSH) Program*, 3 Sep 97  
AFI 91-202/ANGSUP 1, *US Air Force Mishap Prevention Program*, 27 Jan 06  
AFI 91-204, *Safety Investigations and Reports*, 14 Feb 06

### Secret Service Support

DOD Directive 3025.13, *Employment of Department of Defense Resources in support of the United States Secret Service*, 13 Sep 85

### Special Events

DOD Directive 2000.15, *Support to Special Events*, 21 Nov 94

### State Defense Forces

NGR 10-4, *State Defense Forces National Guard Bureau and State National Guard Interaction*, 21 Sep 87

### Training

NGR (AR) 350-1, *Army National Guard Training*, 3 Jun 91  
ANGI 36-2001, *Management of Training and Operational Support within the Air National Guard*, 15 Jan 97

### United States Property and Fiscal Officers

NGR 130-6/ANGI 36-2, *United States Property & Fiscal Officer Appointment, Duties and Responsibilities*, 1 Jul 07

### Vehicles - Use of Vehicles

DOD 4500.36-R, *Management, Acquisition and Use of Motor Vehicles*, 16 Mar 07  
AR 700-131, *Loan, Lease and Donation of Army Material*, 23 Aug 04  
AFI 24-302, *Vehicle Management*, 30 Jun 06, IC 27 Oct 06

### Weapons of Mass Destruction - Civil Support Team (WMD-CST)

NGR 500-3/ANGI 10-2503, *Weapons of Mass Destruction Civil Support Team Management*, 12 Jan 2006



NGR 500-1/ANGI 10-8101

13 June 2008

**Glossary**

**Section I  
Abbreviations**

**AFI**  
Air Force Instruction

**AFMAN**  
Air Force Manual

**AFMD**  
Air Force Mission Directive

**AGR**  
Active Guard and Reserve

**ANG**  
Air National Guard

**ANGMAN**  
Air National Guard Manual

**ANGSUP**  
Air National Guard Supplement

**ANGUS**  
Air National Guard of the United States

**AO**  
Area of Operations

**AOR**  
Area of Responsibility

**AR**  
Army Regulation

**ARNG**  
Army National Guard

**ARNGUS**  
Army National Guard of the United States

**ASD(HD)**  
Assistant Secretary of Defense (Homeland Defense)

**ASD(RA)**  
Assistant Secretary of Defense (Reserve Affairs)

**AT**  
Antiterrorism

**BMD**  
Ballistic Missile Defense

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**C2**

Command and Control

**CBRNE**

Chemical, Biological, Radiological, Nuclear, and high-yield Explosives

**CCDR**

Combatant Commander

**CD**

Counterdrug

**CERFP**

CBERNE Enhanced Response Force Package

**CIP**

Critical Infrastructure Protection

**CIP-MAA**

Critical Infrastructure Protection - Mission Assurance Assessment

**CJCS**

Chairman of the Joint Chiefs of Staff

**CJCSI**

Chairman of the Joint Chiefs of Staff instruction

**CJTF**

Commander, Joint Task Force

**CM**

Consequence Management

**CNGB**

Chief of the National Guard Bureau

**CONUS**

Continental United States

**CrM**

Crisis Management

**CS**

Civil Support

**CT**

Counterterrorism

**DANG**

Director, Air National Guard

**DARNG**

Director, Army National Guard

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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**DCI**  
Defense Critical Infrastructure

**DCIP**  
Defense Critical Infrastructure Program

**DHS**  
Department of Homeland Security

**DoD**  
Department of Defense

**DODD**  
Department of Defense Directive

**DODI**  
Department of Defense Instruction

**DSCA**  
Defense Support of Civil Authorities

**EMAC**  
Emergency Management Assistance Compact

**EMEDS**  
Expeditionary Medical Support

**EOC**  
Emergency Operations Center

**EP**  
Emergency Preparedness

**ESF**  
Emergency Support Function

**FP**  
Force Protection

**FSRT**  
Fatality & Services Recovery Response Team

**HD**  
Homeland Defense

**HQ**  
Headquarters

**HS**  
Homeland Security

**HSPD**  
Homeland Security Presidential Directive

**IAW**  
In Accordance With

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## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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**ICS**

Incident Command System

**IM**

Incident Management

**ISR**

Intelligence, Surveillance, and Reconnaissance

**JA**

Judge Advocate

**JCCSE**

Joint CONUS Communications Support Environment

**JFC**

Joint Force Commander

**JFHQ-State**

Joint Force Headquarters - State

**JOA**

Joint Operations Area

**JOC**

Joint Operations Center

**JP**

Joint Publication

**JRSOI**

Joint Reception, Staging, Onward movement, and Integration

**JTF**

Joint Task Force

**JTF-State**

Joint Task Force - State

**LEA**

Law Enforcement Agency

**MAFFS**

Modular Airborne Fire Fighting System

**NCI&KA**

National Critical Infrastructure and Key Assets

**NCR**

National Capital Region

**NG**

National Guard

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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**NGB**  
National Guard Bureau

**NGBDJS**  
Director of the Joint Staff of the National Guard Bureau

**NGB-J3/DO**  
National Guard Bureau Director of Domestic Operations

**NGCD**  
National Guard Counterdrug program

**NGCS**  
National Guard Civil Support

**NGDO**  
National Guard Domestic Operations

**NGO**  
Nongovernmental Organization

**NGR**  
National Guard Regulation

**NGRF**  
National Guard Reaction Force

**NIMS**  
National Incident Management System

**NORAD**  
North American Aerospace Defense Command

**NRF**  
National Response Framework

**NRP**  
National Response Plan

**NSSE**  
National Special Security Event

**OSD**  
Office of the Secretary of Defense

**PA**  
Public Affairs

**PAM**  
Pamphlet

**PAO**  
Public Affairs Officer

**PCA**  
Posse Comitatus Act

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## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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**RC**

Reserve Component

**RUF**

Rules for the Use of Force

**SAR**

Search And Rescue

**SecDef**

Secretary of Defense

**TAG**

The Adjutant General

**USAFR**

United States Air Force Reserve

**USA**

United States Army

**USAR**

United States Army Reserve

**USCG**

United States Coast Guard

**USCGR**

United States Coast Guard Reserve

**USG**

United States Government

**USMC**

United States Marine Corps

**USMCR**

United States Marine Corps Reserve

**USNORTHCOM**

United States Northern Command

**USN**

United States Navy

**USNR**

United States Navy Reserve

**WMD**

Weapons of Mass Destruction

**WMD-CST**

Weapons of Mass Destruction - Civil Support Team

# APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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## Section II Terms

### **Air National Guard**

That part of the federally recognized organized militia of the several states that is an air force, is trained, and has its officers appointed under the sixteenth clause of section 8, Article I of the Constitution; and is organized, armed, and equipped wholly or partly at Federal expense. (AR 130-5/AFMD 10)

### **Air National Guard of the United States**

The Reserve Component of the Air Force, all of whose members are members of the Air National Guard. (Title 10 U.S. Code, § 101)

### **Antiterrorism**

Defensive measures used to reduce the vulnerability of individuals and property to terrorist acts, to include limited response and containment by local military and civilian forces. Also called AT. (DoD, JP 1-02)

### **Army National Guard**

That part of the federally recognized organized militia of the several states that is a land force, is trained, and has its officers appointed under the sixteenth clause of section 8, Article I of the Constitution; and is organized, armed, and equipped wholly or partly at Federal expense. (AR 130-5/AFMD 10)

### **Army National Guard of the United States**

The Reserve Component of the Army, all of whose members are members of the Army National Guard. (Title 10 U.S. Code, § 101)

### **Civil Authorities**

Those elected and appointed officers and employees who constitute the government of the United States, the governments of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, United States possessions and territories, and political subdivisions thereof. (DoD, JP 1-02)

### **Civil Support**

Department of Defense support to civil authorities for domestic emergencies, and for designated law enforcement and other activities. Also called CS. (DoD, JP 1-02)

### **Counterdrug**

Those active measures taken to detect, monitor, and counter the production, trafficking, and use of illegal drugs. Also called CD and counternarcotics (CN). (DoD, JP 1-02)

### **Counterterrorism**

Operations that include the offensive measures taken to prevent, deter, preempt, and respond to terrorism. Also called CT. (DoD, JP 1-02)

### **Critical Infrastructure Protection**

Actions taken to prevent, remediate, or mitigate the risks resulting from vulnerabilities of critical infrastructure assets. Depending on the risk, these actions could include: changes in tactics, techniques, or procedures; adding redundancy; selection of another asset; isolation or hardening; guarding, etc. Also called CIP. (DoD, JP 1-02)

### **Defense Support of Civil Authorities**

Civil support provided under the auspices of the National Response Plan. Also called DSCA. (DoD, JP 1-02)

### **Force Protection**

Preventive measures taken to mitigate hostile actions against military personnel (to include family members), resources, facilities, and critical information. Force Protection does not include actions to defeat the enemy or protect against accidents, weather, or disease. Also called FP.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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### **Homeland**

The physical region that includes the continental United States, Alaska, Hawaii, United States possessions and territories, and surrounding territorial waters and airspace. (DoD, JP 1-02)

### **Homeland Defense**

The protection of United States sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression or other threats as directed by the President. Also called HD. (DoD, JP 1-02)

### **Homeland Defense Activity**

An activity undertaken for the military protection of the territory or domestic population of the United States, or of infrastructure or other assets of the United States determined by the Secretary of Defense as being critical to national security, from a threat or aggression against the United States. (Title 32 U.S. Code, § 901)

### **Homeland Security**

A concerted national effort to prevent terrorist attacks within the United States; reduce America's vulnerability to terrorism, major disasters, and other emergencies; and minimize the damage and recover from attacks, major disasters, and other emergencies that occur. Also called HS. (DoD, JP 1-02)

### **Joint Reception, Staging, Onward movement, and Integration**

A phase of joint force projection occurring in the operational area. This phase comprises the essential processes required to transition arriving personnel, equipment, and materiel into forces capable of meeting operational requirements. Also called JRSOI. (DoD, JP 1-02)

### **National Guard**

The Army National Guard and the Air National Guard. (Title 10 U.S. Code, § 101)

### **National Guard Civil Support**

Support provided by the National Guard of the several states while in State Active Duty status or Title 32 duty status to civil authorities for domestic emergencies, and for designated law enforcement and other activities. Also called NGCS.

### **National Guard Domestic Operations**

The training, planning, preparing, and operating of National Guard units and forces conducted in the Homeland. Also called NGDO.

### **Primary Agency**

The federal department or agency assigned primary responsibility for managing and coordinating a specific emergency support function in the National Response Plan. (DoD, JP 1-02)

### **Rules for the Use of Force**

Directives issued to guide military forces on the use of force during various operations. These directives may take the form of execute orders, deployment orders, memoranda of agreement, or plans. Also called RUF.

### **Several States**

The 50 states, Commonwealth of Puerto Rico, Guam, the District of Columbia, and the Virgin Islands. (AR 130-5/AFMD 10)

### **U.S. Person**

For intelligence purposes, a U.S. person is defined as one of the following: (1) a U.S. citizen; (2) an alien known by the intelligence agency concerned to be a permanent resident alien; (3) an unincorporated association substantially composed of U.S. citizens or permanent resident aliens; or (4) a corporation incorporated in the United States, except for those directed and controlled by a foreign government or governments. (DoD, JP 1-02)

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## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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### **Weapons of Mass Destruction**

Weapons that are capable of a high order of destruction and/or of being used in such a manner as to destroy large numbers of people. Weapons of mass destruction can be high-yield explosives or nuclear, biological, chemical, or radiological weapons, but exclude the means of transporting or propelling the weapon where such means is a separable and divisible part of the weapon. Also called WMD. (DoD, JP 1-02)

### **Weapons of Mass Destruction – Civil Support Team**

Joint National Guard (Army National Guard and Air National Guard) team established to deploy rapidly to assist a local incident commander in determining the nature and extent of a weapons of mass destruction attack or incident; provide expert technical advice on weapons of mass destruction response operations; and help identify and support the arrival of follow-on state and federal military response assets. Also called WMD-CST. (DoD, JP 1-02)

**APPENDIX 5-9: Presidential Proclamation and EO 12804**

See next page.

**Presidential Documents**

Proclamation 6427 of May 1, 1992

**Law and Order in the City and County of Los Angeles, and Other Districts of California**

By the President of the United States of America

**A Proclamation**

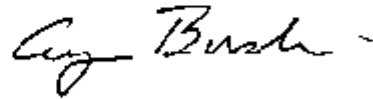
WHEREAS, I have been informed by the Governor of California that conditions of domestic violence and disorder exist in and about the City and County of Los Angeles, and other districts of California, endangering life and property and obstructing execution of the laws, and that the available law enforcement resources, including the National Guard, are unable to suppress such acts of violence and to restore law and order;

WHEREAS, such domestic violence and disorder are also obstructing the execution of the laws of the United States, in the affected area; and

WHEREAS, the Governor of California has requested Federal assistance in suppressing the violence and restoring law and order in the affected area,

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, including Chapter 16 of Title 10 of the United States Code, do command all persons engaged in such acts of violence and disorder, to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



[PR Doc. 59-10856  
Filed 5-4-92 11:48 am]  
Billing Code 3195-01-04

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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EXECUTIVE ORDER

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PROVIDING FOR THE RESTORATION OF LAW AND ORDER  
IN THE CITY AND COUNTY OF LOS ANGELES,  
AND OTHER DISTRICTS OF CALIFORNIA

WHEREAS, I have today issued Proclamation No. 4388; and

WHEREAS, the conditions of domestic violence and disorder described therein continue, and the persons engaging in such acts of violence have not dispersed;

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Commander in Chief of the Armed Forces by the Constitution and the laws of the United States, including Chapter 15 of Title 10 of the United States Code, it is hereby ordered as follows:

Section 1. Units and members of the Armed Forces of the United States and Federal law enforcement officers will be used to suppress the violence described in the proclamation and to restore law and order in and about the City and County of Los Angeles, and other districts of California.

Sec. 2. The Secretary of Defense is authorized to use such of the Armed Forces as may be necessary to carry out the provisions of section 1. To that end, he is authorized to call into the active military service of the United States units or members of the National Guard, as authorized by law, to serve in an active duty status for an indefinite period and until relieved by appropriate orders. Units or members may be relieved subject to recall at the discretion of the Secretary of Defense.

In carrying out the provisions of this order, the Secretary of Defense shall observe such law enforcement policies as the Attorney General may determine.

Sec. 3. Until such time as the Armed Forces shall have been withdrawn pursuant to section 4 of this order, the Attorney General is further authorized (1) to coordinate the activities of all Federal agencies assisting in the suppression of violence

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

Y-01-1952 22130 FROM THE WHITE HOUSE

RETRORAMA P. 60

2

and in the administration of justice in and about the City and County of Los Angeles and other districts of California, and (2) to coordinate the activities of all such agencies with those of State and local agencies similarly engaged.

Sec. 4. The Secretary of Defense is authorized to determine when Federal military forces shall be withdrawn from the disturbance area and when National Guard units and members called into the active military service of the United States in accordance with section 2 of this order shall be released from such active service. Such determination shall be made in the light of the Attorney General's recommendations as to the ability of State and local authorities to resume full responsibility for the maintenance of law and order in the affected area.

Sec. 5. The Secretary of Defense and the Attorney General are authorized to delegate to subordinate officials of their respective Departments any of the authority conferred upon them by this order.

Sec. 6. Nothing contained in this order shall confer any substantive or procedural right or privilege on any person or organization, enforceable against the United States, its agencies or instrumentalities, its officers, or its employees.



THE WHITE HOUSE,  
May 1, 1952.

**APPENDIX 5-10: Execution of Operation to Assist in Restoring Order to LA**

Y-92-1992 22123 FROM (UC) OFFICE CENTER (U) 05723176 P.02



THE DEPUTY SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301-1000



May 1, 1992

**MEMORANDUM FOR THE ACTING SECRETARY OF THE ARMY**

**FROM:** THE ACTING SECRETARY OF DEFENSE

**SUBJECT:** Execution of Operations to Assist in Restoring Civil Order Under Law to Los Angeles and Other Districts of California

Pursuant to the Presidential Proclamation of today's date entitled "Law and Order in the City and County of Los Angeles, and other Districts of California" and the Executive Order of today's date entitled "Providing for the Restoration of Law and Order in the City and County of Los Angeles, and other Districts of California," and in accordance with applicable law, including chapter 15 of Title 10 of the United States Code, I direct you to:

- (1) employ Joint Task Force Los Angeles to assist in restoring civil order under law in Los Angeles and other districts of California; and
- (2) place in Federal status and assign to Joint Task Force Los Angeles appropriate units of the California National Guard, to assist in performing the mission directed by paragraph 1.

Implement this memorandum in a manner consistent with applicable law and the Executive Order cited above, and keep me informed.

*Donald J. Atwood*

2208 EDI

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

**APPENDIX 5-11: JTF Los Angeles Legal AAR June 1992**

See next page.

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

AFZW-JA-AL (27-1a)

9 June 1992

MEMORANDUM FOR Chief, G3 Operations, 7th Infantry Division (Light),  
Fort Ord, California 93941

SUBJECT: After Action Report for Joint Task Force - Los Angeles

1. JULLS Number: \_\_\_\_\_ Submitted by HQ, 7th Infantry  
Division (Light), ATTN: AFZW-JA, MAJ Scott Black, DSN 929-6416.
2. Operation. Joint Task Force - Los Angeles, 1 May 1992 - 10 May  
1992.
3. First Lesson Learned.
  - a. Keywords. Federalization.
  - b. Title. National Guard Preparedness.
  - c. Observation. From a legal standpoint, the National Guard  
was unprepared for federalization.
  - d. Discussion. On 1 May 1992, the President directed  
federalization of certain National Guard forces and the creation of  
a joint task force to assist in civil disturbance operations.  
While the National Guard forces responded quickly, from a legal  
perspective, they appeared to be generally unprepared for the  
transition to federal service. Guard attorneys were unfamiliar  
with the benefits and problems associated with transitioning their  
force to federal service.
  - e. Lesson Learned. National Guard Judge Advocates must  
always be prepared for federalization. The Guard needs to develop  
SOPs which allow a smooth transition, and they must understand the  
implications of federalization before it happens. Many of the more  
common issues (e.g., legal assistance issues like reemployment  
rights and Soldiers and Sailors Civil Relief Act benefits) could be  
addressed in the Garden Plot OPLAN.
  - f. Recommendations.
    - (1) The National Guard should develop a legal SCP that  
outlines the mechanics and effects of federalizing their force.
    - (2) An annex should be added to the Garden Plot OPLAN  
that highlights the key legal implications of federalizing the  
National Guard (e.g., legal assistance issues, military justice  
issues, and administrative law problems).
  - g. Comments. None.



## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

AFZW-JA

SUBJECT: After Action Report for Joint Task Force - Los Angeles

#### 4. Second Lesson Learned.

a. Keywords. Rules of Engagement (ROE), Arming Orders, Use of Force.

b. Title. Inconsistent Application of the Rules of Engagement.

c. Observation. Despite specific guidance from the JTF Commander, and with no articulable difference in threat, different units were found at varying arming order levels.

#### d. Discussion.

(1) The ROE developed for JTF-LA incorporated guidance from the Garden Plot OPLAN and amendments provided by FOKSCOM, existing ROE from the 40th ID(M) and the 7th ID(S), and AR 19C-14. The ROE were printed on easy-to-read "helmet cards" which were provided to every soldier of the task force.

(2) The arming order levels of Garden Plot were modified slightly to enhance command control and individual understanding that any escalation in the level of force would be taken in a measured and calculated manner. A column was added to the arming order table that specified when the magazine would remain in the pocket and when it could be inserted into the weapon.

(3) The JTF experienced problems with the application of the arming order levels. Most notable was the inconsistent application of the guidance. Although the JTF Commander specified that all personnel were to be at arming order level one under normal circumstances, some first line leaders applied arming order levels based upon their perceptions of the threat, despite the lack of articulable reasons justifying an elevated arming status. This was particularly true of the National Guard units, where at any given time, soldiers could be found from level one through level six.

(4) Directing the initial implementation of arming order level one was not intended to remove the discretion of leaders on the ground to employ a higher level actually warranted by the threat. However, the practical effect was to leave some first line leaders with the idea that they had to "take casualties before they could come off level one." The issue presented potentially significant morale problems.

#### e. Lessons Learned.

(1) A benefit of employing arming order levels is that it facilitates controlling the proper balance between the risk of unnecessary discharge of a weapon and the risk of an

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

AF2W-1A

SUBJECT: After Action Report for Joint Task Force - Los Angeles

Inappropriate state of preparedness. This is particularly true in the early stages of the civil disturbance when tension levels are high.

(2) Experience in the threat environment is likely to reduce the level of tension and thereby reduce the risk of an improper discharge.

(3) Commanders must possess a clear picture of the threat, and must be able to make an honest appraisal of both their troops' experience in that environment and their level of training and discipline.

### f. Recommendations.

(1) Arming order levels serve a very important purpose in civil disturbance operations, and should remain part of the Garden Plot OPLAN.

(2) The JTF-LA modification to the arming order table should be incorporated into the Garden Plot OPLAN.

(3) Realistic threat training is essential, so that commanders and first line leaders are better able to strike the balance between threat level and safety. The result will be a more consistent application of the arming order levels.

(4) Dissemination of the ROE must occur as early as possible, so that training and understanding can be achieved before actual deployment of troops.

### g. Comments. None.

## 5. Third Lesson Learned.

a. Keywords. Military Justice, UCMJ, Jurisdiction, Title 10.

b. Title. Unique Military Justice Issues Presented by Federalization of the National Guard.

c. Observation. Federalization of the National Guard, especially for short-term civil disturbance operations, creates unique problems in the military justice arena.

### d. Discussion.

(1) Federalization of the National Guard may create a jurisdictional gap for prosecution of offenses. When a soldier is notified of activation under Title 32 and fails to report, the Guard can handle the case using State judicial or nonjudicial procedures. When a soldier fails to report after federalization, the State procedures no longer apply. The offenses must be disposed of using Title 10 (UCMJ) procedures. However, a soldier cannot be considered ordered to active duty under Title 10, unless

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

AFZW-1A

SUBJECT: After Action Report for Joint Task Force - Los Angeles

notified of the activation. A gap is created for offenses committed between the time of federalization and the time the soldier receives notification. In AWOL cases, that time would be lost for prosecution purposes.

(2) Civil disturbance operations that conclude quickly present difficult time constraints for processing military justice actions. The command must act quickly to either resolve the issue or reassign the soldier to a regular Army unit for disposition prior to defederalization. Failure to act timely may result in misconduct going unpunished.

(3) The time constraint problem is compounded by the lack of National Guard attorney familiarity with Title 10 military justice procedures. If JTF-LA is any barometer for the future, planners should expect civil disturbance operations to be concluded quickly, and there may not be adequate time to allow for a Title 10 learning curve.

(4) AR 27-10 specifies that only Trial Defense Service (TDS) attorneys can represent soldiers at special and general courts-martial. National Guard units, being state entities, do not have TDS counsel assigned. The TDS counsel must be provided from a Regular Army installation.

### e. Lessons Learned.

(1) National Guard units must anticipate federalization and dedicate an attorney to remain current in Title 10 procedures. This will reduce the reaction time in handling military justice matters and can minimize the time lost in the jurisdictional gap.

(2) A decision must be made early as to whether soldiers will be transferred to the active duty installation where TDS counsel are available or TDS counsel will be brought to the area.

### f. Recommendations.

(1) Each National Guard unit should dedicate an attorney, preferably a trial counsel, to remain current in Title 10 procedures. Training for the dedicated 'Title 10' attorney should include annual training (AT) with an active duty division SCA office.

(2) When civil disturbance operations are likely to be concluded quickly, TDS counsel should not be brought to the area. Rather, the soldier should be transferred to an active duty installation where TDS counsel is available and the case will be tried.

### g. Comments. None.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

AFZW-JA

SUBJECT: After Action Report for Joint Task Force - Los Angeles

### 6. Fourth Lesson Learned.

- a. Keywords. Military Property, Loan, Lease.
- b. Title. Unclear Guidance Regarding the Loan/Lease of Military Property.
- c. Observation. The guidance in Annex K of the Garden Plot OPLAN and AR 700-131 is not user-friendly.
- d. Discussion.

(1) The JTF received a number of requests for the loan of military equipment. For example, the Los Angeles Police Department requested the loan of 25 AN/PVS-7 night vision devices. This and other similar requests raised a number of issues that were not adequately addressed in Annex K of the OPLAN or by other regulatory guidance in this area.

(2) The first step in processing a loan or lease request is to identify the equipment category. The OPLAN and AR 700-131 divide the equipment into three broad categories for purposes of handling loan or lease requests. Determination of the category in which the equipment falls is critical because the level of approval authority is different for each category. For example, a JTF Commander may approve a loan or lease of Category Two equipment while the CINC must approve Category Three requests. However, the categories are vague, which results in the expenditure of considerable time and effort-ascertaining who should be the approval authority.

(3) AR 700-131 specifies that equipment provided to non-federal civilian agencies must be accomplished under a lease. 10 U.S.C. 2667 provides for the 'fair market value' in exchange for the use of the equipment and allows for 'in kind' payment for the lease of such equipment. However, this section lacks guidance on the computation of 'fair market value' of the consideration or the value of the 'in kind' services provided.

(4) Before leasing military property to a non-federal agency, the lessee must also provide a surety bond equal to the value of the equipment provided. In this case, LAPD would have been required to post a bond in excess of \$100,000.

(5) Finally, guidance as to the authority to actually sign the loan/lease agreement on behalf of the JTF is very unclear. The lease agreement indicates that the contracting officer has the authority to sign on behalf of the government, but there is no express statutory or regulatory authorization.

APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

AFZW-CA.

SUBJECT: After Action Report for Joint Task Force - Los Angeles

e. Lessons Learned.

(1) Equipment category identification is critical. Because guidance is lacking, the urge is to identify equipment as Category Two equipment, so that the JTF Commander is the approval authority. The problem can be solved by clarifying the equipment categories or by changing the approval authority to allow a JTF Commander greater latitude in approving equipment requests.

(2) A simple solution to the valuation problem would be to establish a reasonable percentage of the "fair market value" of the property as the consideration for the equipment provided. This would also simplify the computations of "in kind" services which might be used in exchange for the use of the equipment. Finally, the JTF Commander should be the approval authority for the acceptance of "in kind" payment and the necessary valuations.

(3) The surety bond is a major prohibitive factor for agencies requesting equipment that is essential to the protection of human life.

(4) The rules are not sufficiently flexible to accommodate timely action in civil disturbance operations.

f. Recommendations.

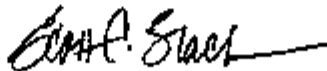
(1) The JTF Commander should be granted greater authority to approve equipment requests and the requisite consideration for the lease of property. For example, the NCA's JTF activation order could specifically grant the JTF Commander the authority to approve any and all necessary transactions/exceptions available to DoD or DA under 10 U.S.C. 2667.

(2) The equipment categories should be clarified.

(3) The regulation or statute should provide a mechanism for waiving the surety bond requirement in situations involving the protection of human life in civil disturbance operations.

(4) The regulation or statute should expressly state who has the authority to sign the loan/lease agreements on behalf of the government.

g. Comments. None.



SCOTT C. BLACK  
MAJ. JA  
Deputy Staff Judge Advocate

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

JTF-LA-JA

MEMORANDUM FOR JTF-LA JS

SUBJECT: Joint Task Force Los Angeles After Action Report --  
(GARDEN PLOT) -- Staff Judge Advocate

1. Period of civil disturbance actions covered: 01 May 1992  
through 7 May 1992.

2. Section I -- Significant Activities.

a. Deployment task organization. The standing roster for the 7th Infantry Division (Light) Assault Command Post (ACP) includes one Judge Advocate, recognizing that the remainder of the SJA assets would normally follow within 48 to 72 hours. For this operation, the ACP legal staff was increased by one additional attorney in anticipation of 24 hour operations in the JTF Headquarters. The additional lawyer was drawn from the Administrative and Civil Law Branch. As it turned out, the majority of the issues encountered during the operation fell in the area of administrative law.

b. The Marine Force (MARFOR) consisted of a special contingency Marine Air-Group Task Force (SPMAGTF). Personnel from the Command Element, I Marine Expeditionary Force (I MEF) were integrated into the JTF-LA Headquarters. One Marine Judge Advocate from I MEF was assigned to the JTF-LA and was appointed the JTF SJA.

c. There were no significant issues concerning our operations in the JTF-LA HQ.

3. Section II -- Problem Areas/Lessons Learned.

a. Federalization:

(1) On 1 May 1992, the President directed federalization of certain National Guard forces and the creation of a Joint Task Force to assist in civil disturbance operations. While the National Guard forces responded quickly, from a legal perspective, they appeared to be generally unprepared for the transition to federal service.

(2) The federalization process needs to be reworked. The Guard needs to develop SOPs which will allow a smooth transition, and they must understand the implications of federalization before it happens. Guard attorneys should know the benefits and understand the problems associated with transitioning their force to federal service. Many of the more common issues (e.g., legal assistance issues such as limitations on interest rates and reemployment rights) could be addressed in the Garden Plot OPLAN.

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### b. Military Justice.

#### (1) Jurisdictional gap.

(a) An issue remains concerning National Guard soldiers who were notified but failed to make the activation of their unit. If they fail to show after being activated under Title 32, the Guard handles the case using State judicial or nonjudicial procedures. However, where the soldier fails to show for the activation after federalization, the State procedures no longer apply. These offenses must be disposed of using Title 10 (UCMJ) procedures.

(b) If the soldier is under Title 32 and there is a subsequent federalization, the soldier may, under certain circumstances, be prosecuted under Title 10 procedures. In this instance, the soldier would have to be considered never to have been ordered to active duty in a Title 10 status. The unit would have to renotify him of the activation in a federal status, and then prefer charges if he fails to show up for duty. The time period between the initial State activation and federalization would essentially be lost for prosecution purposes.

(2) Time constraints for processing military justice actions prior to defederalization. When actual civil disturbance operations are concluded in a short time, misconduct which occurs during the period of federal service may go unpunished. The command must act quickly to either resolve the issue or reassign the soldier to a Regular Army unit for disposition of pending charges.

(3) Attorney familiarity with Title 10 procedures. Because Title 10 issues are seldom dealt with in the National Guard, a working knowledge of the mechanics of Title 10 is generally lacking. If this operation is any barometer for the future, planners should expect civil disturbance operations to be resolved quickly, and there may not be adequate time to allow for a Title 10 learning curve. National Guard units must anticipate the requirement and dedicate an attorney to remain current in Title 10 procedures.

(4) Defense counsel. AR 27-10 prevents other than USAFDS assigned attorneys from representing soldiers at special and general courts-martial. Assistance must be obtained from the commander exercising general court-martial jurisdiction. In civil disturbance operations, a decision as to whether the soldier is transferred to the active duty installation where TDS counsel are available or TDS counsel is brought to the area must be made. The length of the federalization is a key factor in the determination.

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### c. Rules of Engagement.

(1) ROE drafting and approval. The ROE developed for JTF-LA operation incorporated guidance from the existing Garden Plot OPLAN and amendments to that guidance as provided by FOSCOM, existing ROE from AOID (M) and 710 (L), and AR 170-14. Application of the arming order levels generated significant attention.

(2) The ROE provided in FAR A (Special Orders) to Appendix B (Special Instructions) to Annex C of the Garden Plot OPLAN were modified to simplify the language to ensure understanding by all personnel involved in the execution of the OPLAN. These ROE were printed on a "helmet card" which was provided to all personnel.

(3) During the drafting process, the arming order levels of the Garden Plot OPLAN were modified slightly. The intent was to enhance command control as well as the individual's understanding of the need to ensure that any escalation in the level of force would be taken in a measured and calculated manner. A specific change for the JTF-LA operation was the addition of a new column to the arming order table. The additional column specifies when the magazine must remain in the pouch and when it can be inserted in the weapon.

(4) The JTF experienced problems with the application of the arming order levels. Most notable was the inconsistent application of the guidance. Although the JTF Cdr specified that all personnel were to be at arming order level one under normal circumstances, some first line leaders applied arming order levels based upon their perceptions of the threat despite the lack of articulable circumstances justifying an elevated arming status. This was particularly true among the National Guard units, where at any given time, soldiers could be found from levels one through six.

(5) The Regular Army and Marine units of the JTF were more likely to be in compliance with arming order level one, although exceptions to that observation were also noted.

(6) On the other hand, directing the initial implementation of arming order level 1 was not intended to remove the discretion of leaders on the ground to employ an arming level warranted by the actual threat. The practical effect was to leave some first line leaders with the perception that they had to "take casualties before they could come off of level one." The issue presents potentially significant morale problems.

(7) It would seem that an unstated, but nevertheless essential, benefit to be gained from employing arming order



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level is to achieve a delicate balance between the risk of unnecessary discharge of a weapon, a negative impact on morale, and the attempt to ensure a state of preparedness consistent with the threat. This is particularly true in the early stages of the civil disturbance when tensions are running high.

(8) Experience in the threat environment is likely to reduce the level of tension and thereby the risk of an improper discharge. In addition, realistic threat training would also be likely to reduce the chances of accidental or improper discharge.

(9) Ultimately, battalion and company level commanders must be aware of the balancing process involved in designating arming order levels. Commanders must possess both a clear picture of the threat and an honest appraisal of both their troops' experience in that environment and their level of training and discipline.

#### d. Loan/Lease of Military Property.

(1) The JTF received a number of requests for the loan of military equipment. For example, the Los Angeles Police Department requested the loan of 25 AN/PVS-7 night vision devices (the request was later reduced to 15). This and other similar requests raised a number of issues that were not adequately addressed in Annex K of the OPLAN or by regulatory guidance in this area.

(2) The first step in processing a loan or lease request is to identify the equipment category. The OPLAN and regulation (AR 700-131) divide equipment into three broad categories for purposes of handling loan or lease requests. Determination of the category in which the equipment falls is critical because the level of approval authority is different for each category. For example, a JTF commander may approve the loan or lease of Category Two equipment while the CINC must approve Category Three requests. However, the categories are vague, which result in the expenditure of considerable time and effort to determine who should be the approval authority. The problem can be solved by clarifying the equipment categories, or by changing the approval authority to allow a JTF commander to approve Category Three requests.

(3) AR 700-131 provides that equipment provided to non-federal civilian agencies must be accomplished under a lease. 10 USC 2667 provides for the "fair market value" in exchange for the use of the equipment and allows for "in kind" payment for the lease of such equipment. However, this section lacks guidance on the computation of "fair market value" of the consideration or the value of the "in-kind" services provided. A simple solution would be to establish a reasonable percentage of the "fair market

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value" of the property as the consideration for the equipment provided. This would also simplify computations of "in-kind" services which might be used in exchange for the use of the equipment. Finally, the JTF commander should be the approval authority for the acceptance of "in-kind" payment and the necessary valuations.

(4) Before leasing military property to a non-federal agency, the lessee must also provide a surety bond equal to the value of the equipment provided. In this case, LAFD would have been required to post a surety bond of about \$90,000, the value of 15 sets of night vision goggles. The regulation and statute should provide a mechanism for waiving the surety bond requirements in situations involving the protection of human life in civil disturbance operations.

(5) Finally, guidance as to the authority to actually sign the loan/lease agreement on behalf of the JTF is very unclear. The lease agreement indicates that the contracting officer has the authority to sign on behalf of the government, but there is no express statutory or regulatory authorization.

e. Legal Assistance requirements. Federalization of the National Guard units provided Guard soldiers with a number of legal assistance problems. These include issues such as reemployment rights, reduction of rate of interest on financial obligations, and landlord-tenant rights. While these topics were thoroughly explored during Desert Storm, the legal staff of the 40ID (M) did not participate in that operation and they were not prepared to respond to soldiers at the outset of this operation. While the 40ID (M) SJA moved quickly to get up to speed in this area, the short duration of this operation did not allow for any learning curve. We need to get the Guard better prepared for these contingencies.

*Richard G. Walls*  
RICHARD G. WALLS  
Colonel, USMC  
Staff Judge Advocate

*7 May 92*

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

### CIVIL DISTURBANCE OPERATIONS

#### INTRODUCTION

Early in the morning of May 1, 1992, President Bush ordered the federalization of California National Guard units, and the deployment of 7th Infantry Division (Light) soldiers and U.S. marines into the Southern California area to assist in quelling the Los Angeles riots.<sup>1</sup> The civil disturbance had exceeded the capabilities of local law enforcement officials, and the news services were filled with compelling and graphic stories from what had become an urban battleground.

The concerted efforts of civilian law enforcement personnel, coupled with National Guard and Regular military personnel, ultimately brought the situation to a peaceful resolution. All Regular Army and U.S. Marine forces returned to home stations by May 15, and by the end of the month, the majority of National Guard forces were home.

A significant amount of material has already been written on various topics associated with the Los Angeles civil disturbance operations. Probably the most in-depth review can be found in the two volume Report by the Special Advisor to the Board of Police Commissioners on the Civil Disorder in Los Angeles.<sup>2</sup> Other articles of note have focused on the role of the National Guard in the crisis,<sup>3</sup> and issues related to the creation and use of the JTF-LA rules of engagement.<sup>4</sup>

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The onset of the riots has been generally attributed to the public reaction to the acquittal of the four Los Angeles Police officers accused of using excessive force during the arrest of Rodney King.<sup>5</sup> The retrial of those officers on new charges based upon violations of Federal Civil Rights statutes raised the specter of the Los Angeles Riots - Part II.<sup>6</sup> Equally as volatile is the Lopez trial taking place in Orlando, Florida.<sup>7</sup>

The purpose of this article is to provide, from the perspective of the lawyers assigned to Joint Task Force - Los Angeles, a practitioner's view of the significant events and lessons learned.<sup>8</sup> Discussion will cover the legal basis for involvement of the armed forces, impact of the Posse Comitatus Act,<sup>9</sup> federalization of the National Guard, legal staffing and support, the application of Arming Orders within the Rules of Engagement, military justice, and loan or lease of military property.

### A. LEGAL BASIS FOR MILITARY INVOLVEMENT

The United States Constitution requires the Federal government to "...guarantee to every state...a republican form of government, and [to] protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence."<sup>10</sup> Specific authority for the commitment of military forces to a civil disturbance is codified in Chapter 15, Title 10, United States Code.<sup>11</sup>

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The process for introducing military force into the Los Angeles riots began on April 29, when California's Governor Pete Wilson ordered the mobilization and deployment of California National Guard troops. The Guardsmen responded quickly and were actually on the streets of Los Angeles by early afternoon Thursday, April 30.<sup>12</sup>

Notwithstanding the rapidity of the National Guard response, there was evidently concern in the Governor's office about the number of civilian law enforcement personnel and National Guard soldiers available to control the disturbances. The Governor addressed these concerns at a 0300 staff meeting May 1, and discussed the rationale for requesting federal troops as added insurance for the National Guard.<sup>13</sup>

The first prerequisite for the commitment of Federal military forces into the Los Angeles area was satisfied later that morning when Governor Wilson advised President Bush that the domestic violence and disorder had exceeded the capabilities of available law enforcement resources, including the National Guard. Governor Wilson requested Federal assistance in suppressing the violence and restoring law and order in the area.<sup>14</sup>

As required by statute,<sup>15</sup> the President issued a Proclamation commanding all persons engaged in acts of violence and disorder to cease and desist therefrom and to disperse and

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

retire peaceably forthwith.<sup>6</sup> The President then signed an executive Order providing for the federalization and use of National Guard troops, and the deployment of active duty forces. Military forces were to be used to suppress the violence and restore law and order in the City and County of Los Angeles.<sup>17</sup>

The 7th Infantry Division (Light) received a FORBIDDEN warning order at about 0330 local time, May 1. Although the President did not actually commit active forces until approximately 0500 that morning, preparations were well under way to deploy the force. By 1800 that evening, the JTF Headquarters was up and functioning at Los Alamitos Army Reserve Center in Los Angeles, staffed by active duty Soldiers and Marines.

Soldiers from the 2d Brigade, 7th ID(L) and Marines from I Marine Expeditionary Force (I MEF) at Camp Pendleton were staged at Marine Corps Air Station El Toro (MCAS); and MCAS - Tustin, where they began intensive training in civil disturbance operations.<sup>18</sup> Although their presence in the Los Angeles area was highly publicized, the first active duty personnel did not actually deploy into the streets until Saturday, May 2.<sup>19</sup>

### B JTF-LA EJA ORGANIZATION

#### PERSONNEL

The nucleus for the JTF-LA staff was drawn from the 7th Infantry Division (Light) Assault Command Post (ACP). The standing roster for the 7th Infantry Division (Light) ACP

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includes one Judge Advocate, with the understanding that the remainder of the SJA assets will normally flow into the area of operations with the balance of the Division Staff within 48 to 72 hours.

For this operation, the remainder of the Division Staff was not likely to follow-on. Accordingly, the ACP legal staff was increased by one additional attorney in anticipation of extended 24-hour operations in the JTF headquarters. The additional lawyer was drawn from the Administrative and Civil Law Branch. As it turned out, the majority of the issues encountered during the operation fell in the area of administrative law. A third attorney accompanied the Brigade Task Force into the streets to provide both training and legal support.

The relatively austere Division ACP structure<sup>20</sup> was significantly enhanced when U.S. Marines from the Command Element, I MEF were integrated into the JTF LA Headquarters. This included one Marine Corps Judge Advocate from I MEF who was assigned to JTF-LA and served as the JTF Staff Judge Advocate. Additionally, another Marine Corps Judge Advocate was assigned to the contingency Marine Air Ground Task Force (MAGTF) which was assigned as the Marine Corps component to JTF-LA.

### REFERENCE MATERIALS

As might be imagined, planning operational equipment needs is greatly simplified if you are deploying tactically within

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CONUS. However, there are a few specific civil disturbance reference materials which should supplement your standard deployment library, including the following:

1. JOD Civil Disturbance Plan (Garden Plot), 15 Feb 91.
2. AR 600-131, Loan of Army Materiel, 15 Feb 85.
3. AR 600-50, Civil Disturbances, 21 Apr 72.
4. AR 600-51, Support to Civilian Law Enforcement, 1 Aug 83.
4. FM 19-15, Civil Disturbances, 25 NOV 85.

### C. POSSE COMITATUS?

The impact of the Posse Comitatus Act on the operations of the JTF is a topic which has seen considerable comment, much of it inaccurate. For example, the Report by the Special Advisor concluded that the JTF Commander was "apparently unfamiliar with the President's Proclamation and erroneously believed that federal troops were prohibited from becoming involved in law enforcement functions under the federal Posse Comitatus Act."<sup>21</sup> This is absolute nonsense.

Federal military forces are normally proscribed by the Posse Comitatus Act<sup>22</sup> from engaging or assisting in civilian law enforcement activities. However, the President's authority to order Federal troops into use to control a civil disturbance is specifically exempted from those restrictions.<sup>23</sup> Accordingly, the JTF-LA commander was free (subject to limitations that could



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have been set by the Attorney General) to use his force in any capacity, including typical law enforcement functions.

The fact of the matter is that, like any military operation, operational decisions at the JTF level were made consistent with the commander's intent and the capabilities of the available forces. These decisions included the determination to employ military forces in such a manner to ensure that they remained under the control of their military leaders rather than a "piecemeal" employment under the control of individual members of the Los Angeles Police Department.

The JTF commander and his staff understood from the outset that the Posse Comitatus Act had no effect, and the Act in no way limited the decision-making process within the JTF Headquarters.<sup>34</sup> There simply was no confusion at the JTF level about the possible effect of the Act.<sup>35</sup> Further evidence of this lack of confusion is contained in the "helmet card" providing the rules of engagement. This card included the direction "when possible, let civilian police arrest law breakers." From a "lessons learned" standpoint, Judge Advocates should be wary of issues that over the years have become so ingrained in the minds of our soldiers as to limit their ability to recognize or accept the infrequent exception.

### D. FEDERALIZATION OF THE NATIONAL GUARD

The federalization of the National Guard forces raised many

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

difficult issues. These were all the more problematic because participating Active and Guard lawyers had not trained or properly planned for the process. However, this experience has provided a number of valuable lessons regarding the transition to Federal service.

Although criticized in some circles,<sup>36</sup> the California Army National Guard forces responded to the call up with a great deal of enthusiasm for their task. By happenstance, guidance for the conduct of civil disturbance operations had been recently issued. The California National Guard Emergency Procedures Manual<sup>37</sup> provided specific instructions for dealing with civil disturbance contingencies.

California National Guard attorneys had obviously played a role in drafting the Emergency Procedures Manual, particularly with respect to issues involving security measures,<sup>38</sup> the application of force,<sup>39</sup> and arming orders.<sup>30</sup> However, the Manual did not contain a separate legal annex, and provided no guidance for the conversion to Federal status.

While the CARMG Judge Advocates were on the scene right from the outset, they did not have the training to make a rapid transition to federal service. Most of the Guard attorneys had some active service experience, however, their familiarity with Title 10 procedures was significantly degraded.<sup>31</sup>

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This issue of legal preparedness is one that should be addressed now because the National Guard will get little or no warning prior to Federalization, and may not have time to get smart in Title 10 issues before they are returned to State status.<sup>32</sup> Consequently, National Guard Judge Advocates should always be prepared for Federalization, with Standard Operating Procedures in place to facilitate a smooth transition. Many of the more common issues (e.g., legal assistance issues such as reemployment rights and Soldiers and Sailors Civil Relief Act benefits) should also be addressed in the DoD Garden Plot OPLAN.

In addition, Guard Staff Judge Advocates should consider dedicating an officer to gaining and maintaining Title 10 expertise. This officer could do annual training with an active duty unit, serve as the proponent for the unit training program, and serve as the action officer for transitioning the force to active federal status.

Finally, the active duty contingent was equally unprepared for recognizing and handling State status issues. For the future, we should consider the addition of an annex to the Garden Plot OPLAN, highlighting the key legal implications of federalizing the National Guard (e.g., legal assistance issues, military justice issues, and administrative law problems).

### E. ARMING ORDERS AND THE RULES OF ENGAGEMENT

The development and implementation of the JIF Rules of

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This issue of legal preparedness is one that should be addressed now because the National Guard will get little or no warning prior to Federalization, and may not have time to get smart in Title 10 issues before they are returned to State

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

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Engagement (ROE) also presented a number of interesting issues.<sup>33</sup> The ROE incorporated guidance from the Carden Plot OPLAN and amendments provided by FORSCOM, existing ROE from the 40th ID(M) and the 7th ID(L), and AR 190-14. The ROE were printed on easy-to-read "helmet cards" which were provided to every soldier and Marine of the task force.

The ROE included Arming Orders, which provided six levels of specific arming guidance for soldiers and Marines.<sup>34</sup> Level one was the least aggressive posture<sup>35</sup> and level six the most aggressive posture.<sup>34</sup> Use of the arming order levels helped the commander maintain a proper balance between the risk of an unnecessary discharge of a weapon and the risk of being caught unprepared in a dangerous situation. This was particularly true in the early stages of the civil disturbance when tension levels were high. Implementation of the arming orders was designed so that the Officer in Charge (OIC) or Noncommissioned Officer in Charge (NCOIC) "on the ground" would have the ultimate authority to determine the appropriate level within the arming orders.

However, the JTF did experience problems with the application of the arming order levels. Most notable was the inconsistent application of the guidance. Although the JTF Commander specified that all personnel were to be at arming order level one under normal circumstances, some first line leaders applied arming order levels based upon their perceptions of the threat, this despite the lack of articulable reasons justifying

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an elevated arming status. This was particularly true of the National Guard units, where at any given time, soldiers could be found from level one through level six without apparent reason for the difference.

Directing the initial implementation of arming order level one was not intended to remove the discretion of leaders on the ground to employ a higher level actually warranted by the threat. However, the practical effect was to leave some first line leaders with the impression that they had to take casualties before they could escalate above level one. The issue presented potentially significant morale problems.

The problem can be minimized first by early dissemination of the ROE. Commanders can then engage in realistic threat training. First line leaders need to practice striking the proper balance between threat level and safety in a civil disturbance environment. Given such training, the result should be a more consistent application of the arming order levels, and a safer, more efficient force overall.

### F. MILITARY JUSTICE

Federalization of the National Guard, especially for a relatively short-term civil disturbance operation, creates many unique issues in the military justice arena. Perhaps at the top of the list, federalization created jurisdictional gaps which affected the prosecution process.

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The jurisdictional gap is exemplified best in AWOL and missing movement cases. When a soldier is notified of activation under Title 32 of the United States Code and fails to report, the Guard can handle the case using state judicial or nonjudicial procedures. When a soldier fails to report after federalization, the State procedures no longer apply. The offenses must be disposed of using Title 10 (UCMJ) procedures. However, a soldier cannot be considered ordered to active duty under Title 10, unless notified of the activation.<sup>37</sup> A gap is created for offenses committed between the time of federalization and the time the soldier receives notification. In AWOL cases, that time would be lost for prosecution purposes.<sup>38</sup>

Another problem created by short-term Federalization is that units are faced with difficult time constraints for processing military justice actions. The command must act quickly to either resolve the issue or reassign the soldier to a regular Army unit for disposition prior to defederalization.<sup>39</sup> Failure to act timely may result in misconduct going unpunished.

The time constraint problem is compounded by the lack of National Guard attorney familiarity with Title 10 military justice procedures. If JTF-LA is any barometer for the future, planners should expect civil disturbance operations to be concluded quickly, and there may not be adequate time to allow for a Title 10 learning curve. Again, dedicating an attorney to

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remain current in Title 10 procedures can alleviate some of the problems created by time constraints.

Another significant problem is the availability, or lack thereof, of Trial Defense Service (TDS) attorneys. AR 27-10 specifies that only TDS attorneys can represent soldiers at special and general courts martial.<sup>40</sup> National Guard units do not have TDS counsel assigned. Therefore, TDS counsel must be provided from a Regular Army installation. Anticipating that the operation would be of short duration, the decision was made not to deploy TDS personnel.<sup>41</sup> The need, of course, arose and proper arrangements for TDS counsel were made.

### G. LOAN OF MILITARY PROPERTY

The JTF received a number of requests for the loan of military equipment. For example, the Los Angeles Police Department (LAPD) requested the loan of 25 AN/PVS-7 night vision devices. This and other similar requests raised a number of issues that were not adequately addressed in the Garden Plot OPLAN or by other regulatory guidance in this area.<sup>42</sup>

The first problem in this area involved the classification of materiel. The OPLAN and AR 700-131 divide equipment into three broad categories for purposes of handling loan or lease requests.<sup>43</sup> The categories are extremely vague.<sup>44</sup> However, determination of the equipment category is critical because the level of approval authority is different for each category. For

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example, a JTF Commander may approve a loan or lease of Category Two equipment while only the CINC (or higher) may approve Category Three requests.<sup>43</sup>

In the absence of specific guidance, and in an effort to "keep things moving," the tendency is to classify materiel as Category Two equipment, so that the JTF Commander is the approval authority. While this is expedient, it does not leave the Judge Advocate feeling as though the commander is properly protected. For the future, the issue could be resolved by clarifying the equipment categories or by changing the approval authority to allow a JTF Commander greater latitude in approving equipment requests.<sup>46</sup>

A second significant issue in this area involved the AR 700-131 requirement to accomplish such loans of equipment to non-federal civilian agencies via a lease.<sup>47</sup> The lessee must pay the "fair market value" in exchange for the use of the equipment and allows for "in kind" payment for the lease of such equipment.<sup>48</sup> However, this section does not provide guidance on the computation of "fair market value" of the consideration or for the value of the "in kind" services provided. Judge Advocates and logisticians are left to guess as to how to properly assess the value of the Federal government interest in the property.

A simple solution to the valuation problem would be to



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establish a reasonable percentage of the "fair market value" of the property as the consideration for the equipment provided. This would also simplify the computations of "in kind" services which might be used in exchange for the use of the equipment. In addition, the JTF Commander should be the approval authority for the acceptance of "in kind" payment and the necessary valuations.

Continuing along the same line, a non-federal agency lessee must also provide a surety bond equal to the value of the equipment provided.<sup>49</sup> For example, the LAPD request for night vision devices required posting a bond in excess of \$100,000. As might be expected, the bureaucracy involved in processing such a request can be a significant problem.

In our JTF-LA night vision device example, the LAPD no longer needed the equipment by the time the request was successfully processed. Additionally, there was reluctance by the Los Angeles Police Department to obligate the City under the requested surety bond. This problem could be avoided by revising the regulation to provide a mechanism for waiving the surety bond in such emergency situations as civil disturbance operations.

Finally, guidance as to the authority to actually sign the loan/lease agreement on behalf of the JTF is very unclear. The standard lease agreement<sup>50</sup> indicates that the contracting officer has the authority to sign on behalf of the government, but there is no express statutory or regulatory authorization.

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The regulation should be revised to specify who has the authority to sign such loan/lease agreements on behalf of the government.

### H. CONCLUSION

Civil disturbance operations present issues unlike any others we may find in our roles as military lawyers. You may literally end up providing advice to soldiers who going into "combat" in their hometown. Advice and assistance must account for this and be tempered to accommodate not just the mission, but the thoughts and concerns of the individual soldier or Marine on the streets.

The civil disturbance operation moves quickly; it may well be over before you have time to get smart on the peculiarities of working in such an environment. Once again, the intent here is to provide an overview of practical legal issues and concerns in the civil disturbance environment, and to suggest potential solutions for those who will receive the next order to deploy tactically within the borders of our country.

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personnel were given in-depth classes on the Rules of Engagement by Judge Advocates. Moreover, the heavy media presence was factored into the training program. Commanders developed creative training scenarios and skills designed to accustom their troops to performing their jobs in a media intensive environment.

19. The City in Crisis, supra note 2, at 153.

20. The 7th ID(L) Assault Command Post (ACP) was conceived during the planning for Operation Just Cause and has evolved into the Division's contingency command and control node. With a baseline configuration of sixty-one personnel and twelve vehicles, it is transportable in two C141B sorties and can provide all of the resources necessary for command and control of Division operations. See, Memorandum, AFZW-CS, Headquarters, 7th Infantry Division (Light) and Fort Ord, subject: Assault Command Post (AC?) Standing Operating Procedures (17 Jul 92).

21. The City in Crisis, supra note 2, at 153.

22. 18 U.S.C. 1385 (1984).

23. 10 U.S.C. 321 (1983).

24. The Report by the Special Advisor also stated that "Federalization thus had a seriously dilatory impact on the responsiveness by the California National Guard due to the mistaken impression that the Posse Comitatus Act prohibited the Guard from engaging in law enforcement activities." The City in Crisis, at 154. The Report concluded that military commanders were uniformly denying requests for assistance that involved a law enforcement function, in order to avoid a potential violation of the Posse Comitatus Act. More nonsense!

25. However, it does appear that not everyone in the JTF clearly understood the role of the military and the methods adopted by the JTF commander and his staff for making operational decisions. For example, the Delk article states that key decisions makers did not realize differences in support after federalization, and that the impact of Posse Comitatus had not been considered. Delk, supra note 3, at 17.

He also states that "we later met with key officials and produced a matrix to make the changes clear." The matrix purported to set forth civil disturbance tasking guidelines, providing a listing of appropriate and inappropriate functions, further delineated by annotating each function as either State or Federal and whether the function amounted to restoring or preserving law and order, or both. Although not seen at the JTF Headquarters level, this matrix may have actually been used by the staff of 40th ID(M)(CARMC). As an aside, MG Delk does not say who represented the JTF command group at the matrix formulation meeting. The JTF Staff Judge Advocate was not invited.

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

26. See, e.g., Los Angeles Times (Wash. Ed.), Dec. 3, 1992, at 1, Report on LA Riots Blasts National Guard (referring to a study conducted by LTC William H. Harrison (USA, Ret.) at the request of Governor Wilson).

27. The California National Guard Emergency Procedures Manual (CNG EDM) was in final draft format and out for staffing under memorandum dated 1 April 1992. This draft manual provided the basic guidance that National Guard commanders utilized during the disturbance.

28. Id. at 5-8.

29. Id. at 6-6.

30. Id. at 6-7.

31. National Guard attorneys do not have many opportunities to work in a Title 10 environment and their own State systems can be so different it makes the transition to active duty extremely difficult for Guard Judge Advocates.

32. The period of Federalization during the Los Angeles riots lasted only ten days.

33. For an excellent discussion of the development of the JTF-LA ROE and Arming Orders, see Rolpt, supra note 3.

34. These arming orders were adapted from similar guidance contained in the California National Guard Emergency Procedures Manual.

35. At Arming Order level one, the rifle is at sling, the bayonet in the scabbard, and ammunition is in the magazine and secured in the pouch.

36. At Arming Order level six, the rifle is at port, the bayonet fixed, and ammunition is in the magazine, locked and loaded.

37. Uniform Code of Military Justice arts. 85, 86, and 87, 10 U.S.C. 385, 386, and 387 (1988).

38. Federalization occurred on 1 May 1992. Soldiers who failed to report for State duty, and subsequently failed to report for Federal duty, could evade prosecution for the AWOL period between 1 May 92 and the notification date.

39. Dept't of Army, Reg. No. 27-10, Local Services - Military Justice, para. 21-4 (22 December 1989) authorizes extending Reserve Component soldiers on active duty. If a soldier is allowed to return to State status or is otherwise released from active duty, para. 21-3 provides a mechanism for involuntarily recalling

## APPENDIX 5: CIVIL DISTURBANCE OPERATIONS

soldiers to an active duty status. In reality, though, the procedure is exercised in only the most serious cases.

40. Id. at paras. 5-5, 6-7 and 6-9.

41. Organization of the Assault Command Post and the relative geographic availability of TDS personnel were also considered in making this decision.

42. See generally, Dep't of Army Reg. No. 700-131, Loan and Lease of Army Materiel (15 February 1985) [hereinafter cited as AR 700-131] and Dep't of Army Reg. No. 500-51, Support to Civilian Law Enforcement (1 August 1983) [hereinafter cited as AR 500-51].

43. AR 700-131, para. 2-5b and GARDEN PLOT OPLAN, Annex K, para 1a. Although AR 500-50 addresses the loan of military property to state and local law enforcement agencies, the procedures were generally ignored because they conflicted with 10 U.S.C. 2667 and more recent provisions in AR 700-131.

44. For example, Group Two contains "riot control agents, concertina wire, and other like equipment..." During JTF-LA, classifying night vision devices into one of the three categories was particularly difficult because the other two groups were equally as vague.

45. AR 700-131, para 2-5b and GARDEN PLOT OPLAN, Annex K, para 5.

46. For example, the National Command Authority JTF activation order could specifically grant the JTF Commander the authority to approve any and all necessary transactions or exceptions available to DoD or DA under 10 U.S.C. 2667.

47. AR 700-131, para 2-4.

48. 10 U.S.C. 2667 (1992).

49. See AR 700-131, para. 2-7 and DA Form 4381-3-R (Sep 84).

50. Id. at para. 2-5b and GARDEN PLOT OPLAN, Annex K.

**APPENDIX 6  
COUNTERDRUG OPERATIONS**

**APPENDIX 6-1: 10 U.S.C. § 124 – Detection and Monitoring of Maritime Transit of Illegal Drugs: DoD to be Lead Agency**

**§ 124. Detection and monitoring of aerial and maritime transit of illegal drugs:  
Department of Defense to be lead agency**

**(a) Lead agency.**

**(1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.**

**(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.**

**(b) Performance of detection and monitoring function.**

**(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of--**

**(A) identifying and communicating with that vessel or aircraft; and**

**(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.**

**(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.**

**(c) United States defined. In this section, the term "United States" means the land area of the several States and any territory, commonwealth, or possession of the United States.**

**APPENDIX 6-2: 10 U.S.C. § 379 – Assignment of Coast Guard Personnel to Naval Vessels for Law Enforcement**

**§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes**

**(a) The Secretary of Defense and the Secretary of Homeland Security shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.**

**(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—**

- (1) as may be agreed upon by the Secretary of Defense and the Secretary of Homeland Security; and
- (2) as are otherwise within the jurisdiction of the Coast Guard.
- (c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Homeland Security, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374 (b)(4)(A) of this title.
- (d) In this section, the term “drug-interdiction area” means an area outside the land area of the United States (as defined in section 374 (b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

### APPENDIX 6-3: 14 U.S.C. § 89 - Law Enforcement (Coast Guard)

#### 14 U.S.C. §89 (2001)

##### Coast Guard

##### *Sec. 89. Law enforcement*

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

- (1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and
- (2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

##### *Source*

(Aug. 4, 1949, ch. 393, 63 Stat. 502; Aug. 3, 1950, ch. 536, Sec.1, 64 Stat. 406.)

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UPDATE: None

**APPENDIX 6-4: 32 U.S.C. § 112 - National Guard Funding**

**32 U.S.C. §112 (2002)**

**National Guard**

*Sec. 112. Drug interdiction and counter-drug activities*

(a) Funding Assistance. - The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a State drug interdiction and counter-drug activities plan satisfying the requirements of subsection (c). Such funds shall be used for the following:

(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of drug interdiction and counter-drug activities.

(2) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.

(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities. However, the use of such funds for the procurement of equipment may not exceed \$5,000 per item, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.

(b) Use of Personnel Performing Full-Time National Guard Duty. -

(1) Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State drug interdiction and counter-drug activities plan referred to in subsection (c), be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out drug interdiction and counter-drug activities.

(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.

(C) To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform:

(i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

(ii) National Guard personnel will not degrade their military skills as a result of performing the activities.

(iii) The performance of the activities will not result in a significant increase in the cost of training.

(iv) In the case of drug interdiction and counter-drug activities performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

(3) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if -

(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

(B) in the case of services, the performance of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan. (c) Plan Requirements. - A State drug interdiction and counter-drug activities plan shall -



## APPENDIX 6: COUNTERDRUG OPERATIONS

- (1) specify how personnel of the National Guard of that State are to be used in drug interdiction and counter-drug activities;
- (2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service;
- (3) certify that participation by National Guard personnel in those operations is service in addition to training required under section 502 of this title;
- (4) certify that any engineer-type activities (as defined by the Secretary of Defense) under the plan will be performed only by units and members of the National Guard;
- (5) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and
- (6) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities included in the plan that are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.

(d) Examination of Plan. –

- (1) Before funds are provided to the Governor of a State under this section and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b), the Secretary of Defense shall examine the adequacy of the plan submitted by the Governor under subsection (c). The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.
- (2) Except as provided in paragraph (3), the Secretary shall carry out paragraph (1) in consultation with the Director of National Drug Control Policy.
- (3) Paragraph (2) shall not apply if -
  - (A) the Governor of a State submits a plan under subsection (c) that is substantially the same as a plan submitted for that State for a previous fiscal year; and
  - (B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).

(e) Exclusion From End-Strength Computation. - Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 1993 otherwise implementing) this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10.

(f) End Strength Limitation. –

- (1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members of the National Guard -
  - (A) on full-time National Guard duty under section 502(f) of this title to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days; or
  - (B) on duty under State authority to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days with State pay and allowances being reimbursed with funds provided under subsection (a)(1).
- (2) The Secretary of Defense may increase the end strength authorized under paragraph (1) by not more than 20 percent for any fiscal year if the Secretary determines that such an increase is necessary in the national security interests of the United States.

(g) Annual Report. - The Secretary of Defense shall submit to Congress an annual report regarding assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

- (1) The number of members of the National Guard excluded under subsection (e) from the computation of end strengths.
- (2) A description of the drug interdiction and counter-drug activities conducted under State drug interdiction and counter-drug activities plans referred to in subsection (c) with funds provided under this section.
- (3) An accounting of the amount of funds provided to each State.
- (4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform activities under the State drug interdiction and counter-drug activities plans.

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(h) Statutory Construction. - Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(i) Definitions. - For purposes of this section:

(1) The term "drug interdiction and counter-drug activities", with respect to the National Guard of a State, means the use of National Guard personnel in drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities, authorized by the law of the State and requested by the Governor of the State.

(2) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.-

SOURCE- (Added Pub. L. 101-189, div. A, title XII, Sec. 1207(a)(1), Nov. 29, 1989, 103 Stat. 1564; amended Pub. L. 102-25, title VII, Sec. 703, Apr. 6, 1991, 105 Stat. 118; Pub. L. 102-396, title IX, Sec. 9099A, Oct. 6, 1992, 106 Stat. 1926; Pub. L. 104-106, div. A, title X, Sec. 1021, Feb. 10, 1996, 110 Stat. 426; Pub. L. 104-208, div. C, title VI, Sec. 660, Sept. 30, 1996, 110 Stat. 3009-720; Pub. L. 105-85, div. A, title X, Sec. 1031, Nov. 18, 1997, 111 Stat. 1880; Pub. L. 105-261, div. A, title X, Sec. 1022, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 106-65, div. A, title X, Sec. 1021, Oct. 5, 1999, 113 Stat. 746.)-

PRIOR PROVISIONS Similar provisions were contained in Pub. L. 100-456, div. A, title XI, Sec. 1105, Sept. 29, 1988, 102 Stat. 2047, which was set out as a note under section 374 of Title 10, Armed Forces, prior to repeal by Pub. L. 101-189, Sec. 1207(b).

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**UPDATE: None**

### **APPENDIX 6-5: National Defense Authorization Act of 1991, Pub. L. No. 101-510, §1004 (1991) (as amended)**

Pub. L. No. 101-510 (1991) (as amended)

#### SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) SUPPORT TO OTHER AGENCIES- During fiscal year 1991, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested--

(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT- The purposes for which the Secretary may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of--

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

## APPENDIX 6: COUNTERDRUG OPERATIONS

- (2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in subparagraph (A) for the purpose of--
    - (A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and
    - (B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.
  - (3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.
  - (4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.
  - (5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.
  - (6) Aerial and ground reconnaissance outside, at, or near the borders of the United States.
  - (7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.
  - (8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.
- (c) **CONTRACT AUTHORITY**- In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.
- (d) **LIMITED WAIVER OF PROHIBITION**- Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.
- (e) **CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES**- In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.
- (f) **RELATIONSHIP TO OTHER LAWS**- (1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.  
(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (d), section 376 of title 10, United States Code.
- (g) **AVAILABILITY OF FUNDS**- Of the amount made available for operation and maintenance under section 1001(1), \$50,000,000 shall be available to the Secretary of Defense for the purpose of carrying out this section.

**APPENDIX 6-6: CJCSI 3710.01B, DoD Counterdrug Support**

**SEE NEXT PAGE.**



# CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION

**Directive current as of 28 January 2008**

J-3  
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CJCSI 3710.01B  
26 January 2007

## DOD COUNTERDRUG SUPPORT

References: See Enclosure B.

1. Purpose. This instruction promulgates Secretary of Defense (SecDef) delegation of authority to approve counterdrug (CD) operational support missions. It also provides, in accordance with (IAW) the National Defense Authorization Act for 2002, as amended, instructions on authorized types of DOD CD support to law enforcement agencies (LEA), other government agencies, and foreign nations.
2. Cancellation. This instruction cancels CJCSI 3710.01A, 30 March 2004.
3. Applicability. This instruction is applicable to Military Departments and combatant commands and subordinate organizations conducting and supporting CD operations.
4. Policy. See Enclosure A.
5. Definitions. See the Glossary. Abbreviations and acronyms are established throughout the text in Enclosure A.
6. Responsibilities. See Enclosure A.
7. Summary of Changes. Pursuant to SecDef discretion, this instruction:
  - a. Provides authority and guidance to CDRUSSOUTHCOM for domestic CD/law enforcement activities as a result of the 2006 Unified Command Plan expanding USSOUTHCOM's area of responsibility to include Puerto Rico and the US Virgin Islands.
  - b. Promulgates SecDef authority to Military Department Secretaries to

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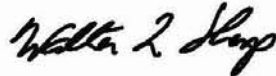
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relinquish forces to CDRUSNORTHCOM to exercise TACON to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

8. Releasability. This instruction is approved for public release; distribution is unlimited. DOD components (including the combatant commands), other federal agencies, and the public may obtain copies of this instruction through the Internet from the CJCS Directives Home Page-- [http://www.dtic.mil/cjcs\\_directives](http://www.dtic.mil/cjcs_directives). Copies are also available through the Government Printing Office on the Joint Electronic Library CD-ROM.

9. Effective Date. This instruction is effective upon receipt.

For the Chairman of the Joint Chiefs of Staff:



WALTER L. SHARP  
Lieutenant General, USA  
Director, Joint Staff

Enclosures:

- A - DOD Counterdrug Operational Support
- B - References
- GL - Glossary

APPENDIX 6: COUNTERDRUG OPERATIONS

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#### DOD COUNTERDRUG OPERATIONAL SUPPORT

##### 1. General

a. This instruction supersedes CJCSI 3710.01A, 30 March 2004, "DOD Counterdrug Support." The Secretary of Defense has delegated authority, as specified in CJCS message 190050Z Dec 91 (hereby superseded) (reference r), to the geographic combatant commanders (GCCs) to approve requests for DOD CD support to the following agencies:

(1) Domestic LEAs, including US federal, state, territorial, tribal, and local agencies.

(2) Other US government departments or agencies with CD responsibilities.

(3) Foreign law enforcement agencies with CD responsibilities, including foreign military forces with CD responsibilities pursuant to requests from US federal LEAs or other US government agencies with CD responsibilities.

b. The Secretary of Defense retains approval authority for all CD support not specifically delegated and outlined in this instruction. The Secretary of Defense expressly reserves approval authority for:

(1) All DOD support requiring the transfer of operational control (OPCON) of forces between combatant commanders, except as otherwise described and delegated herein.

(2) Requests for listening and observation posts and mobile patrols.

(3) Requests (pursuant to reference b, section 1004(b)(6) (as amended), or otherwise) to target or track suspicious buildings, vehicles, vessels, or persons in the United States to provide their continuing coordinates to LEAs or to conduct systematic and deliberate observation on a continuing basis, unless the activity is a proper continuation of an approved ground, aerial, or maritime detection and monitoring mission under provisions of 10 USC 124 (reference a). The restriction against these types of activities (see reference c and 18 USC 1385) is not intended to preclude approval of continuing visual observation from a fixed point on the ground as a part of otherwise approved military training missions but may limit it.

(4) Requests (pursuant to reference b, section 1004(b)(6) (as amended)) for the monitoring of suspected illegal drug air, sea, and surface traffic bound

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for the United States (for handoff to an LEA) first detected outside the boundary of the United States to within 25 miles of US territory (including 25 miles from the 12 nautical mile territorial sea limit).

2. DOD Support Not Covered By This Instruction. This instruction does not apply to the following activities:

a. Detection and Monitoring (D&M). D&M operations are military missions conducted to detect and track the aerial and maritime transit of illegal drugs into the United States, under the authority of 10 USC 124. Although not conducted at their request, D&M operations support the CD enforcement efforts of federal, state, local, and foreign LEAs. GCCs are delegated the authority to conduct D&M within their AORs with theater-assigned forces. However, D&M missions conducted under the authority of 10 USC 124 (reference a), using forces not assigned to the GCC, are addressed in separate execute orders and not covered by this instruction.

b. Request from law enforcement to use DOD equipment without operators or to use DOD buildings or facilities. Requests for this support will be processed IAW departmental and agency regulations and procedures.

c. Military working dog support (reference p).

d. Sensitive support to special activities (reference q).

3. DOD CD Support. This instruction applies only to DOD CD support specifically requested by LEAs provided by or involving DOD personnel in connection with CD missions, including training and associated technical and administrative support (as described in reference b, section 1004(a) (as amended)). Types of CD support include the following:

a. Maintenance and repair of loaned defense equipment to preserve the potential future utility or to upgrade to ensure compatibility of that equipment (reference b, section 1004(b)(1) & (2) (as amended)).

b. Transportation support (reference b, section 1004(b)(3) (as amended)).

c. Establish and/or operate bases or training facilities (includes engineer support) (reference b, section 1004(b)(4) (as amended)).

d. CD-related training of law enforcement personnel (reference b, section 1004(b)(5) (as amended)).

e. Detect, monitor, and communicate the movement of air and sea traffic within 25 miles of and outside United States borders (reference b, section 1004(b)(6)(A) (as amended)).

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- f. Detect, monitor, and communicate the movement of surface traffic detected outside US borders for up to 25 miles within the United States (reference b, section 1004(b)(6)(B) (as amended)).
- g. Engineering support (roads, fences, and lights) at US borders (reference b, section 1004(b)(7) (as amended)).
- h. Command, control, communications, computer, and intelligence (C4I) and network support (reference b, section 1004(b)(8) (as amended)).
- i. Linguist support (reference b, section 1004(b)(9) (as amended)).
- j. Intelligence analyst support (reference b, section 1004(b)(9) (as amended)).
- k. Aerial reconnaissance support (reference b, section 1004(b)(10) (as amended)).
- l. Ground reconnaissance support (reference b, section 1004(b)(10) (as amended)).
- m. Diver support (10 USC 371).
- n. Tunnel detection support (10 USC 371).
- o. Use of military vessels for LEA operating bases by Coast Guard personnel (10 USC 379).
- p. Technology demonstrations (10 USC 380).

#### 4. CD Support – General

a. Aerial Reconnaissance Support. GCCs may authorize the use of the following:

- (1) Radar and sensors, including synthetic aperture radar, forward-looking infrared, and electro-optic devices.
- (2) Unmanned aerial vehicles.
- (3) Aerial visual and photographic reconnaissance, and national overhead and aerial imagery.

b. Ground Reconnaissance Support

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(1) GCCs may authorize the use of the following:

- (a) Unattended ground sensors.
- (b) Ground surveillance radar.

(2) Initial detection and reporting of the presence or movement of buildings, vehicles, vessels, or persons within surface areas is permitted.

c. Tunnel Detection Support. GCCs may approve missions to support LEA tunnel detection operations IAW provisions within this instruction. DOD personnel may not search, enter, or otherwise participate directly in law enforcement operations.

d. Diver Support. During missions approved to conduct subsurface hull inspections and training, divers may visually inspect and report to LEAs any unusual physical hull configurations. Divers may not attempt entry or search, or alter features detected.

e. Linguist Support and Intelligence Analyst Support. GCCs may approve requests for support under the authority of reference b, section 1004(b)(9) (as amended), subject to the requirements outlined in references c and d (for intelligence analysts only) and concurrence by the Military Department or DOD Component General Counsel. This delegation does not include the authority to approve cryptologic support, real-time translation of oral or wire intercepts, direct participation in interrogation activities, or the use of counterintelligence assets for CD purposes.

f. Transportation Support

(1) GCCs may approve requests for CD activity-related transportation support under the authority of reference b, section 1004(b)(3) (as amended), subject to the policy guidance outlined in reference e. USTRANSCOM concurrence is required for use of its assets for Special Assignment Airlift Missions (SAAM) when inadequate airframes exist for equivalent priority DOD missions. This delegation is constrained by subparagraph (4) below.

(2) GCCs may approve requests for transportation support under the authority of 10 USC 374, pursuant to the procedures outlined in reference f and the policy guidance outlined in reference e. Such transportation requests must be coordinated with the Attorney General and, if the transportation is to or from foreign locations, the Secretary of State. GCCs approving transportation requests under this authority will provide notification to the DOD Office of General Counsel (OGC). This delegation is constrained by subparagraph (4) below.

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(3) Except for extradition requests, federal LEA requests for transportation support will be submitted to the supported GCC (or as further delegated IAW this instruction) in whose area of responsibility the mission is to originate. The responsible federal LEA, through its parent or national headquarters, must forward extradition requests to the DOD Executive Secretary, who will forward approved requests to the Joint Staff for action.

(4) GCCs are **not** authorized to approve transportation support in direct tactical support of the operational portions of ongoing LEA or foreign LEA operations, or of any activities where CD-related hostilities are imminent. If criminal evidence or prisoners seized by LEAs are brought aboard DOD aircraft, vehicles, or vessels being used to provide transportation support, such evidence and/or prisoners will remain solely within the control and custody of the LEAs.

g. Use of Military Vessels for LEA Operating Bases. The use of military vessels as a base of operations for LEAs, except when approved under reference b, requires SecDef and Attorney General approval. The Secretary of Defense has not delegated authority to approve use of military vessels for LEA operating bases in the territorial waters of a host nation (HN). Such approval coordination will be pursued in the same manner as for linguist support described in subparagraph 4.e. above and include prior notification to DOD OGC.

h. Equipment Maintenance and Operation Support. Authority is delegated to approve maintenance and operation support IAW references b and f but does not include the cost of parts or equipment to be funded under reference b or other sources.

i. Command, Control, Communications, Computer, and Intelligence (C4I) and Network Support. Assistance in establishing and maintaining C4I and networking support to provide improved integration of law enforcement, active military, and National Guard activities will be IAW reference b, section 1004(b)(8) (as amended).

j. Technology Demonstrations. Technology demonstrations may be conducted in coordination with the DOD Counternarco-Terrorism Technology Program Office, and technology requirements may be developed based on stated LEA needs (10 USC 380).

### 5. CD Support – Domestic

a. General Delegations. With regard to the general delegations in paragraph 4 above and the delegations contained in this paragraph, the Secretary of Defense has delegated approval authority to CDRUSNORTHCOM, CDRUSSOUTHCOM, and CDRUSPACOM, as appropriate, for the following:

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- (1) CD support involving no more than 400 personnel for any one mission.
  - (2) CD support not exceeding 179 days for any one mission.
  - (3) DOD personnel are not authorized to accompany LEAs on actual CD field operations nor may they participate in activities where CD-related hostilities are imminent.
  - (4) CDRUSNORTHCOM/CDRUSSOUTHCOM/CDRUSPACOM will first determine if the state (and/or territory) National Guard (title 32 forces) can provide the requested support. If the state (and/or territory) National Guard cannot provide the forces, CDRUSNORTHCOM/CDRUSSOUTHCOM/CDRUSPACOM will determine if the request is feasible, supportable, and consistent with DOD policy IAW reference g.
  - (5) GCCs/Military Departments may approve the transfer of their units, personnel, and equipment to support Joint Task Force-North (JTF-N)/USNORTHCOM CD missions. GCCs/Military Departments may delegate approval authority. When approving support to JTF-N/USNORTHCOM, the GCC/Military Department will determine whether or not the proposed mission satisfies the readiness and military training value requirements of reference g.
- b. CD-Related Training of Law Enforcement Personnel. CDRUSNORTHCOM/CDRUSSOUTHCOM/CDRUSPACOM may approve training for LEA personnel in the United States. Per reference g, no advanced military training will be provided to LEA personnel. However, the US Army Military Police School may continue to train LEA personnel in the Counterdrug Special Reaction Team Course, Counterdrug Field Tactical Police Operations Training, and Counterdrug Marksman/Observer Course (reference g). On an exceptional basis, CDRUSSOCOM may approve such training by special operations forces (reference n).
- c. Engineering Support. CDRUSNORTHCOM/CDRUSPACOM may approve engineering support in the United States. Per reference g, military engineering support is limited to the southwest border and defined as mobility and countermobility (fences, lights, roads) efforts. This includes approval of materiel purchases necessary to support DOD mission personnel but does not include military construction or provision of other materials. See reference b, section 1004(b)(7) (as amended).

### 6. CD Support – Foreign

- a. General Delegations. With regard to the general delegations in paragraph 4 above and the delegations contained in this paragraph, the

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Secretary of Defense has delegated approval authority for CD support outside the United States; the Secretary of Defense has delegated approval authority for CD support to GCCs for:

(1) Planning and Coordination Visits. Planning and coordination visits to American Embassies (contingent on Embassy approval) may be conducted with theater-assigned

(2) Intelligence Analyst Support. Intelligence analyst support may be provided to US Ambassadors using theater-assigned forces (consistent with references c and d). This approval is subject to DoD Component General Counsel concurrence when military intelligence component and/or Military Department personnel are used in support of LEAs, per reference c and component's implementing directives:

(a) At respective US Embassies or consulates.

(b) At US regional analysis centers.

(3) Planning and Coordination Visits. Planning and coordination visits of 10 personnel or less for 60 days or less to HN headquarters (contingent on American Embassy approval) may be conducted with theater-assigned or allocated forces to accomplish the GCC's D&M mission or to support the US Ambassador's CD effort with expert advice or assistance to the US Country Team.

(4) Linguist Support. Includes translator and interpreter support consistent with reference c. This approval is subject to DoD Component General Counsel approval when military intelligence components and/or personnel are used to support LEAs, as defined in reference c and component implementing directives. This delegation does not include authority to approve cryptologic support, real-time translation of oral or wire intercepts, direct participation in interrogation activities, or the use of counterintelligence assets for CD purposes. Linguist missions to locations outside American Embassies will be limited to short-duration visits (not to exceed 30 days) of no more than 10 persons to primary HN and US C4I headquarters for the express purpose of accomplishing the mission of supporting the Ambassador's CD effort.

(5) CD-Related Training of Law Enforcement Personnel

(a) GCCs may approve CD-related training of foreign law enforcement personnel requiring no more than 50 theater-assigned personnel for no more than 45 days with HN and Country Team approval and notification.

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(b) GCCs may approve CD-related technical and administrative support team deployments requiring no more than 25 personnel for no more than 179 days with HN and Country Team approval and notification.

b. Transportation Support. Transportation, consistent with the provisions of subparagraph 4.f., may be provided. Delegated authority does not authorize supported GCCs to approve transportation support of personnel in direct tactical support of the operational portions of ongoing LEA or foreign law enforcement agency operations. If transportation support is provided to foreign law enforcement agencies IAW reference b, additional notification to the Office of the Secretary of Defense – Special Operations & Low-Intensity Conflict (Counternarcotics), IAW subparagraph 8.k.(4.) of this CJCSI, will be sent in order to facilitate required congressional and other notifications.

7. SecDef Pre-Approved CD Operational Support Plans. Supported GCCs may approve LEA requests for operational support that are part of SecDef pre-approved operations, subject to the following:

a. Supported GCCs must gain approval of the overall concept of operations from the Secretary of Defense prior to commencing operations. Supported commanders (CDRs) will provide the concept of operations to the Joint Staff/J-3/JOD for review and DOD and interagency staffing at least 90 days prior to the scheduled start date.

b. Proposed activities must be consistent with policy, fiscal, and legal constraints.

c. Foreign CD operational support must have HN and US Ambassador approval.

d. Supporting GCC and/or Military Department coordination concerning resource availability, deployment times, and dates are required prior to forwarding plan for approval.

e. SecDef approval of the overall plan authorizes the supported GCCs to issue deployment and execute orders and to approve participants' travel for coordinating mission details.

f. Requests for location changes, mission changes, and mission extensions to the approved plan that exceed the authority of the GCCs delegated in this instruction will be forwarded to the Joint Staff/J-3 for action.

g. The supported GCC must provide notification IAW subparagraph 8.l., within the required timeframes (whenever feasible), prior to executing each specific support activity that is a part of pre-approved operations plan (whether involving one or several countries).

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h. Requests to conduct planned reconnaissance support will be submitted IAW reference h, if applicable.

### 8. Coordinating Instructions

a. DOD Support Requests. Requests for DOD CD support to a department or agency of the federal government must originate with an appropriate department or agency official responsible for CD activities. Request for DOD CD support to a state or local government agency must come from an appropriate official of the state or local government agency. Support to foreign law enforcement agencies must be requested by an official of a department or agency of the US federal government who has CD responsibilities and must have the concurrence of the US Ambassador of the HN in which the mission will be conducted as well as concurrence of an appropriate HN CD authority. See reference b, section 1004(a) (as amended).

#### b. LEA Support Request Processing

(1) Domestic LEA requests for DOD operational and other types of CD support will be submitted through JTF-N (or IAW CDRUSNORTHCOM policy) for the continental United States and Alaska; CDRUSSOUTHCOM for Puerto Rico and the US Virgin Islands (or IAW CDRUSSOUTHCOM policy); CDRUSPACOM for Hawaii (or IAW CDRUSPACOM policy); or the appropriate state National Guard (NG) CD coordinator.

(2) Foreign requests for DOD operational and other types of CD support should be submitted directly to the appropriate joint interagency task force or supported commander for consideration.

(3) IAW references g and i, the following criteria must be met before requests for DOD support are approved.

(a) The requested support must have a valid CD activities nexus.

(b) Each request for domestic CD operational support and other types of CD support must originate with a federal, state, or local government agency that has responsibility for CD operations. Support to foreign LEAs must originate with a US federal LEA or federal agency with CD responsibilities per reference b, section 1004(a) (as amended).

(c) Each request must solicit support that the Department of Defense is authorized to provide pursuant to law and subject to the provisions of this instruction.

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(d) Support must clearly assist the requesting agency with the CD activities of the agency.

(e) Support must be consistent with DOD implementation of the National Drug Control Strategy.

(f) All approved CD operational and other types of CD support must have military training value to the supporting unit or be consistent with DOD policy.

(g) Active duty (Title 10) forces will not be used for continuing, ongoing, long-term operational support commitments at the same domestic location.

c. LEA Fixed-Winged Transportation Support Requests. The supported GCC has approval authority, with USTRANSCOM and Deputy Assistant Secretary of Defense for Counternarcotics concurrence, for use of USTRANSCOM assets for SAAM missions, for fixed-wing transportation support to federal LEAs (reference e).

(1) DOD policy is to support Federal, state, and local LEA transportation requests to the maximum extent possible. State and local LEAs requesting fixed-wing transportation support must first submit requests to their state NG CD coordinators. If the NG cannot provide the support, state or local LEAs should coordinate with a Federal LEA to sponsor and forward their request to the Department of Defense for consideration. Federal LEA requests and Federal LEA-sponsored requests for controlled deliveries and other personnel and equipment movements should be submitted in writing by the national/Washington, D.C., headquarters of the requesting department or agency and should be signed by the national-level director of operations or other equivalent authority.

(2) Requests should include required date, time, and location of pickup and delivery points; detailed cargo and passenger descriptions; detailed rationale for DOD support; and a 24-hour point of contact at the on-load and off-load location.

(3) Priority of support is listed below and is IAW reference e.

(a) The first priority will be controlled delivery requests that involve on-going, real-time, time-sensitive operations, and a significant amount of drugs, or the disruption of a major organization.

(b) The second priority will be to support other personnel and equipment movements that are directly linked to ongoing CD operations. To the maximum extent possible, these missions will be supported with regularly

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scheduled channel aircraft. When necessary, because of mission requirements and size of the load, dedicated aircraft (SAAM sorties) may be used to support these missions. DOD will not support administrative-type movements, such as conferences, routine personnel and equipment deliveries that can be accomplished with commercial aircraft and other similar missions.

### d. Intelligence Support Processing

(1) Information relevant to a violation of federal or state law that may be incidentally collected by DOD in the United States during the normal course of military training or operations in support of LEA per 10 USC 371 will not constitute collection of intelligence if provided solely to the requesting LEA. When the request for support to a civilian LEA, IAW DODD 5525.5 and this CJCSI, involves foreign intelligence or counterintelligence support, it is an intelligence activity, subject to intelligence oversight, and will be processed in accordance with Procedure 12 of DOD 5240.1-R. When the request for DOD intelligence component capability support to civilian LEAs, IAW DODD 5525.5 and this CJCSI, does not involve foreign intelligence or counterintelligence, retention must be consistent with DODD 5200.27. Retention by the Department of Defense beyond 90 days is only authorized if collected and retained IAW ref c.

(2) If DOD is collecting and retaining the information IAW ref c, Defense Intelligence Agency (DIA) has responsibility for validating, registering, assigning, recommending priorities for, and monitoring DOD collection activities by DOD intelligence components conducting intelligence activities for the Department per reference j. DIA retains responsibility for maintaining and operating facilities for DOD imagery indexing, processing, duplication, evaluation, exploitation, and central repository services in support of the Department of Defense and other authorized recipients. DIA point of contact is DIA Counter-Narcotics Trafficking Office, 703-602-3212 (STU III).

(3) Any requests for support involving cryptologic resources must be approved by the Director of Crime and Narcotics (DCN) and National Security Agency (NSA). Also, the Department of Defense, including the Department of Defense General Counsel, must concur in such requests. Notify DCN of any requests for cryptologic support outside the United States or its territories. NSA point of contact is the Office of the DCN, 301-688-0080 (commercial/STU III)(DIRNSA FT GEORGE G MEADE MD//DCN//).

e. Operations on Private Property. Any requests involving DOD personnel operating on domestic private land without the written permission of the landowner must be forwarded to the Joint Staff/J-3 for action.

f. DOD Participation in LE Activities. Supported GCCs will ensure that DOD personnel do not directly participate in law enforcement activities such as

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search, seizure, arrest, or other similar activities unless otherwise authorized to do so by law.

g. Redelegation of Authority

(1) Supported GCCs may further delegate approval authority (subject to the limitations of paragraphs 4 through 6) to general/flag officers within their chains of command. Supported GCCs will provide instructions (within the limitations of this instruction) with any delegation of approval authority to their delegates. Instructions will include a requirement for legal review of all proposed support before it is approved. Initial denial authority rests with the first general/flag officer in the support request process. Supported GCCs will make final disposition on appeals.

(2) Delegation or redelegation of approval authority neither constitutes nor implies tasking authority over forces not under the OPCON of the supported CDR. Supported GCCs and their delegates, when so specified in the delegation, are authorized direct liaison with Military Departments and other CDRs to coordinate use of non-theater-assigned forces. In situations involving individual augmentation, the provisions of references g and i also apply.

h. CD Operations in Another CDR's AOR. When performing CD support missions, forces may temporarily cross combatant commander AOR boundaries. When this situation occurs, the combatant commander whose boundary is crossed must be immediately notified. All efforts should be made prior to operations to obtain concurrence from the combatant commander whose AOR could be crossed during missions. Minor missions of limited duration may be telephonically coordinated and followed-up with a message.

i. Minor Changes to SecDef-Approved Missions. For minor changes to CD operational and other types of support missions already approved by the Secretary of Defense:

(1) The supported GCC may approve minor changes in dates for deployment (up to 30 days after, but not earlier than, the date approved by the Secretary of Defense) and minor changes in redeployment (plus or minus 30 days from the date previously approved). Dates of deployment (vice execution) and redeployment are defined as the dates of travel. This subparagraph does not authorize the supported GCC to extend the duration of the employment or mission support phase; however, it does authorize the supporting CDR to deploy an advance party to prepare for mission execution. This subparagraph authorizes the supported GCC to make only minor changes to the dates of travel. When dates of deployment or redeployment slip more than 7 days, supported GCC will provide such information to all concerned via record message to addressees listed in original request for deployment order (RDO),

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with the RDO as reference (a) and the approved deployment order (DEPORD) as reference (b).

(2) The supported GCC may approve minor changes in numbers of deploying or deployed personnel (plus or minus 5 persons but not more than 10 percent of the approved deployment number; and the total mission number is not to exceed 400 persons for domestic support and 50 for foreign support). Supporting CDR concurrence is required when non-theater personnel are involved.

(3) For change of locations within the country in which a deployment is taking place, the supported CDR is authorized to approve location changes when the HN and/or the US Embassy requests the change to enhance the security of US personnel. The supported GCC will notify via record message the Chairman, Secretary of Defense, and all addressees listed in note 19 using the original request for RDO as reference (a) and approved DEPORD as reference (b).

j. Significant Changes to SecDef-Approved Plans. SecDef approval is required for changes to a SecDef-approved plan when:

(1) Changes in deployment or redeployment dates are more than 30 days or changes increase the duration of the mission.

(2) Numbers of deploying or deployed personnel exceed that reported in the initial notification by 5 persons or 10 percent of the total approved deployment number (whichever is greater).

(3) The change would cause a CDR-approved mission to exceed authorities delegated to the supported CD CDR.

k. GCC Procedures for Approving CD Operational Support Missions

(1) Whenever a request for operational and other types of CD support is received by a supported GCC, that GCC will either take the request for action (approval or disapproval) or forward it to the Joint Staff/J-3<sup>1</sup> for action.

(2) Requests for SecDef approval will be forwarded to the Joint Staff/J-3 at least 45 days prior to execution date with information specified in subparagraph 8.o. below.<sup>2</sup>

<sup>1</sup> Use J-3/ROD for reconnaissance assets, J-3/SOD for special operation forces, J-3/DDIO for PSYOP assets, J-3 AT/HD for USNORTHCOM missions, and J-3/JOD for all other missions.

<sup>2</sup> Message address should include the following as applicable: Joint Staff(J3/SOD/JOD/ROD/DDIO/ATHD), OSD(DASD-CN), OSD(ISA), DUSD(PS), State Department (PM-ISO/INL/applicable region (ARA, EAP, etc.)), the applicable DLEA headquarters, and appropriate Military Department points of contact (Army—HQDA WASHINGTON DC//DAMO-ODD/SAGC/SAILE//, Air



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(3) When mission requests or changes to missions are approved under delegated authority, GCCs will notify the Joint Staff at least 15 calendar days before execution (whenever feasible) with information specified in subparagraph 8.o. below and indicate the specific provision of this instruction under which support was approved. An information copy of the deployment order is appropriate. Expeditious notification of activities near the US-Mexican border is especially important. Approving GCC will verify receipt by Joint Staff/J-3.

(4) A notification of intent to support foreign LEAs under reference b, clearly labeled as support to foreign LEAs and containing the same information required by subparagraph 8.o., will be sent to OSD (DASD-CN) and OGC, information to Joint Staff/J-3, not less than 5 working days in advance of execution.<sup>3</sup>

l. Public Affairs. When supported GCCs or their delegates take requests for action, they will also issue related public affairs guidance. Include this guidance in the notification process (subparagraph 8.p.(15)).

m. Requests Received by Non-GCCs. When a CDR not authorized IAW subparagraph 1.a. or paragraph 4 to approve CD missions, OSD, a Defense agency, or a Military Department receives a request for DOD operational and other types of CD support directly from a LEA or other government agency, forward the request to the Joint Staff/J-3 for action.

n. Human Rights Verification. IAW with references i and k, GCCs will obtain verification that Department of State possesses no credible information of gross violations of human rights regarding the HN units or their members with whom DOD intends to train.

o. Required Information for Mission Approvals or Changes. When SecDef approval and deployment order are required or when notifying SecDef of a CDR-approved mission or change, IAW references g and i, provide the following information:

(1) Origin of the request (include name, title, and requesting LEA point of contact and mission of the supporting unit detailed and the unit sourced).

(2) Concept of operations, including a description of command relationships, an explanation of the CD activities nexus for the mission, an

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Force—HQ USAF WASHINGTON DC//XOFI//, Navy—UNSECNAV WASHINGTON DC//OGC-OPA//, CNO WASHINGTON DC//N515//, and Marine Corps—CMC WASHINGTON DC// POS/JA/CL//).

<sup>3</sup> This notification may be the same as the notification required in subparagraphs 8.k.(2)&(3) but must be clearly marked and contain the required message addresses. Requester must verify receipt with OSD(DASD-CN/DEP-LPC) when combined with notification in subparagraphs 8.k.(2)&(3).



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explanation of how the requested deployment is related to CD, and information relating to the benefit to the DOD War on Terrorism; security cooperation objectives; readiness; or national security.

(3) Citation of the statutory authorities for providing the support, analysis of the pertinent legal issues, and the name of the judge advocate who reviewed the request for legal sufficiency.

(4) Deployment, mission execution start/stop, and redeployment dates. Include dates arriving and departing HN (if applicable).

(5) Staging and operations location (specifically including the proximity to the US southwest border, if applicable).

(6) Type (composition), size, and force component of supporting unit or deploying force.

(7) Required number of personnel.

(8) Military Occupational Specialty, Naval Designators, or Air Force Specialty Code of intelligence component specialty personnel, if any, and intelligence oversight guidance, as applicable.

(9) Type and amount of equipment.

(10) Transportation arrangements, coordination, and priority.

(11) Whether or not personnel will be armed and applicable rules of engagement or, in the case of domestic CD support missions, rules for the use of force policy.

(12) Status protections afforded to deploying forces (legal status applying to personnel outside the continental United States). Note: If legal protections (e.g., a status of forces agreement) do not exist, requesting agency should provide a risk assessment and justification for conducting the mission.

(13) Force protection measures and responsibilities.

(14) Source of DOD funding (including specific project code) and estimated amount, if applicable.

(15) Proposed public affairs guidance.

(16) Name or specific position of official granting host government and US Ambassador approval, if applicable.

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(17) For supported CD CDR-approved missions, extensions, or changes involving non-theater assigned personnel, provide the name, rank (O-6 minimum), office, and telephone number of the person providing the supporting CD CDR or Military Department concurrence.

(18) Country or theater clearance and passport requirements.

(19) All requests for deployment orders in which foreign forces will be trained will include the following statement: "Embassy verifies that the Department of State possesses no credible information of gross violations of human rights by the (name of designated unit), or a member of that unit, as of this date." This certification must be made within 270 days of the starting date of the proposed training.

(20) Miscellaneous administrative or logistics requirements (immunizations, special or required training, uniforms, interpreter or language requirements, special equipment, and billeting).

(21) Explanation of why existing title 32 resources cannot execute the mission (domestic requests only).

(22) Explanation of why the Department of Homeland Security cannot provide the requested support (domestic requests only).

(23) Status of approval of the deployment by the host country (name and specific position of the HN official granting approval), US Chief of Mission, and appropriate commander.

p. Command and Control Relationships

(1) Transfer of forces from a supporting CDR to a supported CDR requires SecDef approval and a deployment order. Secretary of Defense will designate the command authority to be relinquished and exercised in the deployment order.

(2) The Secretary of Defense authorizes CDRUSJFCOM, CDRUSPACOM, and CDRUSSOCOM to transfer forces to CDRUSNORTHCOM and to relinquish TACON over those forces, and for USNORTHCOM to exercise TACON over those forces. The Secretary of Defense also authorizes Military Department Secretaries to provide forces to CDRUSNORTHCOM, and USNORTHCOM to exercise TACON over those forces to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

(3) The Secretary of Defense authorizes CDRUSJFCOM, CDRUSPACOM, and CDRUSSOCOM to provide tactical control of combatant commander assets

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to CDRUSSOUTHCOM to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

q. Standing Rules of Engagement/Standing Rules for the Use of Force (SROE/SRUF) for US Forces. SROE apply to US forces during all military operations and contingencies outside of the territory of the United States, unless otherwise directed. Reference 1 provides SROE-related policy and guidance on use of force by DOD personnel in CD support operations outside the territory of the United States. During CD support missions in the United States, SRUF-related policy and guidance is governed by reference 1, unless otherwise directed.

### 9. Funding and Reimbursement

a. It is imperative that DOD CD funds be obligated only for the specific activity for which appropriated and transferred. Coordinate with the Military Department that has the fiduciary funding responsibility for the proposed activity as required. Support provided must be IAW reference b or other statutory authority. Unless support is provided pursuant to reference a, the requesting LEA must reimburse the Department of Defense (Economy Act) unless the mission is provided pursuant to Chapter 18 of 10 USC and satisfies the conditions of reference f (10 USC, section 377(b)) below:

(1) Support provided in the normal course of military training or operations.

(2) Support is substantially equivalent to that which would otherwise be obtained from military operations or training.

b. LEA reimbursement is not required for support provided to an LEA under reference b as long as the support is consistent with a specific project that has been approved for funding, is available to the CDR or Military Department with fiduciary funding responsibility IAW subparagraph 8.a above, or as long as funds have been specifically transferred and made available for that type of support.

c. If reimbursement is required for the support to the LEA and the requesting agency is either unwilling or unable to reimburse the Department of Defense, the applicable commander, or Military Department with fiduciary funding responsibility will forward the request through the Joint Staff for OSD review and decision.

d. Questions involving funding propriety or availability should in all cases be referred in comptroller channels, through the Military Department to the Office of the Deputy Assistant Secretary of Defense for Counternarcotics (DASD-CN, ATTN: DIR, PR&A, COMM 703-697-5606).

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10. Corrections, Modifications, and Additions. Corrections, modifications, and additions to this delegation of authority will be necessary from time to time to ensure it accurately reflects the authority delegated and operational needs of DOD activities involved in CD support. Recommendations for changes should be directed to the Joint Staff/J-3/JOD.

11. Guidance on Conflicting Policy. For CD operational support to US federal, state, and local (including territorial and tribal) LEAs, where this guidance is inconsistent with reference m, this instruction constitutes interim SecDef guidance modifying or revising reference m.

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#### REFERENCES

- a. Title 10, United States Code, section 124.
- b. Section 1021 of the National Defense Authorization Act for Fiscal Year 2002, Public Law No. 107-107, 115 Stat. 1212, as amended
- c. DOD Regulation 5240.1-R, December 1982, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons"
- d. Title V of the National Security Act of 1947, as amended, Accountability for Intelligence Activities, sections 501 and 502 (50 USC sections 413 and 413a)
- e. OSD OCDEP&S memorandum, 15 November 1994, "Department of Defense Fixed-Wing Air Transportation Support to Federal Drug Law Enforcement Agencies"
- f. Title 10, United States Code, chapter 18, sections 371-374, 377 and 379
- g. DepSecDef memorandum, 2 October 2003, "Department Support to Domestic Law Enforcement Agencies Performing Counternarcotics Activities"
- h. CJCSI 3250.01C Series, "Policy Guidance for Sensitive Airborne and Maritime Surface Reconnaissance Operations (U)"
- i. DepSecDef memorandum, 3 October 2003, "Department of Defense International Counternarcotics Policy"
- j. DOD Directive 5105.21, 19 May 1997, "Defense Intelligence Agency"
- k. Joint Staff message 071300ZJUN04, "Human Rights Verification for DoD - Funded Training Programs with Foreign Personnel"
- l. CJCSI 3121.01B Series, "Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces (U)"
- m. DOD Directive 5525.5, 15 January 1986, "DoD Cooperation with Civilian Law Enforcement Officials" with Change 1, 20 December 1989
- n. DepSecDef memorandum, 31 July 2002, "Department of Defense Training Support to U.S. Civilian Law Enforcement Agencies"

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- o. Title 18, United States Code, chapter 67, Section 1385 (Posse Comitatus Act)
- p. DOD Instruction 5525.10, 17 September 1990, "Using Military Working Dog Teams (MWDTs) to Support Law Enforcement Agencies in Counterdrug Missions"
- q. DOD Instruction S-5210.36, 10 June 1986 with Change 1, 30 July 1987, "Provision of DoD Sensitive Support to DoD Components and Other Departments and Agencies of the U.S. Government (U)"
- r. Joint Publication 1-02, 12 April 2001 (as amended through 20 March 2006), "Department of Defense Dictionary of Military and Associated Terms"
- s. DOD Instruction 5200.27, "Acquisitions and Information Concerning Persons and Organizations Not Affiliated with the Department of Defense"]

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## GLOSSARY

### Part 1 – Abbreviations and Acronyms

ASD(SOLIC)	Assistant Secretary of Defense (Special Operations/Low-Intensity Conflict)
C4I	command, control, communications, computers, and intelligence
CD	counterdrug
CDR	commander
CDRUSPACOM	Commander, United States Pacific Command
CDRUSNORTHCOM	Commander, United States Northern Command
CDRUSSOUTHCOM	Commander, United States Southern Command
CDRUSSOCOM	Commander, United States Special Operations Command
D&M	detection & monitoring
DCN	Director of Crime and Narcotics
DEPORD	deployment order
DIA	Defense Intelligence Agency
DOD	Department of Defense
GCC	global combatant command
HN	host nation
IAW	in accordance with
JP	Joint Publication
JTF-N	Joint Task Force-North
LEA	law enforcement agency
NG	National Guard
NSA	National Security Agency
OSD (DASD-CN)	Office of the Secretary of Defense (Deputy Assistant Secretary of Defense-Counter Narcotics)
OGC	Office of General Counsel
OPCON	operational control

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RDO	request for deployment order
ROE	rules of engagement
RUF	rules for use of force
SAAM	Special Assignment Airlift Missions
SecDef	Secretary of Defense
SROE	Standing Rules of Engagement
SROF	Standing Rules for the Use of Force
TACON	tactical control

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## GLOSSARY

## Part 2 -- Definitions

- area of operations (AO) – An operational area defined by the joint force commander for land and naval forces. Areas of operation do not typically encompass the entire operational area of the joint force commander but should be large enough for component commanders to accomplish their missions and protect their forces. (Joint Publication (JP) 1-02)
- arrival zone (AZ) – In counterdrug operations, the area in or adjacent to the United States into which illegal drugs are smuggled and from which their initial domestic distribution begins. By air, an airstrip; by sea, an offload point on land or transfer to small boats. (JP 1-02)
- controlled delivery – The use of DOD fixed-wing aircraft for counterdrug transportation support to domestic law enforcement agencies. Support involves the acquisition and funding of aircraft to transport contraband (e.g., illegal drugs, money), agents, cooperating defendants, and commercial/private vehicles required for counterdrug operations that are time-sensitive or ongoing.
- counterdrug (CD) activities – Those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to drug trafficking. This includes, but is not limited to, measures taken to detect, interdict, disrupt, or curtail activities related to substances, materiel, weapons, or resources used to finance, support, secure, cultivate, process, or transport illegal drugs.
- counterdrug (CD) non-operational support – Support provided to law enforcement agencies and host nations that includes loan or lease of equipment without operators, use of facilities (such as buildings, training areas, and ranges), training conducted in formal schools, transfer of excess equipment, or other support provided by the Military Departments from forces not assigned or made available to the combatant commanders. (JP 1-02)
- counterdrug (CD) operational support – Support to host nations and law enforcement agencies involving military personnel and their associated equipment and provided by the geographic combatant commanders from forces assigned or attached to them or made available to them by the Military Departments for this purpose. Operational support does not include support in the form of equipment alone nor the conduct of joint

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law enforcement investigations with cooperating civilian law enforcement agencies. (JP 1-02)

deployment date – The date a unit or an individual leaves home station to execute a mission. Deployment may be ordered by a military deployment order or temporary duty order.

execution date – The date a unit or an individual begins the mission. Execution can be ordered by a military deployment order, an execute order, or a temporary duty order.

force protection (FP) – Security program designed to protect soldiers, civilian employees, family members, facilities, and equipment, in all locations and situations, accomplished through planned and integrated application of combating terrorism, physical security, operations security, personal protective services, and supported by intelligence, counterintelligence, and other security programs.

ground-based radar (GBR) – Land-based fixed or mobile asset that provides primary or augments existing radar coverage and is capable of long-range searches up to 240 nms and height finding up to 95,000 feet. Communications available from the unit include HF, VHF, UHF, and SATCOM.

host nation (HN) – A nation that receives the forces and/or supplies of allied nations, coalition partners, and/or NATO organizations to be located on, or to operate in, or to transit through its territory. (JP 1-02)

host-nation support (HNS) – Civil and/or military assistance rendered by a nation to foreign forces within its territory during peacetime, crises or emergencies, or war based on agreements mutually concluded between nations. (JP 1-02)

law enforcement agency (LEA) – Any of a number of agencies (outside the Department of Defense) chartered and empowered to enforce laws in the following jurisdictions: the United States, a state (or political subdivision) of the United States, a territory or possession (or political subdivision) of the United States, or to enforce US laws within the borders of a host nation. (JP 1-02)

mobile training team (MTT) – A team consisting of one or more US military or civilian personnel sent on temporary duty, often to a foreign nation, to give instruction. The mission of the team is to train indigenous personnel to operate, maintain, and employ weapons and support systems, or to develop a self-training capability in a particular skill. The

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President and Secretary of Defense may direct a team to train either military or civilian indigenous personnel, depending upon host-nation requests. (JP 1-02)

operational control (OPCON) – Command authority that may be exercised by commanders at any echelon at or below combatant command. Operational control may be delegated and normally provides full authority to organize commands and forces and to employ those forces as the commander in operational control considers necessary to accomplish assigned missions. Operational control should be exercised through the commanders of subordinate organizations and does not, in and of itself, include authoritative direction for logistics or matters of administration, discipline, internal organization, or unit training. (JP 1-02)

Posse Comitatus Act – Prohibits direct participation by the Army and the Air Force in law enforcement activities such as search, seizure, arrest, or similar activities except in cases and under circumstances expressly authorized by the Constitution or Act of Congress (Title 18, United States Code, Section 1385 “Use of Army and Air Force as Posse Comitatus”) (reference o). Applied to the Navy and Marine Corps as a matter of DOD policy (see reference m).

rules of engagement (ROE) – Directives issued by competent military authority that delineate the circumstances and limitations under which US forces will initiate and/or continue combat engagement with other forces encountered.

rules for use of force (RUF) – Fundamental policies and procedures governing the use of force by US commanders and their forces during all DOD civil support, including military assistance to civil authorities

tactical control (TACON) – Command authority over assigned or attached forces or commands, or military capability or forces made available for tasking, that is limited to the detailed and, usually, local direction and control of movements or maneuvers necessary to accomplish missions or tasks assigned. Tactical control is inherent in operational control. Tactical control may be delegated to, and exercised at, any level at or below the level of combatant command. (JP 1-02)

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**APPENDIX 6-7: NGR 500-2/ANGI 10-801 - NATIONAL GUARD COUNTERDRUG SUPPORT**

**National Guard Regulation 500-2/  
Air National Guard Instruction 10-801**

**Emergency Employment of Army and Other  
Resources**

# **National Guard Counterdrug Support**

Departments of the Army and the Air Force  
National Guard Bureau  
Arlington, VA 22202-3231  
29 August 2008

## ***SUMMARY of CHANGE***

NGR 500-2/ANGI 10-801  
National Guard Counterdrug Support

This publication is a revision.

- Reflects the growth and changes in the responsibilities of the Full-Time National Guard Counterdrug Program
- 1-5.b. updated
- Added: 1-5.c. Section 1004 (Additional Support for Counterdrug Activities), National Defense Authorization Act (NDAA) of 1991 (Public Law (PL) 101-510), as amended provides CD support authority for the NGCSP.
- Para 2-1.e. (1) changed to read: Exigent circumstances are situations, in which the utilization of any step in the Force Continuum is necessary to protect police officers, military personnel, or other persons from death or serious injury. Personnel may use an appropriate level of force to prevent the loss or destruction of evidence; or to prevent the escape of a suspect already in custody.
- Para 2-5.g. Changed to read: Carriage of lethal or non-lethal weapons.
- Para 2-7.b. (2) added: Focus on four core competencies: Link Analysis, document exploitation, commodity-financial analysis, and case construction.
- Para 2-7.b. (2) changed to read: approved Criminal Analyst duties in support of drug law enforcement or counter-terrorism agencies, assistance in the design, development, and appropriate or coordinated dissemination of criminal intelligence information.
- Added to para 2-7c (2): Provide transportation and controlled deliveries (aerial, ground, or maritime) of LEA personnel/equipment, persons in LEA custody.
- Para 2-7.d. changed to read: train Federal, State, and local LEA, CBO, and military personnel.
- Para 2-7.d. changed to read: per diem expenses if not provided.
- Para 2-7.e.(1) deleted: Surface, changed to Ground
- Para 2-7.f changed to read: authorized missions for Drug Demand Reduction Programs
- Para 2-9.a, b and c changed to read: a. A (MOU) or (MOA) between the state and any supported LEA/CBO is required by the state and the LEAs/CBOs concerned, and must comply with all applicable federal/state laws and regulations/instructions. b. The state AGR JAG or competent legal authority will review. The JAG's review may be in the form of a memorandum for record. c. The agreement must be approved and signed by the TAG, CDC, and LEA/CBO concerned before support is provided.
- Para 2-9 Interstate Agreements (MOUs/MOAs) is now para 2-10.
- Para 2-10 from NGR 500-2/ANGI 10-801 dated 31 March 2000 is now a separate chapter, see Chapter 6 Counterdrug Funding and Fiscal Policy Overview

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- Para 3-3.a. changed to read: This paragraph contains federal guidelines that cannot be broadened. Each state must develop rules on the use of force that are in compliance with state Use of Force Continuum, and this regulation.
- Added to the end of para 3-3.3b. If approval is delegated, the CDC must either be the approving official or in the approval chain.
- Para 3-3.c. changed to read: qualification training and testing with their permanently assigned, by serial number, CD weapon IAW current regulations, Training will include security, weapons retention.
- Para 3-3.k changed to read: National Guard members will be thoroughly briefed on the Rules for Use of Force as approved by the state attorney general and the policies of the agency they are supporting IAW that agency's academy or in-service defensive tactics training program before the commencement of any operation
- Para 3-3.l. changed to read: Personnel authorized to carry firearms will wear body armor while carrying a firearm and actively engaged in a CD mission, unless waived by the CDC, based on the mission risk assessment.
- Para 3-15 Aviation Counterdrug Mission Support complete update
- Para 5-10, SPIES, FRIES, HELOCAST, Rappelling and Paratroop Operations updated
- Para 5-11 Training and Qualification of Sensor Equipment Employment (Ground and Aviation) updated
- Para 5-12.a., b., and c. changed to read: a. CD program personnel will qualify on their CD assigned weapon(s) to (STRAC) standards. IAW Counterdrug standards and tables in DA Pam 350-38. b. The CD program will submit ammunition requirements through (STAM) to (NGB-ART-S). A (UIC) and (DODAAC) will be identified so training ammunition authorizations can be sub-authorized and the DA Form 581 completed. c. Operational load ammunition requirements using the DA Form 581, using the event code "OPN". HQDA may begin managing operational load ammunition with TAMIS-R authorizations through NGB. ANG members are responsible for requesting training ammunition and operational load through their ANG providers. State programs are not authorized to conduct 5a operations without a NGB qualified trainer.
- Chapter 6-Counterdrug Funding and Fiscal Policy Overview entire chapter updated
- Chapter 7- Acquisition and Logistics Management, entire chapter updated
- Chapter 8- Personnel and Administration, entire chapter updated
- Chapter 11- National Guard Counterdrug Schools Program (NGCSP) new chapter

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# APPENDIX 6: COUNTERDRUG OPERATIONS

Departments of the Army and the Air Force  
National Guard Bureau  
Arlington, VA 22202-3231  
29 August 2008

\*NGR 500-2/ANGI 10-801

## Emergency Employment of Army and Other Resources

### NATIONAL GUARD COUNTERDRUG SUPPORT

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#### By Order of the Secretary of Defense:

**H STEVEN BLUM**  
Lieutenant General, USA  
Chief, National Guard Bureau

**Official:**

**GEORGE R. BROCK**  
Chief, Strategy and Policy Division

---

**History.** This printing publishes a revision of NGR 500-2/ANGI 10-801. The original was published 1 March 1993 with subsequent revisions dated 30 September 1993, 27 October 1997, and 31 March 2000.

**Summary.** This regulation/instruction prescribes policies, procedures, and responsibilities governing the utilization of National Guard and Department of Defense (DoD) resources in the National Guard Counterdrug (CD) Support Program. It also provides guidance pertaining to program and budget management of the Joint National Guard Substance Abuse Program (JNGSAP), referred to collectively as Substance Abuse (SA) programs. It also prescribes policy, procedures, and responsibilities governing the utilization of National Guard and Department of Defense (DoD) resources in the National Guard Counterdrug Schools Program (NGCSP).

**Applicability.** This regulation/instruction applies to the Army and Air National Guard of the 50 States, the Commonwealth of Puerto Rico, the Territory of Guam, the United States Virgin Islands, and the District of Columbia, hereafter referred to as states, while performing counterdrug missions when not in Federal Service.

**Proponent and Exception Authority.** The proponent of this regulation is the National Guard Bureau (NGB) J3 Counterdrug Division. The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation.

**Management Control Process.** This regulation/ instruction incorporates guidance from AR 11-2, AFI 65-201, and OMB Circular A-123. The Federal Managers' Financial Integrity Act, OMB Circular A-123, and DoD Directive (DoD) 5010.38 apply to all DoD activities and programs. This regulation contains management control provisions, but does not identify key management controls that must be evaluated.

**Supplementation.** Supplementation of this regulation/instruction is prohibited without prior approval from the Chief, National Guard Bureau, ATTN: J3 Counterdrug Division, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231.

**Suggested Improvements.** Users are encouraged to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Chief, National Guard Bureau, ATTN: NGB J3 Counterdrug Division, 1411 Jefferson Davis Highway, Suite 6500, Arlington, VA 22202-3231.

**Distribution:** B/F

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\* This publication supersedes NGR 500-2/ANGI 10-801, 31 March 2000.

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## Chapter 1 Introduction

### 1-1. Purpose

This regulation/instruction:

- a. Prescribes policies, procedures, and responsibilities governing the utilization of National Guard and Department of Defense (DoD) resources in the National Guard Counterdrug Support Program for drug interdiction demand reduction, and narcoterrorism activities.
- b. Provides program management and budget guidance for the Joint National Guard Substance Abuse Program (JNGSAP).
- c. Prescribes policy, procedures, and responsibilities governing the utilization of National Guard (NG) and DoD resources in the National Guard Counterdrug School Program (NGCSP).
- d. Does not address National Guard Counterdrug (CD) activities performed under authority of Title 10, United States Code.
- e. Does not apply to military technician assistance programs established pursuant to the Technician Personnel Regulation.

### 1-2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

### 1-3. Explanation of Abbreviations and Terms

Abbreviations and terms used in this regulation/instruction are explained in the glossary.

### 1-4. Responsibilities

- a. The SECDEF, in accordance with (IAW) 32 USC § 112, may provide resources through the Chief, National Guard Bureau (CNGB), to states receiving SECDEF approval of the Governors' State Plans for National Guard Counterdrug Support. The SECDEF, IAW with Section 1004, NDAA of 1991, as amended may provide funds through the CNGB, to a state receiving SECDEF approval of a CD school execution plan for National Guard Training Support.
- b. The National Guard Bureau (NGB) is the official channel of communication between the states, SECDEF and the Departments of the Army and Air Force as well as other federal agencies.
- c. The National Guard Bureau J3 Counterdrug Division (NGB J3-CD) has responsibilities as follows:
  - (1) Primary responsibility for the development and execution of National Guard Counterdrug Support Program policies, procedures, and regulations/instructions. Submit questions on Counterdrug Support Program policy to the Chief, NGB J3-CD.
  - (2) The Chief, NGB J3-CD, is the NGB Program Manager for the Joint National Guard Substance Abuse Program (JNGSAP), providing guidance to the states IAW NGR 600-85/ANGI 44-120.
  - (3) NGB J3-CD is the single point of contact within NGB for all issues pertaining to the JNGSAP and for program management/budget issues pertaining to the JNGSAP.
  - (4) NGB J3-CD is the single point of contact within NGB for all issues pertaining to the Counterdrug Support Program and for program management/budget issues pertaining to the program.
  - (5) NGB J3-CD funds a full-time Title 32 Active Guard/Reserve (AGR) Counterdrug Coordinator (CDC) position in each state for administration and management of the state CD program. (See paragraph 9-6 of this regulation/instruction.) The Chief, NGB J3-CD, will approve any selection for rank greater than the rank of (O5-LTC/Lt Col).
  - (6) Primary responsibility for the development and execution of NGCSP policies, procedures, and regulations/instructions. Submit questions on NGCSP policy to NGB J3-CD.
  - (7) The NGB J3-CD is the single point of contact within the NGB for all issues pertaining to NGCSP, program management, and budget issues.
- d. The Governor is the Commander-in-Chief of the state's National Guard (NG) units not in federal service. The District of Columbia National Guard serves under the Commanding General, who performs the function of a Governor with respect to state plans IAW paragraph 2-5.
- e. The Adjutants General are responsible for:
  - (1) The selection of a CDC and determining the chain of supervision for the Counterdrug Support Program.
  - (2) Establishing a Joint National Guard Substance Abuse Program (JNGSAP) and identifying state program managers for the JNGSAP. All designations must be IAW AR 600-85 and AFI 44-120. The JNGSAP will be managed within the Counterdrug Program.

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(3) The administrative and logistical support for the NGCSP in a state.

f. The CDC serves as the focal point for all CD mission validations, approval authority, and the prioritization for CD mission tasking in accordance with appropriate policies, instructions, and directions. The CDC is responsible for all management control aspects of the Counterdrug Support Program within his/her state to include the JNGSAP. As the point of contact for CD programming matters, the CDC will ensure that programs and functions are conducted effectively and efficiently. The CDC will communicate issues affecting the Counterdrug Support Program with NGB J3-CD to ensure the program meets management control requirements.

g. Each CD School Director/Commandant, or designated representative, is responsible for all management control aspects of his/her respective counterdrug school. The CD School Director/Commandant or designated representative will ensure that programs and functions are conducted effectively and efficiently. The Director/Commandant, or designated representative, will communicate issues affecting the CD school with the NGB J3-CD to ensure the CD school program meets management and control requirements. Financial issues affecting a counterdrug school will be coordinated with the CD school's host state United States Property and Fiscal Office (USPFO), Base Comptroller, and the NGB J3-CD through the CDC or the military liaison.

#### **1-5. Statutory Authority and Policy**

a. Section 112, Title 32, United States Code (32 USC § 112) is the authority for the Counterdrug Support Program.

b. Public Law 92-129 (PL 92-129) as implemented by Army Regulation and Air Force Instruction (AR 600-85/AFI 44-120). AR 600-85 and AFI 44-120 are the authority for the Army National Guard (ARNG) and Air National Guard (ANG) Joint National Guard Substance Abuse Program.

c. Section 1004 (Additional Support for Counterdrug Activities), National Defense Authorization Act (NDAA) of 1991 (Public Law (PL) 101-510), as amended provides CD support authority for the NGCSP.

#### **1-6. Regulatory Structure**

All of the programs described in this regulation/instruction are operated within the existing National Guard and state regulatory structures. Unless otherwise directed by proper authority, all existing rules, regulations, instructions and procedures applicable in general to the National Guard are also applicable to the programs described in this regulation/instruction.

### **Chapter 2**

#### **Counterdrug Support Program**

##### **2-1. Legal Considerations and Requirements**

a. National Guard role. The National Guard provides CD support to federal, state, and local law enforcement agencies (LEAs), Community Based Organizations (CBOs), educational, and government organizations that request assistance. National Guard personnel engaged in CD support activities for which federal funding is provided by 32 USC § 112 must be acting in support of LEAs, CBOs, educational, or government organizations, hereafter referred to as organizations. National Guard CD programs will only provide support to operations whose primary purpose is counterdrug/counternarcotics or counternarcoterrorism (CNT), with the exception of internal National Guard drug prevention education activities. When using 32 USC § 112 funds, states may execute only those missions that have been approved by the SECDEF within the Governors' State Plans, in conformity with the mission definitions in this regulation/instruction.

(1) Requests to perform missions that are on the SECDEF approved mission list but were not included in the original annual state plan execution memorandum must be submitted to SECDEF thru NGB J3-CD for approval. Such requests must include certification by the Governor, or the Commanding General, District of Columbia, as appropriate, and the state attorney general, or the United States Attorney for the District of Columbia, as appropriate. (See paragraph 2-5.)

(2) Requests to perform missions that are not on the SECDEF approved mission list must be submitted through NGB J3-CD to the SECDEF for approval. Requests must include certification by the Governor, or the Commanding General, District of Columbia, as appropriate, and the state attorney general, or the United States Attorney for the District of Columbia, as appropriate. (See paragraph 2-5.)

(3) Counterdrug Coordinators may support National Guard unit commanders/designees and/or Joint Substance Abuse Program coordinators requests for Drug Demand Reduction support for the purpose of unit drug prevention education activities.



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b. Requests for support. LEAs and CBOs will request CD support through the Adjutant General, ATTN: Counterdrug Coordinator. Support requests that are beyond the capability of the state National Guard will be forwarded to the NGB Counterdrug Office, ATTN: Regional Coordinator. The National Guard *will not* support CD operations without a request validated by the CDC or designated representative. Requests must originate with an LEA or CBO, be in writing, signed by a responsible official, and specify the length of required support. An annual signed written request on agency letterhead is required when the requesting agency desires continuation of support for a full fiscal year (FY). Software generated electronic signatures are acceptable on web based requests.

c. Verbal requests. A verbal request must be followed by a signed, written request as soon as possible for all support.

d. Federal/state law. The authority to provide CD support is defined by federal law if federal funds are expended to support a mission, and by state law if state funds are used to support a mission. CD activities in support of a Federal LEA can not violate State law.

e. Arrests, searches, and seizures. The Posse Comitatus Act (18 USC § 1385) does not apply to National Guard personnel on duty under authority of Title 32. As a matter of policy, however, National Guard personnel on 32 USC § 112 CD orders will not, except for exigent circumstances or as otherwise authorized in this regulation/instruction, directly participate in the arrest of suspects, conduct searches which include direct contact of National Guard members with suspects or the general public, or become involved in the chain of custody for any evidence. State law may impose additional restrictions.

(1) Exigent circumstances are situations, in which the utilization of any step in the Rules for Use of Force (RUF) is necessary to protect police officers, military personnel, or other persons from death or serious injury. Personnel may use an appropriate level of force to prevent the loss or destruction of evidence; or to prevent the escape of a suspect already in custody.

(2) Supported LEAs are responsible for obtaining warrants required for searches or for determining the need for searches, inspections, and observations that do not require warrants. This responsibility includes the determination of any potential legal restrictions upon the use of thermal imaging or sense enhancing systems.

f. Responsibility/liability. Responsibility/liability for the actions of National Guard personnel involved in CD support activities is as follows:

(1) Federal protection for personal injury, death, or property damage caused by National Guard personnel, acting within the line of duty, in Title 32 status, is governed by the Federal Tort Claims Act (FTCA) (28 USC § 2671-2680).

(2) Responsibility and liability for actions by National Guard personnel on State Active Duty (SAD) are IAW state law. The Federal Tort Claims Act does not cover personnel in a SAD status.

(3) Responsibility and liability for loss and damage to National Guard equipment will be determined by a Report of Survey, IAW applicable regulations.

(4) Personnel on Title 32 duty in a non-pay status pursuant to written orders, when acting within the line of duty, are considered employees of the United States for purposes of the FTCA.

(5) Volunteers (military or civilian) not on orders are not employees of the United States for purposes of the FTCA or the Federal Employees Compensation Act (FECA).

g. Environmental and/or historical landmark restrictions. All operations will be conducted IAW federal and state environmental and/or historical landmark laws and regulations.

h. Mission support. The role of the National Guard in CD supply or demand reduction is to support LEAs and educational and government organizations. The CDC, and leaders at all levels, should implement internal controls to ensure that National Guard personnel perform only approved CD activities within the parameters of applicable law, regulation, and policy

i. Records retention.

(1) Organizational records of CD training, to include letters of instruction and course materials, will be maintained by the CDC for six years.

(2) Individual records of CD training, including LEO- provided certifications of training of LEO personnel, will be maintained by the CDC for six years.

(3) Regulations, policy letters, directives, and instructions issued by NGB-CD will be maintained by NGB-CD for 50 years. Regulations, policy letters, directives and instructions issued by the CDC shall be maintained by the CDC for 50 years.

(4) AARs and mission briefings will be maintained for six years..

### 2-2. Subpoenas and Requests for Information

a. The National Guard, and its current and former members and employees, may receive subpoenas, orders or other requests for the appearance or testimony of individuals or requests to produce, disclose or release "official

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information" regarding the Counterdrug Support Program. The state Judge Advocate General (JAG) will be immediately notified in such cases.

b. The provisions of AR 27-40 or AFI 51-301, as appropriate, are applicable when the above situations are related to "judicial proceedings" and "litigation" (as defined in those regulations).

c. The payment of travel expenses, per diem and fees, in response to subpoenas, is governed by AR 27-40 and AFI 51-301. National Guard members under subpoena who are not already serving under Counterdrug Support Program orders will be placed under orders for the period required for preparation and testimony. The CDC will maintain a copy of the subpoena or other documents. If the member is placed on, or serving under, orders by the National Guard, any payments received from the court as compensation for testifying must be forwarded to the USPFO (ARNG) or unit comptroller (ANG).

d. The provisions of AR 25-55 or Air Force Supplement 1 (AFSUP1) to DoD 5400.7-R as appropriate, are applicable when the above situations are related to producing, disclosing or releasing official information (as defined by these regulations/instructions). AR 25-55 and DoD 5400.7-R, AFSUP1, apply when federal records are released to the public.

e. Counterdrug personnel are not precluded from producing analytical products that may cause them to be subpoenaed when acting in support of law enforcement agencies pursuant to a valid, approved support request.

### 2-3. Special Notification Requirement

The CDC will contact the NGB Chief Counsel (NGB-JA), through the NGB J3-CD, when either of the following circumstances occurs in connection with the Counterdrug Support Program:

a. Possibility of civil liability on the part of a National Guard member, the National Guard, or volunteers.

b. Occurrence of negative judicial rulings based wholly or in part upon the conduct of National Guard members, or volunteers, including the suppression of evidence.

### 2-4. Tort Liability

a. The FTCA (28 USC § 2671-2680) is applicable to National Guard members engaged in CD support, serving under Title 32 orders. Individuals whose property is lost, damaged or destroyed, or who suffer personal injury or death as a result of the negligent acts or omissions of National Guard members acting within the scope of their duties, may file a claim against the United States under the FTCA. National Guard members acting within the scope of their authority and performing approved support (listed in the Governor's State Plan and approved by the SECDEF) are immune from suit except for certain constitutional torts, i.e., when a negligent act or omission constitutes a violation of the constitutional rights of the injured party, including persons suspected of criminal activity, and certain intentional torts, such as assault and battery, false arrest and imprisonment.

b. National Guard members engaged in CD support activities in a SAD status are entitled to the protections and immunities afforded by state law.

c. There is, at the present time, no protection from liability under the FTCA or coverage under the FECA for volunteers, including National Guard members not on orders or in any other recognized status. Such volunteers will not be utilized in any CD activity without their having been advised beforehand of the foregoing lack of protection from liability and coverage. All National Guard volunteers should be placed, as a minimum, on orders for retirement points only to provide them liability coverage.

### 2-5. Governor's State Plan

a. For the purpose of this regulation/instruction, the term "state" is inclusive of all 50 states, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Territory of Guam and the District of Columbia, per 10 USC § 10001.

b. Each state will submit for review a Governor's State Plan to the National Guard Bureau, ATTN: NGB J3-CD. The Plan will be approved and signed by the governor and the state attorney general IAW 32 USC § 112(c). The District of Columbia State Plan will be approved and signed by the Commanding General, District of Columbia, and the United States Attorney for the District of Columbia.

c. The State Plan must include a certification by the governor that any activities carried out in conjunction with federal LEAs serve a state law enforcement purpose. The District of Columbia Plan must include a certification by the Commanding General, District of Columbia that any activities carried out in conjunction with federal LEAs serve a law enforcement purpose.

d. The Plan must include a certification by the state attorney general, or the United States Attorney for the District of Columbia, that the missions/activities in the plan are consistent with, and not prohibited, by state law or laws of the District of Columbia, as appropriate.

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e. Certifications and approvals by the governor, or the Commanding General, District of Columbia, and the state attorney general, or United States Attorney for the District of Columbia, cannot be waived.

f. Plans will be prepared IAW instructions published by the NGB J3-CD based on current Deputy Assistant Secretary of Defense for Counternarcotics, Counterproliferation, and Global Threats (DASD/CN, CP & GT) guidance.

g. Carriage of lethal or non-lethal weapons in support of LEAs must be annotated in the Governor's State Plan.

h. The CDC is responsible for the submission of the Governor's State Plan for CD support.

i. The Governor's State Plan will not include plans for the JNGSAP. A separate plan will be developed for the JNGSAP.

j. The CD schools of the NGCSP will submit an annual School Training Plan to NGB J3-CD IAW Chapter 11 of this regulation/instruction.

k. State Counterdrug programs managing other support activities funded through specific project funding codes will submit separate State Plans for those projects as directed through NGB J3-CD.

### 2-6. Waiver Request

Waiver requests for NGR 500-2/ANGI 10-801 must be submitted through the Chief, NGB J3-CD, to the CNGB for approval. All requests must contain information detailing the reason for the waiver, that it will meet applicable federal, state, and local laws, and how it will affect the program.

### 2-7. Authorized Missions

Only the following CD missions will be funded by the SECDEF under the authority of 32 USC § 112.

However, all CD missions included in the Governor's State Plan must be consistent with, and not prohibited by, state law. Some states may not authorize the National Guard to perform every SECDEF approved mission. It is the purpose of the certification by the state attorney general, or the United States Attorney for the District of Columbia, as appropriate, to ensure that the Governor's State Plan does not include any missions that are inconsistent with, or prohibited by, state law.

a. Mission Category #1. Program Management. Mission 1. Counterdrug Coordination, Liaison, and Management. Plan and coordinate CD support, establish liaison with supported LEAs and other community organizations, resource and manage personnel and equipment requirements for CD support operations, and prepare operational/financial reports and briefings as required.

b. Mission Category #2. Technical Support.

(1) Mission 2a. Linguist Support (Translator Support). Provide transcription/translation of audio/video tapes, seized documents, and other information media. National Guard personnel will not participate in active/real-time Title III conversation monitoring or directly participate in interrogation activities. The National Guard will not maintain or store final products in National Guard facilities or databases.

(2) Mission 2b. Investigative Case and Analyst Support. Focus on four core competencies: Link Analysis, document exploitation, commodity-financial analysis, and case construction. Other duties include: approved Criminal Analyst duties in support of drug law enforcement or counter-terrorism agencies includes the creation of graphs, charts, maps, and toll analysis of suspected individuals or organizations; assistance in the design, development, and daily maintenance of operational intelligence databases; compilation, review, and input of raw data; preparation of reports necessary for successful investigational and prosecutorial purposes; performance of necessary case research; mastery and daily utilization of analyst specific software and hardware systems; appropriate or coordinated dissemination of criminal information; and conducting strategic and tactical analysis of case information. Additional analyst duties may include, but are not limited to the establishment and conduct of liaison tasks with other analysts or relevant agencies; preparation of statistical information; development and presentation of oral and written briefings; as well as any other analytical duties deemed necessary by the supported agency.

(3) Mission 2c. Operational/Investigative Case Support. Provide assistance to LEAs in developing investigations and cases for prosecution. Activities include, but are not limited to, inputting, reviewing, and analyzing collected LEA information, and providing legal, paralegal, and auditing assistance. Operational support to LEAs is designed to enhance the effectiveness of the supported agency and release law enforcement officers for drug enforcement duties. This category of support excludes such tasks as secretarial, janitorial, or receptionist duties.

(4) Mission 2d. Communications Support. Provide personnel to establish, operate, and maintain communications stations, bases, and equipment in support of LEA CD operations and assist with CBO communications/technical issues.

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(5) Mission 2e. Engineer Support. Provide engineer support to LEAs and community organizations where the project has a counterdrug nexus. This will exclude operations concerning drug laboratories or hazardous materials. Local LEAs and governments must secure the area before arrival of National Guard personnel, take possession of any evidence or materials to be confiscated/destroyed and obtain clearances, court orders, warrants and/or permits for destruction, removal or disposal of materials or other environmental hazards/concerns.

(6) Mission 2f. Subsurface/Diver Support. Conduct subsurface inspections of commercial vessel hulls within U.S. territorial waters or U.S. maritime ports of entry (POE) through the use of sidescan sonar buoys or divers to detect alien devices or containers attached to the vessel hulls, or other underwater activities. Before the use of military qualified National Guard Diver personnel for hull inspection activities, the vessels must be secured by the responsible law enforcement officials. Divers may visually inspect and report to LEAs any unusual physical hull configurations but may not attempt entry, search, removal or alteration of features detected. Divers participating in these operations must be on dive status in approved dive positions. National Guard personnel will not dive in a permissive dive status conducting mission 2f. Permissive diving is strictly a training tool, not an operational status.

c. Mission Category #3. General Support.

(1) Mission 3a. Domestic Cannabis Suppression Operations Support. Support of LEA domestic cannabis suppression and eradication operations. This includes, but is not limited to, aerial support, logistic support, communications support, intelligence, planning support, operational staff coordination, medical support, physical security, ground transportation, eradication and destruction of contraband, and spraying of herbicides, IAW Environmental Protection Agency (EPA) regulations and state laws.

(2) Mission 3b. Transportation Support. Provide transportation and controlled deliveries (aerial, ground, or maritime) of LEA personnel/equipment, persons in LEA custody, seized property or contraband as part of ongoing time-sensitive CD operations, when security or other special circumstances reasonably necessitate National Guard support and there is a counterdrug nexus. Routine administrative aerial transportation is not permitted under this mission nor are missions that compete with private enterprise. LEA officers are responsible for the security of any evidence or persons in their custody. Provide ground transportation of youth, adults, and associated equipment and supplies for community/state demand reduction program activities.

(3) Mission 3c. Maintenance/Logistical Support. Provide maintenance/logistical support of LEA vehicles and equipment to enhance the CD effectiveness of the supported agency and release Law Enforcement Officers (LEOs) for drug enforcement duties. General maintenance/logistics support for non-CD vehicles and equipment is prohibited.

(4) Mission 3d. Cargo/Mail Inspection. Assist LEAs by inspecting cargo and mail. Primary emphasis will be placed on ports of entry (POEs) and functional equivalents. Cargo/Mail includes, but is not limited to, vehicles, containers, commercial cargo, aircraft, watercraft, baggage, and mail. National Guard personnel will not make arrests, conduct searches of individuals, seize property, or enter into the chain of evidence. LEOs must be present at inspection sites, make seizures, maintain custody of evidence, and maintain control of vehicle occupants.

d. Mission Category #4. Counterdrug-related Training and Training LEA/Military Personnel. Train military, LEAs, CBOs, educational and government institutions in subjects and skills useful in the conduct of CD operations or in the operation of military equipment used in CD operations. LEAs, CBOs, educational and government participants are responsible for associated travel and per diem expenses if not provided.

e. Mission Category #5. Reconnaissance/Observation

(1) Mission 5a. Ground Reconnaissance. Reconnoiter or perform area observation by land or water to detect and report illegal drug activities that include, but are not limited to, cultivated marijuana, suspected isolated drug trafficking airstrips, drug drop zones, drug trafficking corridors, illegal drug laboratories, suspicious aircraft, watercraft, or motor vehicles. National Guard personnel will not maintain or store gathered information in National Guard facilities or databases. Information will be reported as designated by the supported LEA. Approved categories of CD activities include, but are not limited to:

(a) Unattended Sensor Support. Personnel will support LEAs in the emplacement, monitoring, and maintenance of unattended sensors in areas where suspected drug activity is occurring.

(b) Visual reconnaissance/observation by mobile patrols and Listening Posts/Observation Posts (LPs/OPs), using binoculars, cameras, night vision devices, and infrared/thermal imagery, including Forward Looking Infrared (FLIR) or lowlight devices. A Law Enforcement Officer (LEO) must be present or in direct contact with the National Guard team.

(c) Ground Surveillance Radar (GSR). Establish and operate ground radar sites using either Army or Air GSR systems. Mission includes site security and may require transportation support.

(2) Mission 5b. Aerial Reconnaissance. Conduct reconnaissance/observation of airspace, maritime or surface areas (land and internal waterways of the US and territories) for illegal drug activities which include, but are not limited to, cultivation of marijuana or delivery of illegal drugs. Reconnaissance may be directed toward suspected

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drug trafficking airstrips/drop zones/corridors or suspicious aircraft/watercraft/motor vehicles. A LEO must be present or in direct contact for all aviation FLIR/IR sensor missions. LEOs are authorized to fly on aircraft during validated and approved missions provided the purpose is to facilitate counterdrug activities. Mission may require site security for aircraft and ground radar. Approved equipment and techniques include, but are not limited to:

- (a) Radars.
- (b) Unmanned Aerial Vehicles (UAVs).
- (c) Aerial visual techniques, including infrared/thermal imagery, and photographic reconnaissance.
- (d) Photo reconnaissance/film processing.

f. Mission Category #6. Demand Reduction Support. The Drug Demand Reduction (DDR) Support mission provides standardized, measurable and evidenced based programs that are intended to gain the commitment of our nation's youth to make healthy, safe and drug-free choices. The DDR mission also provides support to community and state based organizations with the common goal of reducing the demand for illegal drugs. The Demand Reduction Support mission has two distinctive sub-mission categories: DDR Education and Programs, and DDR Support. All DDR activities conducted under mission category #6 shall be listed in Annex A of the Governor's State Plan. All DDR activities shall clearly quantify the amounts of Pay and Allowances, and Operations and Maintenance funds that are expended on all efforts conducted under mission category #6.

(1) Mission 6a. DDR Education and Programs: This mission implements standardized, measurable and evidenced based educational programs. DDR education and programs will use standard methods to measure the desired outcomes and ensure mission fidelity. The role of DDR personnel in this mission is to increase awareness, provide guidance, and facilitate collaboration to motivate our nation's youth to be drug-free. These DDR programs will include:

- (a) Programs designed to increase awareness and motivation towards positive changes in knowledge, attitude and intent. These desired outcomes must be measured to determine mission effectiveness.
- (b) Programs designed to provide guidance and facilitate constructive changes in DDR prevention policy, procedures and practices.
- (c) Programs that motivate our nation's youth and facilitate positive changes in self esteem, increasing their abilities to make drug-free choices.

(2) Mission 6b. DDR Support: The National Guard DDR mission also supports efforts led by community-based organizations that are designed to provide rewards and incentives, alternative activities (countering) and environmental strategies to help our nation's youth make the commitment to be drug-free. These comprehensive support strategies include, but not limited to:

- (a) Facilitating collaboration and increasing the capacity, sustainability, and synergy of coalitions and partnerships.
- (b) Supporting reward and reinforcement events/activities that focus on the implementation of effective incentives, use of motivational methods, and measurement of positive changes toward drug-free behavior.
- (c) Supporting drug prevention activities that focus on the implementation of alternative activities proven to provide positive modeling and motivation which create the opportunity for drug-free experiences leading to a drug free life.
- (d) Supporting community-led efforts to develop environmental strategies that assist in changing written and unwritten community standards, codes, and attitudes, thereby reducing the demand, incidence and prevalence of illegal drug use and the illegal use of prescribed drugs in the general population.

g. Other support. Utilization of ION scanners, Mobile Vehicle and Cargo Inspection Systems (MVACIS) and like equipment in Counterdrug support to LEAs/CBOs will be IAW established policies and procedures. Reporting requirements will be IAW the current Counterdrug Information Management System (CMIS) Handbook.

### 2-8. Use of Counterdrug Assets for Non-Counterdrug Missions

a. CD-equipped assets, including aircraft and Light Armored Vehicles (LAVs) that are funded by 32 USC 112 appropriations are primarily intended for use in CD operations. On occasion, requests to use CD equipment and personnel for non-CD purposes will be made. Reimbursement will be IAW applicable regulations. Non-CD use is limited to situations where action is being taken in response to requests by civil authorities to save lives, prevent human suffering or mitigate great property damage AND the following criteria are present:

- (1) Equipment and/or personnel are needed to search for a lost person(s), where without this support a high probability exists that the person(s) will not survive inclement weather or other perilous circumstances/conditions.
- (2) Equipment and/or personnel are needed to search for escapees or suspected dangerous felons, who, if not quickly apprehended, will likely endanger the welfare of innocent persons.
- (3) Equipment and/or personnel are needed for support of contingency operations, operations other than war, natural disasters, Military Support to Civil Authorities (MSCA), and National Special Security Events (NSSEs).

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b. Requests must be made to the CDC by an LEA, Office of Emergency Services, or their equivalent. The CDC or the CD School Director/Commandant must request reimbursement for flying hour costs, vehicle costs, fuel costs, and personnel costs from other ARNG/ANG funding or by the agency making the request for support.

c. CDCs will verify requests and ensure that all available alternate sources of support (such as requests through Military Support to Civilian Law Enforcement Agencies (MSCLEA) in the example of escaped felons or search/rescue, or use of SAD for civil disturbances or natural disasters) are considered as possible alternatives to the use of CD assets.

d. CDCs will coordinate with supported agencies to ensure that use does not interfere with CD LEA operations except in valid life/death emergency situations.

e. CDCs may refer situations not meeting the above criteria to NGB J3-CD. NGB J3-CD will consider them on a case-by-case basis.

#### **2-9. Agreements between the State and LEAs/CBOs (MOUs/MOAs)**

a. A Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) between the state and any supported LEA/CBO is required for CD support for more than 30 consecutive days. Agreements will be drawn IAW procedures established by the state and the LEAs/CBOs concerned, and must comply with all applicable federal/state laws and regulations/instructions.

b. The JAG or competent legal authority will review all MOUs/MOAs to ensure compliance with state law before approval by The Adjutant General or, as appropriate, the Commanding General, District of Columbia. The JAG's review may be in the form of a memorandum for record stating the MOUs/MOAs have been reviewed and comply with applicable federal/state laws and regulations.

c. The agreement must be approved and signed by the TAG, CDC, and LEA/CBO concerned before support is provided. The CDC, the CD School Director/Commandant, or a designated representative, will annually document a review of all MOUs/MOAs with the supported LEAs/CBOs to ensure they meet support requirements. If only minor changes are required, an addendum may be added to the MOU/MOA.

d. Agreements will address the following topics, as a minimum, and specify the responsibilities and obligations of both parties.

- (1) Purpose of agreement.
- (2) Authority (i.e., regulations, statutes).
- (3) Planned deployment of National Guard personnel and/or equipment.
- (4) Reporting procedures.
- (5) Command and control.
- (6) Scope of operations.
- (7) Force protection Rules for Use of Force.
- (8) Public affairs support.
- (9) Safety.
- (10) Responsibilities, including acquisition of warrants and permits.
- (11) Relative liabilities of parties including any hold harmless agreements. No hold harmless agreements are required in agreements between federal agencies. The Federal Government may not hold harmless a state or other jurisdiction.
- (12) Renegotiation. Agreements must be renegotiated when laws, regulations and/or support requirements change in such a manner that the agreement cannot be executed, e.g., revocation of DoD approval for a particular mission.
- (13) Termination of Agreement. Agreements will terminate upon such terms as the parties agree, e.g., upon 90 days notice by either party. Inclusion in the agreement of an end date is not required merely because funds are appropriated on an annual basis.
- (14) Asset forfeiture/sharing, if applicable.

e. MOUs/MOAs may address support in a general manner but must cover all areas of concern. If a more specific agreement is required, an operations plan with a cover memorandum may augment the MOU/MOA.

#### **2-10. Interstate Operations/Agreements (MOUs/MOAs)**

a. States that support operational CD missions within the borders of other states will, to the extent required by and IAW the laws of the involved states, establish written MOUs/MOAs between the involved states unless such agreements are already in force under existing interstate compacts.

b. At a minimum, Adjutants General, through the CDCs, will coordinate notice of the intent to conduct interstate operations before commencing such operations.

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### Chapter 3 Counterdrug Support Program Operations

#### 3-1. Support Role

The role of the National Guard in CD supply and demand reduction operations is to support LEAs and CBOs. Requests for support will be IAW paragraph 2-1.b. The CDC will ensure that prudent and reasonable safeguards are in place before performing any mission and those personnel are not placed in situations that are likely to bring them in direct contact with suspects. The CDC will also ensure that National Guard members are not knowingly sent or directed to enter into life threatening situations.

#### 3-2. Force Protection

a. National Guard personnel at all levels will ensure that pre-operation (liaison) coordination and planning with supported LEAs and CBOs address the risk management of personnel and equipment throughout the operation by the performance of mission threat assessments. A risk assessment of potential threats to National Guard members and property will be conducted during the planning stage of all CD missions presenting a potential threat to NG personnel or equipment. DA Form 7566 (Composite Risk Management Worksheet) will be used to determine the threat level and will act as a guide in determining mission acceptance or rejection. The CDC will complete the Risk Management Worksheet and keep it on file IAW paragraph 9-7. All areas of the worksheet are required as a minimum. The worksheet may be customized for specific missions.

b. The CDC or the CD School Director/Commandant, as appropriate, is designated as the focal point for National Guard personnel assigned to CD support and will ensure the coordination of security and clear jurisdictional responsibilities between LEAs and CD mission personnel. CDCs will receive and disseminate time sensitive threat information from law enforcement agencies IAW AR 525-13, paragraph 5-16, and local policy. National Guard personnel will ensure that public affairs efforts, directed at complying with the public's right to know, do not jeopardize the safety of National Guard members and equipment by disclosure of personnel or unit identification in photographs, video recordings or printed articles.

#### 3-3. Arming of Troops and Use of Force

a. This paragraph contains federal guidelines that cannot be broadened. Since the mission is conducted in state status, state law and rules on the use of force apply. Each state must develop rules on the use of force that are in compliance with state law on the Use of Force Continuum (see Section II Terms), and this regulation. Therefore, states will review these rules with the State Attorney General (SAG), or the United States Attorney for the District of Columbia, as appropriate, and add further restrictions as appropriate to comply with state law and/or policy.

b. The National Guard serves in a support role to law enforcement and will not be directly engaged in law enforcement duties; accordingly, Guard members will only be armed in coordination with the supported LEA and IAW the following criteria. A mission risk assessment will be conducted to identify potential threats and evaluate whether Guard personnel should be armed as a force protection issue. The risk management worksheet will act as guide in determining whether troops should be armed. Ultimately, the Adjutant General will determine whether troops will be armed. The Adjutant General's policy, to include procedures for chain of approval, delegation of authority (when applicable), and other guidance as desired, will be published in written form and made known to all CD personnel. The Adjutant General may delegate approval authority to a primary staff officer or the CDC. If approval is delegated, the CDC must either be the approving official or in the approval chain.

c. All personnel authorized to carry firearms must have received qualification training and testing with their permanently assigned, by serial number, CD weapon IAW current regulations. (See paragraphs 5-14 through 5-16).

d. Arms and ammunition will be secured at all times IAW appropriate regulations and policies.

e. Firearms will not be discharged except for training or defend to oneself or other persons in a life-threatening situation IAW the pre-established RUF. Any discharge of a weapon in a non-training situation will require the filling of an Incident Report IAW paragraph 3-14.

f. Pilots In Command (PICs) or Aircraft Commanders (ACs) of aircraft have the authority to override an order to chamber rounds while on board aircraft.

g. Possession or use of non-issued or personally owned firearms and/or ammunition during CD support operations is prohibited. National Guard personnel will not accept offers of weapons or ammunition from LEAs, except for use on LEA operated ranges for training purposes only. National Guard personnel will not provide ammunition to non-military entities. The only weapons used for CD support operations will be federally owned military weapons listed on the USPFO's property book account.

h. Federally owned military weapons will not be secured in private dwellings at anytime.

i. National Guard members may use minimum force (physical hands-on; restrain, detain, subdue) for the following purposes:

- (1) To defend themselves or other persons.
- (2) To protect property, or prevent loss/destruction of evidence.
- (3) To make arrests if they have arrest powers pursuant to state law and exigent circumstances require such action.

j. The discharge of any firearm is always considered to be deadly force.

k. National Guard members will be thoroughly briefed on the Rules for Use of Force and the policies of the agency they are supporting IAW that agency's academy or in-service defensive tactics training program before the commencement of any operation. NG personnel will comply with state laws on the use of force.

l. Personnel authorized to carry firearms will wear body armor while carrying a firearm and actively engaged in a CD mission, unless waived by the CDC, based on the mission risk assessment. The CDC, or a designee, will determine what constitutes active engagement in a CD mission. This does not apply to pilots and aircrew involved in flight operations.

#### 3-4. ARNG Operational Ammunition

a. An ammunition account may be established to support missions within the Counterdrug Support Program, per Common Table Allowances (CTA) 50-909, paragraph 26 (18). Operational munitions are used when performing CD missions in which the bearing of arms has been approved IAW paragraph 3-3 of this regulation/instruction.

b. Operational ammunition must be secured and accounted for IAW AR 710-2, DA Pam 710-2-1, DA Pam 710-2-2 and AR 190-11.

c. The use on non-DoD procured ammunition in a federally owned weapon is prohibited.

#### 3-5. Basis of Issue for ARNG Operational Ammunition

a. NGB J3-CD has determined that the following line item numbers (LIN) and quantities (extracted from MP operational loads, CTA 50-909, Table 62) will be the basis of issue for the CD operational load:

- |  |             |
|--|-------------|
| (1) C39136 9mm Ball M882 (A363)        | 45 rds/wpn  |
| (2) D34821 00 Buckshot M19 (A011)      | 10 rds/wpn  |
| (3) C35041 Ctg. 5.56 Ball M855 (A059)  | 120 rds/wpn |
| (4) D34973 5.56 Ball M193 (A071)       | 120 rds/wpn |
| (5) J77626 Grenade, Green Smoke (G940) | 24 ea/unit  |
| (6) J79133 Grenade, Red Smoke (G950)   | 24 ea/unit  |

NOTE: LIN D34973 is to be used with the M16A1 rifle. LIN C35041 is to be used with the M16A2 rifle. No substitution is authorized, except as provided herein. C35041 should not be fired in the M16A1 rifle. D34973 can be fired safely and accurately in the M16A2/M16A3, but range is reduced approximately 16 percent, and penetration is also reduced.

b. The number and type of weapons used for computing the operational load will be limited to that necessary to conduct authorized operations.

#### 3-6. Rules of Evidence and Chain of Custody

Rules of evidence in civilian and military courts generally provide that physical objects cannot be accepted into evidence unless a chain of custody can be established. This is especially true for items subject to adulteration such as drugs. To ensure admissibility of such evidence, only LEOs should seize, handle, and/or maintain custody of items that may be considered as evidence, except in exigent circumstances.

#### 3-7. Operational Briefings

In addition to initial training and annual refresher training in Counterdrug Support Program doctrine, Soldiers and Airmen in support of LEAs will be given additional briefings when the nature of operations indicates that reinforcement is advisable. Special briefings on force protection, security, use of force, chain of custody, and/or other basic program provisions outlined in this regulation/instruction may be advisable when contact with suspects seems probable, when conducting multijurisdictional operations, when performing air operations with new personnel, or when conducting operations involving motor convoys, new terrain or contact with civilians. CDCs and supervisors will determine when such additional briefings are appropriate. CDCs and supervisors will document all briefings.



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**3-8. Operations Security (OPSEC)**

Supply reduction support operations will follow OPSEC procedures of AR 530-1 and DoD 5400.7-R, AFSUP1. OPSEC briefings will be administered as part of operations briefings, where appropriate or separately as required.

**3-9. Physical Security**

The CDC or the CD School Director/Commandant, or their representative, will ensure that all physical security protective measures and appropriate risk assessments of all National Guard CD controlled offices and/or work areas are conducted LAW AR 190-11, AR 190-13, AR 190-51, and/or AFI 31-101V1, as applicable.

**3-10. Communications Security (COMSEC)**

Policies and procedures outlined in AR 380-19 and/or AFI 14-201 and AFI 33-211 will be followed to ensure protection of confidential information in information management systems and to determine appropriate methods for transmission or reception of voice and hard copy information.

**3-11. Protective Markings**

Mark CD plans, operations plans/orders, MOUs/MOAs, school training records, course files, and other sensitive documents, "FOR OFFICIAL USE ONLY," IAW AR 25-55, Chapter 4, and DoD 5400.7-R, AFSUP1. Refer to regulation/instruction for the proper marking of "FOR OFFICIAL USE ONLY" (FOUO) documents. Mark FOUO material sent to authorized persons outside the DoD with the following explanation typed or stamped on the document: This document contains information EXEMPT FROM MANDATORY DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT (FOIA). Exemptions (b)(5), (b)(7)(F), and Title 5 USC § 552(b)(5) and (b)(7)(F). Further distribution is prohibited without the approval of the Office of Primary Responsibility (OPR). The OPR is the office within the state holding ownership of the documents so marked.

**3-12. Handling of Sensitive/Law Enforcement Information**

- a. Sensitive LEA materials will be treated as classified material protected to the FOUO level IAW Chairman, Joint Chiefs of Staff Manual (CJCSM) 3701.01A and Joint Pub 3-07.4.
- b. There are other types of information that require application of controls and protective measures for a variety of reasons. IAW DoD 5200.1-R (Information Security Program), this information is known as "controlled unclassified information." Since classified information and controlled unclassified information exist side by side in the work environment, often in the same document, AR 380-5 should be reviewed for guidance. To release FOUO information to members of Congress, consult DoD 5400.4, and to the General Accounting Office use DoD 7650.1.
- c. With regard to a student attending a NGCSP CD school and upon written request from an authorized official of the student's agency, the CD School Director/Commandant of the particular CD school will only release individual student information to the student's assigned agency. If student information is requested by court order/subpoena, it shall not be released until reviewed and approved by the state judge advocate. Students may voluntarily participate in the creation and distribution of a student contact list.
- d. The CD School Director/Commandant is the releasing authority for instructional material that is the property of a NGCSP CD school.

**3-13. Intelligence Oversight (IO)**

- a. References.
  - (1) DoD 5200.1PH
  - (2) DoD 5200.1R
  - (3) DoD 5200.27
  - (4) AR 380-13
  - (5) AR 381-10
  - (6) AFI 14-104
  - (7) NGR 20-10/ANGI 14-101
- b. General
  - (1) The National Guard does not conduct Intelligence activities of its own in Counterdrug Support Program missions. National Guard members support the criminal information analysis activities of LEAs. Criminal information comes into temporary possession of National Guard members supporting LEAs but is not retained by the National Guard.
  - (2) NGR 20-10/ANGI 14-101 provides guidance to National Guard Inspectors General in implementing oversight of intelligence activities. These two publications may aid CDCs in complying with requirements, since they describe procedures used by Inspectors General in reviewing counterdrug activities.

## c. Requirements

(1) National Guard Counterdrug Programs are not required to have formal intelligence oversight programs unless they have specifically requested Military Intelligence Support. They then must follow the procedures outlined in AR 381-10/AFI 14-104.

(2) Intelligence oversight training will be included in doctrinal training given to each member at initial entry, and repeated annually for all personnel. CDCs will ensure that members performing duty such as Missions 2a (Linguist Support), 2b (Investigative Case and Analyst Support) and various operations of Mission Category 5 (including Thermal Imagery in Mission 5b, Aerial Reconnaissance), receive such additional and specialized training as may be appropriate.

(3) CDCs will coordinate with LEAs to ensure that support of intelligence operations is conducted in accordance with applicable directives and in the support role intended by Counterdrug Support Program policy. This will require periodic monitoring of the daily routines and actual duties performed by National Guard members.

## d. Documentation

(1) Training records will include documentation of Intelligence Oversight training, to include briefing content used and rosters or statements confirming attendance.

(2) When Intelligence Oversight training is conducted by other than the CDC staff, copies of documentation described in b., above, will be obtained for Counterdrug Support Program files.

**3-14. Special Notification Requirements**

a. The CDC, the CD School Director/Commandant, or their representative must notify NGB J3-CD when any of the following occurs in a CD operation:

(1) Loss of life or serious injury.

(2) Loss of, or substantial damage to government or private property; this includes loss of a government weapon, ammunition, or secure communication device.

(3) "Exigent circumstance" situation in which any step beyond verbal commands in the RUF is used.

b. This requirement is in addition to reports required by other federal or state regulations/policies.

c. When CD personnel prepare reports IAW AR 190-40 or AFI 10-206, the CDC or the CD School Director/Commandant, or their representative, as appropriate, will notify the Army and Air National Guard Command Posts and NGB J3-CD. If NGB J3-CD is notified of a serious incident directly from a state, this information will be coordinated with the Army and Air National Guard Command Posts immediately by the person receiving the report.

d. Initial reporting will be by telephone call, facsimile message, or electronic mail. A written report will follow if requested by NGB J3-CD. All reporting will be processed through the NGB J3-CD Regional Coordinator or the Training Officer up to the Chief, NGB J3-CD.

**3-15. Aviation Counterdrug Mission Support**

a. Mission. The National Guard CD Program supports LEA CD operations consistent with law, OSD directives, and regulations. All aviation support provided to LEAs is considered operational. General mission categories are in the respective State CD plan. Aviation support typically falls within mission categories 3, 5, and 6. Both Army and Air National Guard provide aviation assets for missions. LEA "controlled delivery" requests are processed through the NGB J3 Operations Center on a case by case basis.

(1) Approval Process. This is a five step process involving receipt, validation, acceptance, prioritization and execution. A CD mission request from a LEA must be received, validated and prioritized by the respective State's CDC. The CDC validates that the requested mission is consistent with one of the approved mission categories noted in the approved Governors' State Plan for National Guard Counterdrug Support. Once validated, the CDC may accept the mission and establish the priority of the mission within the overall National and /or State counterdrug strategies. Mission execution is coordinated by either the Army or Air National Guard units through the SAAO or the ANG flying unit commander, respectively. Figure (3-1) depicts the mission approval process.

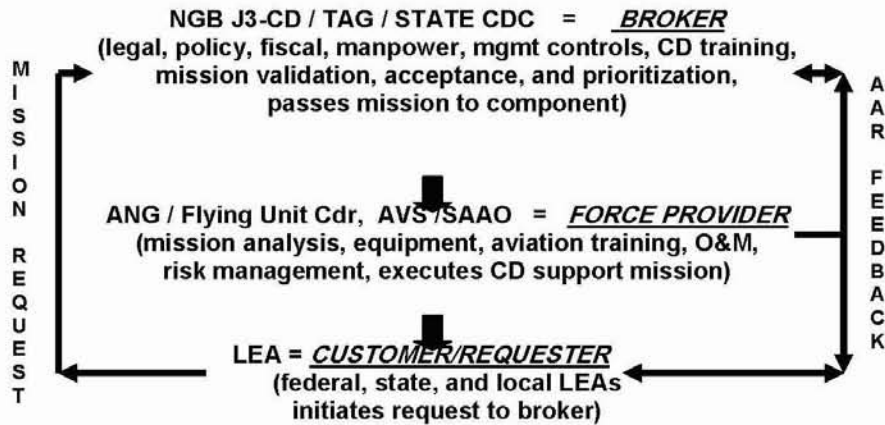


Figure 3-1 Counterdrug Mission Approval Construct / Process

(2) Mission After Action Reports (AARs). AARs will be maintained in the counterdrug mission folders for six years consistent with paragraph 2-1i.

b. Operations

(1) Mission Briefing, preflight planning and briefings shall comply with the requirements of AR 95-1 or AFI 11-202. See para 3-7 for other considerations relating to CD missions.

(2) Counterdrug unique mission briefing requirements are contained in either the NG Supplement 1 to AR 95-1 or appropriate ANG regulations.

(3) PIC / Aircraft Commander (AC). Pilots who are FTNGDCD shall serve as the PIC or AC during all aviation support to LEA CD operations. Pilots augmenting seasonal operational support may act as the PIC or AC provided they have completed training noted in para 3-15 c (1) below.

(4) LEA personnel: Under Section 1004 (b) (3), National Defense Act for Fiscal Year 1991 federal, state, and local law enforcement personnel are authorized transport on DoD aircraft when it is for the purposes of facilitating counterdrug activities.

c. Training

(1) Pilot training (general). Aviation training is the responsibility of the SAAO/aviation unit commander or the ANG flying unit commander. CD unique doctrinal training is the responsibility of the CDC.

(a) Initial pilot qualification in rotary or fixed wing aircraft shall be conducted under the authority of NGB-AVS or appropriate ANG proponent.

(b) CD doctrinal training listed in para 5-5 of this regulation must be completed before serving as a PIC or AC IAW 3-15 b (4) above. Beginning in FY 2010 ARNG FTNGDCD pilots performing PIC duties hired after FY 2006 must complete advanced CD doctrinal training conducted by a regional school.

(c) Counterdrug pilot training in thermography noted in para 5-12 is required, as is FLIR/IR sensory mission equipment factory schools.

(d) It is highly recommended that ARNG pilots attend aircraft power management training at the High Altitude Mountain Training Site.

(2) LEA personnel training. The CDC is responsible for validating all LEA training requirements for which ARNG or ANG personnel, equipment, or resources are required. The SAAO/aviation unit commander or the respective flying unit commander is responsible for providing LEA aviation unique training. As a minimum, a detailed passenger briefing IAW appropriate aircraft operator's manuals or Aircrew Training Manual (ATM) is required. For LEA personnel that participate in CD aviation missions as an observer, familiarization training noted below must have been completed before flight. Refresher training will be conducted annually. Familiarization

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flights should be one hour in length and conducted in conjunction with academic training. In that LEA training is a CD operational mission actual flight must be conducted by a FTNGDCD pilot. Records of LEA personnel training shall be maintained by the CDC and readily available to the SAAO or flying unit commander and flight operations personnel.

- (a) Recognition of hazards to safe aircraft operations
- (b) Aircrew coordination considerations
- (c) Internal aircraft communications systems
- (d) Aircraft safety and emergency considerations
- (e) Night flight, visual illusions, light conservation

(3) Aerial Observer/Marijuana Training for LEAs. LEA personnel shall be instructed in the aerial observation and reconnaissance techniques noted in FM 3-04.119. Records of such training shall be maintained by the CDC and SAAO consistent with paragraph 2-1 i. The SAAO is responsible for the conduct of aviation unique training that must be requested by an LEA through the CDC.

d. Risk Management. Risk management must be an integral part of the mission approval process. The safety of flight crews, ground, and supported LEA personnel must be fully considered at every step. The LEA (Customer), CDC (mission proponent), and Aviation (force provider) must work collaboratively and with a unity of purpose to ensure all risks (hazards) are identified, assessed, countermeasures are developed, controls are implemented, and then supervised and evaluated. Because of the liability and crew risk, the risks noted below may require special emphasis:

- (1) Landing zone clearance (both authority to use and hazards)
- (2) Clearing areas of potentially hostile persons before landings.
- (3) Hazards to National Guard, LEA, and civilian personnel during air and potential ground operations.
- (4) Known and suspected hostile personnel actions.
- (5) Aircraft and the security of passenger and crews.
- (6) Crew, observer, and passenger briefings that may be unique to LEA support operations.
- (7) Aircraft safe operating distance from known or suspected hostile areas.

e. Logistics.

(1) FHP. Beginning with FY 2009 planning processes the Governor's State Plan for counterdrug must contain an estimated flying hour requirement for counterdrug operational support. The estimate must reflect aircraft mission, design, and series (example: CH-47D, C-130, UH-72, etc.) and project the expected obligation plan on a quarterly basis. The Annual NGB J3- CD State Planning Guidance for FY 2009 will detail the FHP requirements format to be used for ARNG and ANG CD support. The ARNG will sustain the average historical flying hour operational support provided by the former RAID detachments with the UH-72.

(2) FHP Resourcing.

(a) FHP Requirements. NGB J3-CD will determine flying hour requirements from the Governor's State CD Plans and provide those requirements to either the NGB-AVS or ANG/A3 for incorporation in the annual FHP program guidance.

(b) OPTEMPO funding is currently issued through the respective services and is managed by either NGB-AVS or ANG/A3. Authority for and accountability of CD FHP operational support OPTEMO hours is the responsibility of NGB J3-CD.

(c) The State CDC and SAAO and/or ANG flying unit commander must coordinate the FHP requirements in the annual State CD Plan before submission for approval.

(d) FHP execution reports. See paragraph f below.

(3) CD flying hours allocated for will be used only for:

- (a) Counterdrug support missions.
- (b) Essential transportation for planning counterdrug operations
- (c) Training personnel (aircrews and LEAs) for counterdrug operations
- (d) Emergency situations that necessitate the use of CD procured aircraft systems

f. Evaluation and Reporting Requirements.

(1) National Guard Bureau CD Program Evaluation (CPE). The CPE is an evaluation conducted by the NGB J3-CD office to ensure compliance with 32 USC §112 and AR 11-2. Each state is evaluated on a forty-two month cycle. State CDCs are required to complete a self assessment every year and provide a copy to NGB J3-CD Regional Coordinator and the CPE Coordinator. The CPE schedule is published annually and is made available to all State CDCs. CD aviation operations and safety are part of the CPE and have specific checklists. The CPE aviation functional area checklist considers other evaluations such as DES and the FORSCOM Aviation Resource Management Survey (ARMS) to avoid inspection redundancy.

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(2) CD Management Information System (CMIS). Requirements for CMIS reports are noted in Chapter 9 of this regulation and the CMIS Operational Manual. CMIS serves as the primary management control system for the CD Program. Monthly FHP reporting dates in CMIS will coincide with the DA 1352 or the ANG monthly flying hour reporting periods. SAAOs will ensure missions flown and flying hours executed are reported to the CDC for inclusion in cyclic CMIS reporting.

(3) OPTEMPO Reports. OSD requires quarterly and annual OPTEMPO reports on planned and executed flying hours for CD operation support. Each state must submit this OPTEMPO report in the format contained in the Annual CD Planning Guidance Memorandum beginning in FY 2009. Quarterly reports will be due the 20<sup>th</sup> of the month following the end of each fiscal quarter (December, March, June, September). Quarterly FHP reporting dates will coincide with the DA 1352 (Army Aircraft Inventory, Status, and Flying Time Report) or the ANG monthly flying hour reporting periods.

g. Memorandum of Agreement (MOA). The CDC and SAAO or ANG flying unit commander shall develop a MOA that articulates the staff and/or command relationships/functions in the following areas and responsibilities that are consistent with 1-4f above. A sample MOA is included at appendix B.

(1) FTNGDCD personnel management. The CDC must be the rating chain of all FTNGD-CD personnel and be responsible for all personnel employment (hiring and dismissal) actions.

(2) FHP and OPTEMPO funds planning, programming an execution accounting to include coordination of the annual Governor's State DCD plan development.

(3) Flight training and Standardization responsibilities.

(4) Use of CD personnel in non-CD missions and training.

(5) Coordination and cooperation in operational and safety inspections

(6) Ground and aviation mishap responsibilities and reporting

(7) Chain of Command

(8) Use and status of traditional ARNG or ANG personnel to perform CD mission.

(9) Appointment of the CD aviation operations officer for either the ARNG or ANG CD operations

(10) Operational Security (OPSEC)

(11) Public Information releases

(12) Other functions that may be determined by internal State command and staff management.

(13) Aviation school quotas

h. Manning. The full-time structure of a State's FTNGD-CD is determined by the CDC. Manning recommendations for CDAAV are established based on minimum CD Aviation mission support requirements, and are not intended to reduce higher existing manning levels in cases where that situation exists. Optimal CD Aviation manning requirements are dependent upon unique state circumstances such as operations tempo, geography, stationing, and other factors. CD aviation operations must be manned accordingly to ensure timely, adequate, and safe operations that are resourced to fully execute support requirements and flying hour programs. The recommended minimum manning requirements are:

(1) Minimum of one CD Aviator on FTNGD-CD orders annually for each 250 flying hours per the State Plan.

(2) Minimum one MOS qualified crew chief (CE) on FTNGD-CD orders annually for each 500 flying hours per the State Plan.

(3) Minimum of one qualified Technical Inspector (TI) on FTNGD-CD orders annually qualified in an appropriate aircraft.

### 3-16. Light Armored Vehicle (LAV) Program

a. The primary role of the LAV is to support LEA supply interdiction operations and to support CBO demand reduction operations. IAW paragraph 2-8, the secondary role of the LAV is support to contingency operations such as natural disasters, Weapons of Mass Destruction (WMD) incidents, and Antiterrorism /Force Protection (AT/FP requirements). In the event of a verifiable threat or an actual event related to these operations, and with TAG's approval, the secondary role will take priority over CD operations. The Adjutant General designates responsibility for WMD and AT/FP operations to a member of the Joint Forces Headquarters (JFHQ) staff. In the event of a WMD/AT/FP requirement for the LAV, the CDC will transfer operational control of the LAV and its crew to the designee. The CDC must request reimbursement for associated costs from other ARNG/ANG funding or the agency to which the support is provided. The requirement for reimbursement of CD personnel costs is waived if the LAV crew operates the LAV in a funded status other than under the authority of 32 USC § 112.

b. NGB J3-CD is the Office of Primary Responsibility (OPR) for National Guard LAV utilization. The NGB J3-CD Program Manager (PM) will provide overall program oversight functions to include, but not be limited to: training, operations, maintenance, budget, and future program expansion. All LAV operations must be IAW this

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regulation/instruction and local, state, and federal statutes. The NGB J3-CD PM should be contacted for assistance and/or clarification with regards to operations/actions not addressed in this regulation.

c. The LAV assigned to a state will be added to that state's JFHQ Table of Distribution and Allowances (TDA). The TAG maintains control of the LAV assigned to the state CD program through the CDC. Delegation of authority to the CDC includes mission validation and approval authority, as well as supervisory authority over the personnel assigned to operate the system. The CDC is responsible for all program management requirements and for coordinating with the NGB J3-CD PM for driver training, depot level maintenance, calibration, or other specialized service requirements.

d. States with a LAV will develop a State Annex to include CD support operations, and contingency operations, addressing, at a minimum, the following items:

- (1) Command and Control Guidance.
- (2) Force Protection and Use of Force.
- (3) Public Affairs guidance.
- (4) Safety.
- (5) Reporting procedures.
- (6) Responsibilities regarding acquisition and maintenance of licenses and permits.
- (7) Relative liability of parties.
- (8) Training guidance.

e. The LAV, although assigned primarily to specific states, may be requested to support interstate operations on a regional basis. When LAV support is required, a written request will be made from TAG to TAG and a copy of the request will be forwarded to, and acknowledged by, NGB J3-CD. The LAV operators will transport the LAV to, and operate the equipment in, the requesting state. Interstate operations will be IAW an agreement between the participating states as required by the laws of the participating states.

f. LAV Operations

(1) CD LAV operations will be conducted IAW the NGB J3-CD LAV SOP, the local annex, and this regulation/instruction.

(2) All LAV operators are responsible for operating the equipment within its capabilities and the scope of mission employment.

(3) All LAV operators must be properly trained on the LAV and possess a valid LAV operator's license.

g. Reporting Procedures. All CD missions, resource expenditures, and mission results supported by the LAV will be reported through CMIS.

### 3-17. Counterdrug Program Evaluations

a. NGB J3-CD will periodically send several personnel to conduct a Counterdrug Program Evaluation (CPE) of the state, or as appropriate, NGCSP, compliance with laws, regulations, instructions, management controls, and NGB Counterdrug Support Program policies. The evaluation team will assist the states and NGCSP in achieving and maintaining compliance. They will provide the NGB J3-CD and state leadership with insight and information to familiarize their staff with the successes, issues, problems, and perspectives of state and/or school CD personnel.

b. NGB J3-CD will develop an annual evaluation schedule based upon recommendations from the NGB J3-CD staff. Priority will be given to states/schools not evaluated within 42 months, states/schools where problems may exist, and states/schools with a new CDC or Director/Commandant. Evaluations will be approximately three days in length except when the size of the program or traveling time dictates an extended stay.

c. NGB J3-CD will send a final report, identifying the results, to the CDC or NGCSP/Commandant through the Adjutant General. It will include areas of non-compliance, corrective actions required, remarks, commendations, and recommendations for each applicable section of the CPE checklist. NGB J3-CD requires the CDC or the NGCSP Director/Commandant to respond concerning intended corrective actions to all non-compliant items within 30 days of receipt of the final report.

d. The CDC or the NGCSP Director/Commandant will conduct an annual self-assessment of their program using the current CPE Checklist. Short-falls and the Courses of Action(s) (COAs) necessary to be compliant must be submitted to NGB J3-CD utilizing the DA Form 11-2-R (Management Control Evaluation Certification Statement).

e. Although evaluations endeavor to ensure compliance with all applicable rules and regulations, the Regional Coordinator or the Training Officer is the primary specialist for providing support and guidance concerning normal business.

### 3-18. Public Affairs

a. Information about National Guard Counterdrug Support is subject to the following provisions:

- (1) DoD 5122.5



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- (2) AFI 35-101
- (3) AR 360-1
- (4) AR 360-5
- (5) NGB Pam 360-5/ANGP 35-1
- (6) DoD 5410.18
- (7) DoDD5410.19
- (8) NGB-J3 Counterdrug Standard Operating Procedures for Public Affairs

b. Public Information Principles. It is the National Guard Counterdrug Programs' objective to keep the public fully informed of its unclassified activities. In meeting this objective, the following principles apply:

(1) National Guard Counterdrug Programs should provide unclassified information about the National Guard and its activities to the public. Prompt and maximum disclosure of information is required by the Department of Defense. Propaganda has no place in DoD Public Affairs programs.

(2) All National Guard Counterdrug officials will avoid public discussion of matters which are the responsibility of other governmental agencies, LEAs and CBOs (e.g., let law enforcement discuss their own roles in counterdrug operations). Counterdrug personnel should only discuss their subject matter expertise and work with their state Public Affairs Officer when releasing information to the public.

(3) Information classified in the interest of national security pursuant to DoD Directive 5200.1-R will not be disclosed.

(4) Information will not be classified or otherwise withheld to protect the government from criticism or embarrassment.

(5) Avoid requiring journalists to submit Freedom of Information Act (FOIA) requests to obtain information that is releasable according to the Act. Unnecessary FOIA requirements only add delay to the process and often are counterproductive to the practice of effective public affairs programs.

c. Responsibilities. The Chief of the National Guard Bureau is the release authority for all media activities and issues that have national or international implications. The senior commander is responsible for releasing information to the public. The PAO must clear and release information at the state level in compliance with the Secretary of Defense's principles of public information and "full disclosure/minimum delay" standards; assuring rapid, accurate and continuous flow of information to the public. The State PAO or their designated representative is the release authority for all National Guard Counterdrug Programs' articles, press releases, photographs and other published items.

d. Purpose of Media Relations. Media relations is one of the primary means for achieving the Public Affairs core competencies of Soldiers and Airmen morale and readiness, public trust and support and global influence and deterrence. National Guard Counterdrug Media relations programs are used to link Soldiers and Airmen and their leaders, link the military to the community and inform American audiences about Counterdrug capabilities. Articles and information released to the public may be done through the state PAO or Chief, Command Information at NGB. Info copy the NGB J3-CD Multimedia Section Chief.

e. Travel Aboard Military Carriers. NGB PAM 360-5 outlines procedures for travel aboard National Guard military carriers (both aviation and ground assets) by civilians to include but not limited to news media, state and federal legislators, and civic leaders.

(1) State PAOs are required to coordinate travel requests with NGB Public Affairs for all non-local travel and all news media representatives. Allow sufficient amount of time for the coordination process, using NGB PAM 360-5 for guidance.

(2) Counterdrug Programs requesting news media travel should coordinate all logistics between the state CDC, CD school director/commandant, as appropriate, the LEA/CBO and the state PAO, before the state PAO coordinates with NGB-PA.

f. Public Announcements of National Guard Counterdrug Participation in all Counterdrug Missions. National Guard Counterdrug Soldiers and Airmen are deployed to support real-world operations, both domestically and abroad in addition to their daily counterdrug responsibilities. Respond to queries IAW the appropriate Public Affairs Guidance (PAG), the following general guidelines should be followed:

(1) Operational security (OPSEC) and troop safety should always be observed. Counterdrug Programs may comment on involvement in Counterdrug operations and/or traditional Guard requirements after coordination through their state PAO. Counterdrug spokesman may confirm what is readily observable, but common sense, OPSEC and the exercise of sound judgment are the ultimate determinant factors.

(2) Topics that may be discussed include authorized, not actual, troop strength, types of equipment and authorized, not actual, numbers of equipment on hand, Counterdrug Program state and national histories, missions, capabilities and chain of command information. (The Privacy Act of 1974, 5 USC §552a may apply. See appendix D of NGB Pam 360-5, AR 360-1 appendix K, or AFI 35-101 paragraph 6-4 for further guidance.) Counterdrug

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spokespersons should not discuss specific mission(s), dates, times, destination(s) or any other aspect beyond their current operations without regard to OPSEC.

(3) At CDC's discretion, PAOs may provide media with photo opportunities of Counterdrug missions such as Drug Demand Reduction events. When dealing with members of the press, personnel should be open, honest and forthright. CDCs are encouraged, when possible and practical, to allow news media opportunities to cover DDR and other Counterdrug activities within the confines of OPSEC and COMSEC.

(4) Allow common sense and operational security to guide media activities. For example, PAOs, CDCs and staffs should allow the media access to information, troops, leaders, and facilities consistent with OPSEC.

(5) CDCs are authorized to support efforts that demonstrate to the public, through the media, the United States' resolve and capabilities.

(6) Freedom of Information Act (FOIA) and Privacy Act. Federal statute, DoD and National Guard policy requires prompt and accurate disclosure of information to the public. The FOIA (Title 5, United States Code, Section 552) explained in AFI 37-131, and the Privacy Act of 1974 FOIA (Title 5, United States Code, Section 552a), AFI 37-132, are important to public affairs. The FOIA directs maximum release of information. This means full disclosure, subject to lawful exemptions, including the Privacy Act.

(7) The Privacy Act was designed to protect individuals. It often prevents the military from disclosing information to the news media even though an individual may have already chosen to voluntarily discuss Privacy Act matters.

(8) The Privacy Act, and the privacy exemption of the FOIA, do not protect the personal privacy of deceased persons. Records about the deceased, however, may be withheld under FOIA or the Privacy Act to protect the privacy of living relatives and associates if the records contain private, personal information about the family or other background of person still living. Use good judgment.

### 3-19. Uniforms

CDCs and the NGCSP Director/Commandant, as appropriate, will ensure that National Guard CD personnel wear the appropriate military uniform while on duty. Exceptions must be approved by the CDC, NGCSP Director/Commandant, or a designated representative. Exceptions will be based on operational security issues that might place CD personnel in a hostile environment or compromise undercover LEA missions. National Guard CD personnel will not wear apparel that could potentially misrepresent them as LEAs.

### 3-20. Websites

a. All National Guard CD websites must post a disclaimer statement. Suggested language for the disclaimer statement is as follows: The pages within this World Wide Web site are provided by the "State" National Guard Counterdrug Program as a service to the public. They do not necessarily reflect the views or opinions of the "State" National Guard and are not guaranteed to be correct, complete, or up to date. Some links within the site may lead to other sites. The "State" National Guard Counterdrug Program website does not incorporate any materials appearing in such linked sites by reference, nor does the "State" National Guard Counterdrug Program necessarily sponsor, endorse, or otherwise approve of such linked material.

b. All National Guard CD websites must post a security notice. Suggested language for the security notice is as follows: The Chief, National Guard Bureau Counterdrug Office, provides the Counterdrug Office Website as a public service. Information presented on the NGB J3-CD Website is considered public information and may be distributed or copied for non-commercial purposes. Use of appropriate byline/photo/image credits is requested. This government computer system uses software programs to create summary statistics, which are used for website planning and maintenance, determining technical design specifications, and analyzing system performance. For security purposes, and to ensure that this service remains available to all users, this government computer system employs software programs to monitor network traffic, to identify unauthorized attempts to upload or change information, to cause damage, or to deny service to authorized users. Except for authorized law enforcement investigations, no other attempts are made to identify individual users or their usage habits. Server logs are scheduled for regular destruction IAW National Archives and Records Administration General Schedule 20. Unauthorized attempts to upload information or change information on this service are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

### 3-21. Secret Internet Protocol Router Network (SIPRNET) Initiative

#### a. References.

- (1) Titles 10, 18, 32, and 50, United States Code
- (2) Executive Order 12958



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## b. General.

(1) An initiative to install SIPRNET capable computers at each High Intensity Drug Trafficking Area (HIDTA) Intelligence/Information Support Center (ISC) was established by the Office of the Deputy Secretary of Defense for Counternarcotics (ODASD-CN), the Defense Information Systems Agency (DISA), the Office of the National Drug Control Policy (ONDCP), and the National Guard Bureau Counterdrug Division (NGB-J3/CD).

(2) The terminals with SIPRNET connectivity for the Antidrug Network (ADNET) will provide the HIDTAs the ability to share command, control, intelligence, and interdiction capabilities. They will also allow the HIDTAs to participate effectively in national security operations with DoD and other federal agencies.

(3) The initiative further responds to the statutory requirement (Public Law 101-189) that the SECDEF shall integrate into an effective network that is dedicated (in whole or in part) to the interdiction of illegal drugs.

## c. Requirements

(1) The minimum clearance required to manage and work at the terminals is SECRET. Personnel with already established clearances will be used to perform this duty. Non-cleared NG or LEA personnel will not be allowed to access SIPRNET terminals. In most cases, guardsmen within the HIDTA Intel Cells have already been cleared by LEAs to accomplish their Intelligence/Information duties. LEA personnel would require authorization from the certifying entity prior to accessing the terminals.

(2) Terminals located in facilities controlled by the Federal Bureau of Investigation (FBI) will require a TOP SECRET clearance.

(3) ONDCP requires that at least three NG personnel be assigned to support the HIDTA.

(4) CDCs are required to coordinate with other staffs of the state NG to ensure their support of the initiative. As a minimum, this would include the J2, J6, COMSEC Custodian, and Physical Security Manager.

(5) CDCs are required to budget for personnel TDY costs (travel, per diem, and incidentals) required to maintain enough individuals trained on the use of these terminals.

## d. Duties. Initial requirements are that NG CD personnel perform the following tasks:

(1) Guard personnel assigned to HIDTA ISCs will manage SIPRNET terminals by maintaining Access Control Lists (ACLs) to ensure that NG and other U.S. cleared personnel can gain full access to all information, protocols, and system services necessary to perform the mission.

(2) National Guard personnel at each site will coordinate with the HIDTA Director to identify an existing crypto custodian or to formally train a new custodian for each site.

(3) Each NG SIPRNET HIDTA site will control individual system access to the network by identifying authorized U.S. users with secret or higher clearances.

**Chapter 4****Safety and Accident Prevention****4-1. General**

a. The safety of National Guard CD personnel is the primary concern of the CD staff and will be emphasized in planning and during all operations. Accident prevention in CD activities is based upon the philosophy that accidents can be prevented. Accident prevention is everyone's responsibility and an inherent function of leadership. CDCs and the NGCSP Director/Commandant will ensure that safety baselines are incorporated throughout the Counterdrug Standing Operations Procedures (SOP), and that the SOP incorporated the use of risk management tools for all missions. The CDC, the NGCSP Director/Commandant, or their representative, will ensure establishment of a Safety Program customized to local needs and circumstances. All CD personnel will be informed of the responsibilities, instructions, goals, and methods outlined therein. The SOP will conform to DoD, Army, Air Force and National Guard regulations/instructions and state policies/procedures.

b. The successful accomplishment of all CD support missions and activities with the minimum of risk will be the main thrust of the program. The safety goals of the Counterdrug Support Program are:

(1) To enhance the total CD mission effectiveness by eliminating/minimizing risks.

(2) To provide a safe and healthy environment for all CD personnel and others exposed to CD activities at all times.

## c. The safety goals will be achieved through the following safety program objectives:

(1) Preventing injuries on or off duty.

(2) Detecting and eliminating the causes of accidents.

(3) Identifying and controlling risks.

(4) Complying with all federal, state, and local safety/environmental requirements.

**4-2. Air National Guard Mishap Prevention Program**

a. This program, as described in DoD Instruction (DoDI) 6055.1 (AFI 91-202 and AFI 91-202/ANGSUP), complies with the intent of this regulation/instruction. ANG units will continue to abide by established ANG directives and procedures when conducting CD operations, with the exception that reporting procedures will be amended to include the CDC as an information copy addressee on all CD-related matters. The Counterdrug Safety Officer will coordinate with each ANG unit Chief of Safety to ensure the CD SOP and related directives do not conflict with the ANG Mishap Prevention Program. Published ANG directives and procedures take precedence for ANG units.

b. See also AFI 91-301/ANGSUP 1 AFI 91-204/ANGSUP 1, and AFI 91-213.

**4-3. Responsibilities**

a. CD accident prevention and reporting is everyone's responsibility. Policies, objectives, and standards must be established, supported by the CDC or NGCS Director/Commandant, and understood by everyone to ensure effective accident prevention.

b. The CDC and the NGCS Director/Commandant, as appropriate, have the overall responsibility for the health, welfare, and safety of CD personnel and therefore the state CD accident prevention program. Special attention will be given to all aspects of CD Program. Careful consideration of the unique requirements of each state (i.e., weather, geography, legal matters, etc.) should be considered. The CDC or the NGCSP Director/Commandant, as appropriate, will coordinate with appropriate safety and environmental officers/agencies to ensure that the SOP conforms to legal and regulatory requirements. The CDC or the NGCS Director/Commandant, as appropriate, will ensure that:

(1) A Counterdrug Safety Officer and NCO are appointed on orders and trained. Training provided through the NGB J3-CD Safety Course. Additional safety training and personnel may be required, especially in cases of remote duty locations.

(2) Risk assessments are conducted to ensure that the appropriate controls are utilized, that assignments are within personnel and equipment capabilities and that the most appropriate assets, consistent with operational success and safety goals, are utilized IAW FM 100-14. DA Form 7566 will be used to mitigate risk factors.

(3) Risk management principles and standardized procedures are followed for all operations regardless of mission urgency.

(4) A risk assessment is completed for all missions. Mission briefings will include the controls that will be utilized to reduce identified mission risks. An annual risk assessment is sufficient for operations that continue year round in one location with relatively stable routines. When circumstances change and new risk factors are present, new assessments will be prepared.

(5) All risk assessments made are filed in the related operations record.

(6) Safety principles/procedures will be integrated into CD Program SOPs, Operations Orders (OPORDs), Operation Plans (OPLANS), and other directives. Topics to address will include, but are not limited to:

- (a) Safety issues relevant to particular mission categories
- (b) Risk management procedures
- (c) Pre-operation and post-operation briefings
- (d) Training and operation rehearsals
- (e) Safety council
- (f) Lessons learned
- (g) Air/ground accident prevention plans
- (h) Medical response planning
- (i) General ground safety principles/procedures
- (j) General air safety principles/procedures
- (k) Environmental regulations
- (l) Local area hazard safety briefing (DoDI 6055.1, paragraph E3.3.1.7)

(7) A risk assessment is completed for all CD school programs of instruction that involve field exercises, hazardous materials, drugs, animals, or weapons.

(8) Safety principles/procedures are integrated into the CD school SOP and other directives. Topics to address will include, but are not limited to:

- (a) Course type (i.e. tactical, non-tactical classroom, etc.)
- (b) Length of operation
- (c) Environmental regulations
- (d) General ground safety principles/procedures
- (e) Medical response planning

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- (f) Lesson learned
- (g) Risk management procedures
- (h) Local area hazard safety briefing (DoDI 6055.1, Paragraph E3.3.1.7)
- (9) Annually, all CD personnel must receive Privately Operated Vehicle (POV) Safety Awareness Training. The training must be designed to reduce POV fatalities on or off duty.
- (10) NGB J3-CD recommends that the CDC or the CD School Director/Commandant, as appropriate, or his/her designee, be a member of the Adjutant General (TAG) State Safety Council.
- (11) NGB J3-CD recommends that the CD Aviation Safety Officer be a member of the AASF Safety Council.
- c. The Counterdrug Safety Officer/NCO will:
  - (1) Manage the Counterdrug Safety Program for the CDC or the CD School Director/Commandant, as appropriate.
  - (2) Ensure that execution of duties and performance of accident prevention surveys are IAW AR 385-95, AR 385-10, NGR 385-10 and applicable ANG directives.
  - (3) Ensure that safety files, statistics, and literature are maintained IAW AR 385-10, NGR 385-10, and applicable ANG directives.
  - (4) Ensure that mishap reports are reviewed, submitted, that corrective actions are implemented, and copies of mishap reports are submitted to NGB J3-CD, State Support (NGB J3-CDO, Domestic Operations Branch). The safety representative at the site will complete ANG mishap/injury reports and copies of the mishap reports will be submitted to NGB J3-CDS. The representative will forward/transmit a copy to the unit where the member/equipment is permanently assigned.
  - (5) Assist, when requested, personnel in learning about or implementing Risk Management into their duties, mission, and tasks.
  - (6) Ensure risk management addresses safety, occupational and environmental health at all levels with respect to CD operations and not as an add-on consideration (DoDI 6055.1, paragraph E3.2.3)
  - (7) Ensure that all personnel receive a local area hazard safety briefing. Included will be any unique local area conditions, potential health problems, or hazardous conditions, which may be encountered.
- d. CD personnel will:
  - (1) Correct all known deficiencies. Everyone, regardless of rank, will make immediate on-the-spot corrections when unsafe practices or conditions are observed.
  - (2) Report all unsafe conditions to the CDC, the CD School Director/Commandant, or the Counterdrug Safety Officer/NCO when on-the-spot corrections cannot be made.
  - (3) Immediately report all safety incidents/accidents through the chain of command to the Counterdrug Safety Officer/NCO.

**4-4. Inquiries on Safety Issues**

CD personnel may direct inquiries on safety issues to NGB J3-CD.

**Chapter 5  
Training**

**5-1. Training Responsibilities**

The CDC or NGCSP Director/Commandant is responsible for and will manage training of military members, LEAs, CBOs, educational and government institutions for training conducted as part of the State Plan/NGCSP Plan.

a. State CD Training Programs, under mission category 4 provide training to military to civilian and military to military training. Training will be non-contractual and doctrinally approved by DoD.

b. NGCSP, under mission category 4 provides civilian to civilian, civilian to military, and military to military training. Training will be facilitated by contracts and curriculum is approved by the school's appointed Board of Directors/Representatives.

c. CD personnel may receive military and law enforcement training per the authorized list that is published each training year. Training programs not listed that states wish to attend can be petitioned through NGB J3-CD Training Officer and attended with approval of the CD Division Chief.

**5-2. Firearms Training**

The CDC or designated representative may direct additional weapons training requirements beyond those specified in paragraphs 5-14 through 5-16, based on risk assessments and LEA requirements. For additional information, refer to para 3-4.

**5-3. Restrictions on Providing Advanced Military Training**

a. The term "Advanced Military Training" is defined as high intensity training, which focuses on tactics, techniques, and procedures required to apprehend, arrest, detain, search for, or seize a criminal suspect when the potential for a violent confrontation exists.

b. Examples are:

- (1) Advanced Marksmanship (including sniper training).
- (2) Military Operations in Urban Terrain (MOUT).
- (3) Advanced MOUT.
- (4) Close Quarters Battle/Close Quarters Combat (CQB/CQC).

c. Advanced Military Training does not include basic military skills such as basic marksmanship, patrolling, mission planning, medical skills, and survival skills.

d. The Department of Defense has prohibited the National Guard Counterdrug Program from providing advanced military training to domestic civilian LEAs. Requests for training civilian LEAs will be forwarded through the NGB J3-CD Regional Coordinator to the Department of Defense.

e. These restrictions do not apply to the NGCSP when taught by civilian or LEA instructors.

f. Reference: Domestic Operational Law (DOPLAW) Handbook for Judge Advocates (2004)

**5-4. Funding Restriction on Training LEAs/CBOs from Other Nations**

32 USC § 112 CD funds may be used for training of U.S. LEAs/CBOs only in conduct of Mission 4 (see paragraphs 2-7). Training will not be conducted for the primary purpose of training LEAs/CBOs from other countries, but they may attend courses scheduled for domestic LEAs/CBOs, providing no 32 USC § 112 funds are expended in their training.

**5-5. Initial Orientation, Counterdrug Support Program Doctrine**

a. Upon entry to the Counterdrug Support Program, National Guard members will be taught Counterdrug Support Program doctrine and policy, to include:

- (1) Legal restrictions and limitations.
- (2) Avoiding direct involvement in law enforcement activities.
- (3) Chain of command.
- (4) Avoiding violation of intelligence oversight restrictions.
- (5) Use of force.
- (6) Rules of evidence.
- (7) Safety.
- (8) Force protection.
- (9) Duty status.
- (10) Tort protection.
- (11) Standards of conduct IAW DoD 5500.7R.
- (12) Pay, allowances and leave (i.e. separation pay).
- (13) Medical, dental, commissary, and exchange benefits.
- (14) Public Affairs.
- (15) Ethics and values.
- (16) Prohibited practices.
- (17) Unit specific requirements.
- (18) Use of Force Continuum.
- (19) National CD Strategy, as approved by NGB.

b. Contents of counterdrug support program doctrinal training will be prepared and kept on file and will be reviewed by the State JAG at least every two years, or more frequently when the need is recognized.

c. Counterdrug Support Program doctrinal training will be conducted at least annually to personnel on long tour or extended orders. Individuals who miss group training will be provided briefing content for review, supplemented by discussion with supervisors, as appropriate.

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**5-6. Required Training**

a. The following positions are required to attend their basic counterdrug training course within one year of appointment.

- (1) Counterdrug Coordinator must attend the Counterdrug Senior Leaders Seminar
- (2) CD Finance Managers must attend the CD Financial Managers Course
- (3) CD Safety Officer/NCO must attend the CD Safety Course
- (4) CD CMIS Administrators must attend the CD CMIS Course

b. All states performing criminal analyst, drug demand reduction and ground reconnaissance missions as approved in their State Plan, will ensure that at least one person directly involved in the operation, planning, or training of these missions has attended the appropriate specialist certification course. State programs are not authorized to conduct these operations without a NGB qualified trainer.

- (1) Criminal Analyst must attend the Criminal Analyst Specialist Course
- (2) Drug demand reduction must attend the Civil Operations Specialist Course
- (3) Ground Reconnaissance must attend the Ground Reconnaissance Specialist Course

c. The CDC will ensure through the individual(s) who attended the NGB J3-CD approved courses that all individuals performing these missions within their state have received the minimum training and briefings before mission execution. NGB will provide basic Program of Instruction (POI) for state use, but POIs can be expanded as needed by state requirements. Validation of all internal training will be in the form of sign-in rosters or individual training records that will be kept on file at the CD Headquarters.

d. The CDC, or his/her representative, will ensure each individual meets these minimum requirements as initial training, and sustainment/refreshers training is conducted and recorded annually. Sustainment and refresher training is the responsibility of the state.

**5-7. Mission-Oriented Training**

Reference paragraph 5-1. Counterdrug Support Program personnel may receive training specific to the types of activities being planned or to familiarize them with LEA or CBO procedures and methods of operation. When the need for special training is identified, the "train the trainer" concept will be utilized as appropriate.

**5-8. Military Occupation Specialty/Air Force Specialty Code (MOS/AFSC) Related Training**

Reference paragraph 6-7.

**5-9. Aerial Observer/Marijuana Training for LEAs**

LEA personnel shall be instructed in the aerial observation and reconnaissance techniques noted in FM 3-04.119. Records of such training shall be maintained by the CDC and SAAO. The SAAO is responsible for the conduct of this training that must be requested by an LEA through the CDC.

**5-10. SPIES, FRIES, HELOCAST, Rappelling, and Paratroop Operations/training**

a. Aviation Requirements. SPIES, FRIES, rappelling and HELOCAST operations are specifically addressed in National Guard Supplement 1 to AR 95-1. These are considered high-risk mission tasks and must meet certain training and risk management requirements. Though they can be approved, regular conduct of these missions with LEA personnel must be closely monitored to ensure only the required number of LEA personnel maintain qualification and proficiency. The state must have a training program endorsed by the CDC and SAAO and approved in writing by the ARNG Aviation and Safety Directorate (NGB-AVS) before conducting such operations or training. National Guard personnel, Jump Masters, Rappel Masters, Cast Masters, etc., must be qualified and current IAW the appropriate regulation/instruction to conduct these missions. Public demonstrations of these operations by CD personnel with LEAs/CBOs are not authorized.

b. Ground requirements. Ground personnel working in support of or conducting SPIES, FRIES, rappelling must be qualified, Air Assault, Pathfinder, Rappel Master, etc, and IAW with air safety regulations. Army or Air Guard personnel conducting support missions involving climbing walls or rappelling activities for youth must be trained by a qualified Air Assault, Pathfinder, Rappel Master, etc.

**5-11. Training and Qualification of Sensor Equipment Employment (Ground and Aviation)**

a. CD personnel supporting LEA operations that employ sensory enhancing equipment will be trained in the use of the devices. Certified training is available through Law Enforcement Thermography Association (LETA) or the National Technical Investigators Association (NTIA). Scheduling and selection of personnel for this training is the responsibility of the CDC.

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b. ARNG aviation training and qualification requirements of sensor equipped aircraft require SAAO selection and delegations to aviators specifically tasked to perform CD mission duties as coordinated by the CDC. Typically sensor skills will comprise S & S BN/CO core duties however additional tactics and experiences will be considered to safely perform given CD tasked missions.

c. ANG Wings with assigned CD capable resources, i.e., RC-26, will ensure aircrew are trained and qualified to necessary standard prior to accepting CD taskings as validated by the CDC.

#### **5-12. ARNG Individual Weapons Qualification**

a. CD program personnel will qualify on their CD assigned weapon(s) to approved Army Standards in Training Commission (STRAC) standards, IAW Counterdrug standards and tables in DA Pam 350-38, Chapter 17, FY08. Approved table requirements will be supported beginning FY07. Special Effects Small Arms Marking System (SESAMS) support will depend on depot availability.

b. The CD program will submit ammunition requirements through their State Training Ammunition Manager (STAM) as part of the total state training requirement to the Training Support Branch (NGB-ART-S). A Unit Identification Code (UIC) or Derivative Unit Identification Code (DUIC) and Department of Defense Address Activity Code (DODAAC) will be identified so training ammunition authorizations can be sub-authorized and the DA Form 581 (Request for Issue and Turn-In of Ammunition) can be completed.

c. Operational load ammunition requirements as determined by the unit/team commander will be requested using the DA Form 581, using the event code "OPN". HQDA may begin managing operational load ammunition with Training Ammunition Management Information System-Redesigned (TAMIS-R) authorizations through NGB.

#### **5-13. ANG Individual Weapons Qualification**

ANG M-16 rifle and 9mm pistol qualifications will be IAW AFMAN 36-2227, Volume 1. ANG training ammunition must be requested through the supporting Combat Arms Training Manager (CATM).

#### **5-14. ARNG/ANG Weapons Training**

Will include instruction on safety functions, security, weapons retention, capabilities, limitations and maintenance of firearms. Testing will include qualification firing IAW current weapons qualification standards.

#### **5-15. Additional ARNG/ANG Weapons Training**

Ammunition to support additional training of ARNG and ANG members may be authorized, provided that:

a. Quantities requested are based on a valid LEA Program of Instruction which National Guard members are directed to undergo.

b. Request is approved by NGB J3-CD.

c. Requests are forwarded to the STAM to NGB-ART-S if support is required.

d. Training ammunition will be used for training purposes only. The STAM is responsible for ensuring compliance with AR 5-13. The STAM forecasts quantities, monitors issue, consumption and returns, and ensures appropriate UICs are credited.

#### **5-16. Mission Training. All states performing missions 3a, 5a, and 5b must ensure compliance with the training requirements noted below.**

##### **a. Mission 5a Training**

(1) All states performing Mission 5a that is approved in their State Plan, will ensure that at least one qualified person directly involved in the operation, planning, or training of Mission 5a has attended the NGB J3-CD approved Mission 5a Program Manager's Course. State programs are not authorized to conduct 5a operations without a NGB qualified trainer. The NGB J3-CD approved Mission 5a Program Manager's Course has established the minimum training requirements and all states will develop training programs tailored to their state mission (i.e., Legal Review, Armed Mission vs. Non Armed Missions) to meet at least the minimum requirements.

(2) The CDC will ensure through the individual(s) who attended the NGB J3-CD approved course that all individuals performing Mission 5a have received the minimum training and briefings before performing Mission 5a operations. This training will be supported through Programs of Instruction (POIs) or lesson guides. Validation of all Mission 5a related training will be in the form of sign-in rosters or individual training records that will be kept on file at the CD Headquarters.

(3) The CDC will manage and become familiar with the minimum requirements, which include, but are not limited to:

(a) Mission 5a Course Overview

(b) Mission 5a Overview



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- (c) Legal (POSSE COMITATUS) review
- (d) Legal/RUF
- (e) Public Affairs
- (f) Mission 5a Rules for Use of Force (RUF)
- (g) Risk management
- (h) Operations Order (OPORD)
- (i) Case study (The Redford Incident)
- (j) Serious incident report
- (k) Hide site selection
- (l) Medical/safety procedures
- (m) Situational training (action drills)
- (n) Sensory enhancement devices

b. Mission 3a and 5b Training

(1) All states performing Missions 3a or 5b that are approved in their state plan will ensure that all FTNGDCD pilots hired after Fiscal Year 2005, or all pilots on seasonal counterdrug orders have completed the doctrinal and policy training beginning in Fiscal Year 2010. FTNGDCD pilots hired before Fiscal Year 2005 are encouraged to attend.

(2) This training will be conducted by one of the NGB CD schools. This is an advanced Counterdrug (CD) training course for FTNGD-CD personnel who serve as pilot in command during counterdrug aviation support in Marijuana Eradication and/or Aerial Reconnaissance operations (3A or 5B) at all levels in CONUS.

(3) The CDC will manage student attendance to this course that includes the following subjects:

- (a) NGR 500-2/ANGI 10-801
- (b) Annual State Counterdrug Plan development
- (c) Legal issues and case law
- (d) Recent LEA support missions
- (e) CD mission approval processes
- (f) Mobile surveillance and marijuana eradication strategies, threats, and techniques
- (g) Interagency communications systems
- (h) Advanced IR Theory and Thermography
- (i) Advanced Special Mission Equipment Systems
- (j) Pre-mission Planning and coordination with LEAs for joint operations
- (k) CD Fiscal Management / Reports and Counterdrug Management Information System (CMIS)
- (l) Public Affairs

**5-17. Training Development**

Training conducted on any military topic by CD personnel for LEAs, CBOs, or military personnel will be based upon, and consistent with, the appropriate military training manuals and established training programs.

**5-18. National Guard Counterdrug Schools Program**

Specific issues pertaining to the NGCSP are addressed in Chapter 11 of this regulation/instruction. Unless otherwise stated, all other areas of this regulation/instruction apply to the NGCSP.

**Chapter 6**

**Counterdrug Funding and Fiscal Policy Overview**

**6-1. Counterdrug Funding**

a. The CDC or the CD School Director/Commandant will ensure that all personnel understand that the duration and size of the CD program is subject to annual appropriated funding levels. Reductions in staff or breaks in duty may be required in the event of reduced budgets.

b. 32 USC § 112 provides funding authority for the National Guard Counterdrug Support Program. Section 1004, NDAA of 1991, as amended provides CD support authority for the NGCSP. These authorize funding for pay and allowances, uniform clothing, subsistence, gratuities, travel, and related expenses of National Guard personnel used for CD activities, and for the operation and maintenance of National Guard equipment and facilities used for CD support activities. These also authorize funding for the procurement of services, supplies, equipment and the

leasing of equipment for National Guard CD activities.

c. National Guard CD support funds, with the exception of aviation air OPTEMPO funding, are part of the DoD Drug Interdiction and Counterdrug Activities appropriation and will not be used for purposes other than the National Guard Counterdrug Support Program. These funds (Non-OPTEMPO) are "floored" by Office of the Secretary of Defense (OSD) Project Code, DoD Program Element Codes (PECs), Workday Utilization Codes (WUCs), and Emergency Specialty Project Codes (ESPs).

d. The CDC will forward requests for the transfer of ANG workdays, ANG funds, and ARNG funds, to the appropriate NGB J3-CD Regional Coordinator for approval and action. The CD School Director/Commandant will forward requests for the transfer of ANG workdays, ANG funds, and ARNG funds, to the NGB J3-CD Training Officer for approval and action.

e. An appendix to the Master Cooperative Agreement (MCA) between the USPFO, acting on behalf of the CNGB, and the Adjutant General, or the Commanding General, District of Columbia, as appropriate, acting on behalf of the state, will be prepared before the issuance of any funding for CD activities which include reimbursement to the state.

f. The CDC, or the CD School Director/Commandant, as appropriate, will submit an annual Counterdrug Budget Obligation Plan (CBOP), in the approved form, to the NGB J3-CD each year, or as specified, and update it as required. NGB J3-CD will provide a schedule with instructions and due dates.

#### **6-2. Fiscal Accountability**

a. The CDC, or the CD School Director/Commandant, as appropriate, is responsible for ensuring proper management controls are in place to maintain effective control of CD funds. NGB J3-CD requires copies of military pay orders, travel orders, and similar documentation to be maintained and available for review for the current and any prior fiscal year with unliquidated obligations. The CDC, or the CD School Director/Commandant, as appropriate, is responsible for developing and maintaining internal controls necessary to assist with the reconciliation of both the ARNG and ANG financial systems (reference paragraphs 6-14 and 6-15). Sufficient documentation must be maintained to reconcile with official USPFO reports and to support fiscal audit and control functions IAW Army and Air Force Management Control Programs and the Federal Managers' Financial Integrity Act (FMFIA), Public Law 97-255.

b. Accounting for non-appropriated funds, i.e., asset forfeiture-sharing funds, grants, and foundation donations, is a state responsibility. Accounting for military non-appropriated funds (NAF), i.e., Morale, Welfare, and Recreation (MWR), will be coordinated with the USPFO and ANG comptrollers AW Department of Defense Financial Management Regulation (DoD FMR) 7000.14-R Volume (Vol.) 13, and either AFI 65-107 or AR 37-1.

c. The CDC, or the CD School Director/Commandant staff, as appropriate, will observe and practice all applicable DoD and Service financial regulations and directives and cooperative agreements under state law.

#### **6-3. Orders**

a. Full-Time National Guard Duty Counterdrug (FTNGDCD) orders will reflect the entire duration of the mission and will not be broken for the sole purpose of avoiding the costs of pay and allowances and associated entitlements/benefits.

b. FTNGDCD tours for projects over 139 days are Permanent Change of Station (PCS) tours and will not be split to provide temporary duty (TDY) entitlements.

c. Orders must include Permanent Duty Station (PDS).

d. Additional information on ARNG FTNDNCD orders is found in paragraph 8-8 of this regulation/instruction.

e. Information on ANG FTNDNCD orders is found in Air National Guard Instruction (ANGI) 36-2001.

#### **6-4. Military Pay and Allowances**

Soldiers and Airmen performing FTNGDCD are entitled to applicable military pay and allowances IAW DOD FMR 7000.14-R, Vol. 7A, and all applicable service regulations and instructions.

a. Basic Allowance for Housing (BAH). Payment of BAH will be IAW DoD FMR 7000.14-R, Vol. 7A, Chap. 26.

b. Separation Pay

(1) CD personnel performing full-time duty pursuant to 32 USC § 112 are, with certain limited exceptions as outlined in the DoD FMR, entitled to separation pay if they meet the requirements of 10 USC § 1174. Separation Pay for CD Soldiers and Airmen will be funded through the CD program.

(2) The rules of eligibility and procedures for calculation of involuntary separation pay are outlined in DoD FMR Vol. 7A, Chapter 35.



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(a) Members who have served on active duty, to include FTNGD, who are discharged or released from active duty and have completed six or more years of continuous active duty (a period of active duty is considered continuous if any break in service does not exceed 30 days), but fewer than 20 years of active service preceding discharge or release are entitled to separation pay if:

1. The member's discharge or release from active duty is involuntary (except for cause); or
2. The member was not accepted for an additional tour of active duty for which he/she volunteered (to include withdrawal or cessation of continued program funding).

(b) ANG members. If determined that a member is eligible for separation pay, use Separation Program Designator (SPD) LCC, and place the following remark in the comments section of the members DD Form 214: "Member is eligible for separation pay; Member is not eligible for TAMP benefits".

(c) ARNG members. If it is determined that the member is eligible for separation pay, the procedures for coding DD Form 214 are IAW state administrative/finance policies.

#### 6-5. Travel and Transportation-Related Entitlements

Soldiers and Airmen performing FTNGDCD are entitled to all travel and transportation allowances IAW Joint Federal Travel Regulation (JFTR), Vol. 1, the DoD FMR 7000.14-R, Vol. 9, and all applicable Service regulations/instructions.

a. Permanent Change of Station (PCS). Military personnel ordered to 140 or more consecutive days FTNGDCD duty are entitled to a PCS move at government expense, to include travel pay, movement of household goods, and other PCS entitlements IAW the JFTR. If funds are not available to support the payment of entitlements IAW the JFTR, personnel will not be ordered to perform duty.

b. Temporary Duty (TDY) and Travel Allowances

(1) Soldiers and Airmen on FTNGDCD orders are entitled to travel and transportation allowances when performing TDY away from their PDS locations when such duty constitutes directed travel IAW the JFTR.

(2) Local area travel reimbursement is authorized for expenses incurred by members conducting official business in the local commuting area as defined by local commanders IAW the JFTR. This may include travel to and from Inactive Duty Training (IDT/IAD) and Annual Training (AT) duty locations.

#### 6-6. Inactive Duty Training (IDT/IAD) and Annual Training (AT)

a. Travel and Per Diem. Travel and per diem expenses, incurred by personnel on FTNGDCD who commute to and from their PDS location to their unit of assignment to perform IDT/IAD/AT, are chargeable to the CD Program when the unit of assignment is at a location other than the member's FTNGDCD PDS. Such travel is directed travel because IDT/IAD/AT participation is a condition of CD duty (32 USC § 112). Soldiers and Airmen on FTNGDCD orders who perform IDT/IAD/AT in a directed travel status are entitled to reimbursement for travel and per diem expenses IAW the JFTR.

b. Military Pay and Allowances. Soldiers and Airmen on FTNGDCD orders who perform IDT/AT are *not* entitled to additional pay, allowances, or other benefits for participation in training required under 32 USC § 502(a)(1).

c. AT Reimbursement. CD personnel will remain on FTNGDCD orders while performing AT. The pay, allowances, and other benefits of the member while participating in the training will be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and CD activities. CD appropriations will be reimbursed out of appropriations available for paying AT costs, (32 USC § 112).

(1) Annual training rosters must be kept for both Soldiers and Airmen to document reimbursement and participation.

(2) ARNG – reimbursement will be executed using Optional Form 1017-G (Journal Vouchers) at the USPFO.

(3) ANG – additional special training days will be issued based on CBOP AT projections. AT reimbursement requirements identified after the CBOP submissions will be requested through the appropriate Regional Coordinator or Training Officer.

d. The CD Program is not responsible for pay and travel related costs above and beyond the Soldier/Airmen's mandatory requirement of performing, at a minimum, 48 unit training assemblies and 15 days of AT.

#### 6-7. Training other than IDT/AT

a. Non-counterdrug military training exceeding three days. Except as provided below, CD funds cannot be utilized for non-CD military training exceeding three days in length excluding travel time.

(1) Soldiers attending required ARNG schools such as NCOES or MOS producing schools will be kept on CD orders and the CD accounts will be reimbursed using the same process as the AT reimbursement. (See paragraph 6-6.)

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(2) Airmen attending ANG schools such as PME or AFSC upgrading schools will remain on CD orders for the duration of the school provided that prior approval of the school reimbursement is received from NGB J3-CD, through the NGB J3-CD Resource Management (NGB J3-CDR) and the Regional Coordinator or Training Officer. The reimbursement will be accomplished with additional special training days issued to the CD program based on confirmation of actual school attendance.

b. Non-counterdrug military training *not* exceeding three days. The CDC, or the CD School Director/Commandant, as appropriate, may permit Soldiers and Airmen participating in non-counterdrug training of three days length, or less, to remain in a military pay status on FTNGDCD orders. However, the CD Program *will not* be responsible for travel costs or other expenses related to such training. This paragraph does not refer to IDT/IAD or AT. (See paragraph 6-6)

c. Other approved CD mission related training. Travel and expenses related to the attendance of the training programs referred to in para 5-1a.(3) of this regulation are authorized.

#### **6-8. Military Duty for Purposes Other Than Training or Other than Counterdrug Activities**

FTNGDCD orders will *not* be broken for purposes such as contingency operations, force protection, homeland defense, and MPA days. The CDC or the CD School Director/Commandant must request reimbursement for personnel costs from other ARNG/ANG funding or by the agency making the request for support.

#### **6-9. Training of Non-Military and Foreign Personnel**

a. 32 USC § 112 funds will not be utilized in the development or execution of courses for the purpose of training foreign LEAs and CBOs.

b. Foreign LEAs and CBOs may attend courses conducted within the Continental United States (CONUS) and scheduled for domestic LEAs and CBOs.

c. When foreign nationals attend courses, 32 USC § 112 funds will not be used for associated costs (i.e., training manuals, accommodations, meals, and give-aways).

d. Travel outside CONUS (OCONUS) for the purpose of conducting counterdrug training is prohibited with appropriated Title 32 USC § 112 funds, see paragraph 8-3.

e. United States LEAs and CBOs will not be dropped from training courses for the purpose of enrolling foreign LEAs and CBOs.

#### **6-10. Equipment Purchases and Mission Costs**

a. Incremental costs associated with missions performed incidental to training that include above normal expenditures (such as lodging or per diem) may be charged to CD support accounts.

b. Title 32 USC § 112 funds may not be used to purchase equipment items in excess of \$5,000 (per individual item) until advance approval has been obtained from NGB J3-CD and the National Guard Bureau Director of Joint Staff NGB-DJS.

c. Contracted training, trainers, training materials, and training development are authorized only for training in support of missions approved in the State Counterdrug Support Plan or the School Training Plan, when organic training resources are not available.

d. Contracting for external evaluations of National Guard CD Programs must be approved by NGB J3-CD.

#### **6-11. Promotional Item Purchases**

a. To raise public awareness of anti-drug programs, such as Red Ribbon Week, DoD CD programs may use drug demand reduction funds to purchase promotional items with little intrinsic value, conveying an anti-drug message. Such items may include, but are not limited to, such items as balloons, pencils, pennants, ribbons, pins, stickers, and caps.

b. Purchases of promotional items should be with specific regard to the phrase "little intrinsic value." Differentiating between an acceptable promotional item and a gift rests on the item's practicality and the likelihood it will be used solely for its purely utilitarian purpose beyond the anti-drug message. An example of an acceptable item would be one that provides a clear anti-drug message to the recipient and acts as a reminder of the message each time it is used or observed.

c. Appropriated funds may not be used to purchase promotional items and giveaways of a purely utilitarian nature, having an intrinsic value, such as TVs, radios, cameras, brief cases, etc. These items fall into the category of merchandise and as such are considered personal gifts. These types of items are not acceptable for purchase with CD funds.

#### **6-12. Asset Forfeiture and Asset Sharing**

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a. Federal agencies operate asset sharing programs. The criteria for participation in these programs are set by each agency. They generally require that the National Guard qualify as a state law enforcement agency. The percentage of participation in a particular case is used to determine the proportion of the asset sharing. State participation is voluntary, at the discretion of the Adjutant General, or the Commanding General for the District of Columbia, and only if allowed by state law.

b. Federal appropriations cannot be augmented using funds derived from asset sharing. Items purchased with funds from asset sharing programs will remain state property and will not be accounted for on the USPFPO property books.

c. CD personnel will not be the primary manager of the asset sharing funds. The state employee responsible for these funds will manage all transactions concerning them IAW the governing agency regulations.

### 6-13. Joint National Guard Substance Abuse Program (JNGSAP) Funding

Substance Abuse (SA) funds within each state will be managed within the fiscal controls outlined by applicable financial management regulations/instructions. Refer to Chapter 8, Joint National Guard Substance Abuse Program (JNGSAP), for more information on the JNGSAP.

### 6-14. Budgeting and Accounting for Army National Guard (ARNG) Funds

a. National Guard Personnel Appropriation (NGPA), appropriation 2060. Military pay and allowances, travel, and per diem for FTNGDCD and AGR (Title 10 and Title 32) personnel are chargeable to this appropriation. See the Army Management Structure Code (AMSCO) definitions in Defense Finance and Accounting Service Center for Sustaining Forces – Indianapolis Regulation (DFAS-IN) 37-100-XX for appropriate P&A expenditures.

b. Operations and Maintenance National Guard (OMNG), appropriation 2065

(1) Non-OPTEMPO OMNG Funds. Non-operating tempo (OPTEMPO) operations and maintenance expenses supporting CD activities are chargeable to this appropriation IAW DFAS 37 series of manuals/regulations. (See the AMSCO definitions in DFAS-IN 37-100-XX for appropriate O&M expenditures.)

(2) OPTEMPO OMNG Funds

(a) Air and Ground OPTEMPO expenses supporting CD activities are chargeable to this appropriation.

(b) ARNG flying hour program OPTEMPO funds are not fenced by DA management controls. However, funds provided to states for direct and indirect support are only authorized for CD purposes and shall not be diverted to other state programs.

(c) CD OPTEMPO funds authorized for CD Aviation Classification and Repair Activity Depot (AVCRAD) and Depot Level Repair (DLR) support shall not be diverted to other AVCRAD/State aviation programs.

(d) NGB J3-CD monitors CD OPTEMPO funds execution through Army National Guard Data Warehouse and Commanders Resource Integration System.

(e) Identified shortfalls and excesses of ARNG Air OPTEMPO (POL, Consumables and DLR) funds will be forwarded to NGB J3-CD for resolution. Additional guidance on the use of ARNG funds may be obtained from Army Comptroller Division, Budget Execution and Analysis Branch (NGB-ARC-BE).

### 6-15. Budgeting and Accounting for Air National Guard (ANG) Funds

a. Military Personnel Appropriation (MILPERS), appropriation 3850/fund code 56. Military pay and allowances for FTNGDCD and AGR personnel are chargeable to this appropriation IAW Air Force Manual (AFMAN) 65-604. Travel and per diem expenditures for ANG personnel may be charged to this appropriation.

b. Operations and Maintenance (O&M) appropriation 3840/fund code 58. Non-OPTEMPO operations and maintenance expenses supporting CD activities are chargeable to this appropriation. Travel and per diem expenditures for ANG personnel may be charged to this appropriation under the conditions outlined in paragraph 3-15d.

c. ANG OPTEMPO funds

(1) Maintenance for the CD RC-26B aircraft is centrally managed via a contract logistics support (CLS) contract.

(2) CD RC-26B fuel cost funding is distributed to ANG wings by Air National Guard Logistics (ANG/LG).

(3) All other types of aircraft flying hour costs are funded through ANG wing flying hour programs.

d. Travel of ANG personnel

(1) Air National Guard Financial Management (ANG/FM) has issued the following guidance for choosing the correct appropriation for ANG travel orders:

(a) AGR – chargeable to O&M.

(b) FTNGDCD on Active Duty for 1-30 days – chargeable to MILPERS.

(c) FTNGDCD on Active Duty for 31+ days – chargeable to O&M.

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(2) NGB J3-CD will review and may approve exceptions to this guidance on a case-by-case basis.

e. Additional guidance on the use of ANG funds may be obtained from NGB J3-CD and ANG/FM.

#### 6-16. Reconciliation of Counterdrug Accounts

The CDC or the CD School Director/Commandant, as appropriate, or a representative thereof, must reconcile internal financial records with the following financial reports on a schedule IAW local USPFO and wing comptroller policies. In addition to local requirements, NGB J3-CD requires that the following reports must be available for review for the current and prior fiscal year:

a. ARNG Reports.

- (1) Funding Authorization Documents (FADs).
- (2) Funding Allowance Targets (FATs).
- (3) Unliquidated Obligation Listing.
- (4) Reservation Master Listing.
- (5) Monthly Transaction Register Listing.
- (6) Financial Plan Status Report (available from USPFO).
- (7) Obligation Plan Reports for USPFO.
- (8) Contracts.
- (9) Travel Orders.

b. ANG Reports.

- (1) Funding Documents.
- (2) Obligation Documents (AF Form 9, DD-448 (MIPR), AF Form 616, AD orders, Travel Orders, etc.).
- (3) Automated systems utilized by servicing ASNs.
- (4) Workday Documents.
- (5) Squadron WUC Detail Report.
- (6) Contracts.

#### 6-17. Financial References

a. DoD.

- (1) DoD FMR 7000.14-R.
- (2) JFTR.
- (3) [www.dtic.mil](http://www.dtic.mil).

b. DFAS.

- (1) Army
  - (a) DFAS-IN 37-1.
  - (b) DFAS-IN 37-100-XX.
- (2) Air Force.
  - (a) DFAS-DE – Interim Guidance on Accounting for Commitments.
  - (b) DFAS-DE – Interim Guidance on Accounting for Obligations.
- (3) Both - [www.dfas.mil](http://www.dfas.mil).

c. Department of the Air Force

- (1) AFMAN 65-604.
- (2) AFI 65-103.
- (3) AFI 65-601.
- (4) AFI 65-602.
- (5) AFI 65-603.
- (6) AFI 65-608.

d. U.S. Public Law.

- (1) 32 USC § 112
- (2) 32 USC § 502

#### 6-18. Financial Reporting Procedures

All CD financial data will be reported through the Counterdrug Management Information System (CMIS) or the current NGB-J3-CD approved tracking database.

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## Chapter 7 Acquisition and Logistics Management

### 7-1. Acquisition Management

#### a. Systems Acquisition

(1) Systems Acquisition is defined as a program requirement for a large scope system (equipment, supply, software) or service procurement which has impact and applicability to the entire Counterdrug program.

(2) Counterdrug Systems Acquisitions will be accomplished and managed by the NGB J3-CD headquarters office or a designated CD state office that may serve as the lead project office. Acquisition and contracting support for systems acquisitions will be provided by NGB Joint headquarters contracting staff (NGB-ZC-AQ).

(3) Systems Acquisitions will be conducted according to DoD Directive 5000.1, and DoD Instruction 5000.2.

(4) The Counterdrug Program will ensure that CD personnel involved in Systems Acquisitions are trained in Defense Acquisition policy and procedures.

(5) Authority for systems acquisitions is derived from the Congressional Counterdrug program charter and annual authorization and appropriation legislation. Only systems acquisitions within scope of the Counterdrug mission and directives are authorized.

#### b. Operational Acquisition

(1) Operational acquisition is defined as a requirement for basic supply and service needs which support only a particular office or region of Counterdrug activities.

(2) Operational acquisition and contracting support for the NGB J3-CD headquarters office will be provided by the operational contracting activity supporting NGB Joint headquarters (NGB-ZC-AQ).

(3) Operational acquisition and contracting support for the state Counterdrug offices will be provided by the local United States Property and Fiscal Officer (USPFO).

(4) Authority for operational acquisitions is derived from the Congressional Counterdrug program charter and annual authorization and appropriation legislation. Only systems acquisitions within scope of the Counterdrug mission, directives, and state plans are authorized. Only equipment acquisitions which are listed in the CD equipment table of allowances, through the State Plans process, or as approved by NGB J3-CD, are authorized.

#### c. Acquisition Regulations

(1) All acquisition and contracting support activities must comply with all applicable federal, DoD, and state regulations and instructions.

(2) CD personnel responsible for project management and ordering activities must be familiar with basic federal regulations and instructions including, but not limited to the Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DFARS), National Guard FAR Supplement (NGFARS), Anti-deficiency Act (ADA), and Bona Fide Needs Rule.

#### d. Acquisition Personnel

(1) Principal Assistant Responsible for Contracting (PARC): Acquisition and contracting authority is vested in the Chief of the National Guard Bureau. The Chief of NGB has delegated the responsibility for policy, management, and execution of acquisition and contracting to the PARC. The PARC provides warranted authority for acquisition and contracting to all NGB contracting personnel.

(2) USPFO: The NGB PARC has delegated acquisition and contracting authority for each state's National Guard Counterdrug program to the USPFO.

(3) Contracting Officer (CO): The NGB PARC grants warrant authority for all contracting officers within the National Guard Bureau. Only a warranted contracting officer has the authority to enter into a contract and obligate the Government.

(4) Contracting Officer's Representative (COR): The COR is appointed by the CO to manage and monitor detailed activities associated with each contract. Duties may include, but not be limited to inspection of goods and services, monitoring contractor activities, and certification of contract invoices.

(5) Property Book Officer (PBO): The PBO has responsibility for any newly acquired equipment to ensure to that placed in the organizations' property book records.

(6) Training: All CD acquisition personnel must be trained and experienced according to the conditions and criteria specified in federal, defense, and organizational directives and policy.

### 7-2. Requirements Planning

a. Procurement Acquisition Lead Time (PALT): All procurements, either systems or operational, will follow a standard PALT schedule. The program manager, project officer, COR, and/or PBO will effectively plan for procurements according to the PALT schedule in order to meet required need dates. Coordination must begin early with the assigned contracting activity and CO in order to execute procurements in a timely manner.

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b. Requirements planning will include preparation of required documentation. Every acquisition or contracting action will require the following standard documentation: funding document(s), market research, requirement summary (supply list or work statement), and independent government estimate (IGE). Other documentation may and will be required as determined by the particular acquisition requirement and the directives which apply to it. Early consultation should be made with the support contracting activity and the assigned CO.

### 7-3. Contract Administration

a. Pre-award activities will consist of effective requirements planning, obtaining program funding, and preparation of all of the required documentation. The assigned program manager, project officer, COR, and/or PBO must complete the necessary documentation as specified by the supporting CO.

b. Contract award will be made by the support contracting activity and the assigned CO.

c. Post-award activities will be monitored and conducted by the assigned program manager, project officer, COR, and/or PBO with assistance from the support contracting activity and assigned CO.

d. Contract closeout must be completed at the earliest date after contract completion. The program manager, project officer, COR, and/or PBO with assistance from the support contracting activity and assigned CO must ensure that contract closeout is completed in a timely manner.

### 7-4. Logistics Management

a. Applicability of ARNG/ANG Supply Directives.

(1) TAGs may conduct CD operations with federal property issued to the ARNG and ANG.

(2) CD ARNG equipment is subject to ARNG supply directives.

(3) ANG fiscal and supply directives are applicable to equipment purchased with ANG 32 USC § 112 funds.

b. Hand Receipt Accounts for Counterdrug Equipment

(1) ARNG equipment will be accounted for through hand receipt issue from the JFHQ-ST Property Book Officer (PBO) to the CDC, the CD School Director/Commandant, as appropriate, or a designated representative, on appointment letter.

(2) ANG accounts: See paragraph 7-9.

### 7-5. Central Procurement

States and CD schools will not procure equipment already marked for central procurement by the NGB, unless authorized to do so by NGB J3-CD. Central procurement includes:

a. The Total Package Fielding Program (TPFP), in which the ARNG and ANG Directorates obtain equipment for the states.

b. Purchase of equipment by NGB J3-CD for issue to all or some of the states or CD schools. NGB J3-CD will advise the states and CD schools periodically of new technology, test results, and anticipated purchases.

### 7-6. Delegation of Approving Authority for OMNG Expenditures

IAW authority delegated by the CNGB, the Chief, NGB J3-CD, further delegates to USPFOs the authority to approve expenditure of CD OMNG funds. State CD and USPFO staff will evaluate proposed expenditures and ensure that 32 USC § 112 funds are utilized only for CD purposes. Providing this rule is obeyed and the state has adequate OMNG funds, NGB J3-CD action as an approving authority is not required by the state CD Office. The following guidelines are applicable:

a. All OMNG purchases must comply with the Competition in Contracting Act of 1984 (CICA-84) and satisfy requirements of the Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS) and Army Federal Acquisition Regulation Supplement (AFARS) and the National Guard Federal Regulation Supplement (NGFARS) as applicable.

b. Computer equipment purchases will be coordinated through the state Director of Information Management (DOIM), and must meet Reserve Component Automation System (RCAS) requirements.

c. Automation equipment and software purchases must be IAW Elements of Resource (EOR) as indicated in the 37 series, DFAS regulations.

d. In some cases, USPFO staff or other state personnel may request the concurrence of NGB J3-CD for OMNG expenditures, despite the delegated authority noted above. Regional Coordination teams will assist states in expediting such transactions.



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**7-7. Authorizations for Nonexpendable ARNG Property**

a. ARNG nonexpendable property will be authorized by one of the following:

(1) Paragraph 06Z, JFHQ-ST TDA. Additions to this paragraph are executed by the NGB Force Management Division (NGB-ARF), acting in response to requests from the NGB Logistics Division, Logistics Management Branch (NGB-ARL-S). Paragraph 06Z may include non-standard commercial equipment as well as military issue.

(2) CTAs.

b. NGB J3-CD grants permission for states to deal directly with NGB-ARL-S to secure authorizations.

c. Regional Coordinators, when asked to assist, will act as expeditors of procurement decisions made at state level.

**7-8. Computers Purchased with ARNG Counterdrug Funds**

a. Computers are normally CTA items. The CDC or the CD School Director/Commandant, as appropriate, will coordinate computer purchases with the state DOI/M, and will select only equipment that meets RCAS requirements. Purchase of computers by state CD staff or issue of computers initiated by NGB J3-CD may result in exceeding CTA allowances. In that event, the authorization process is set forth below.

b. When the state or CD school has initiated the action, the CDC or the CD School Director/Commandant, as appropriate, will request a special authorization from NGB-ARL-S, which will issue the appropriate written authority. NGB J3-CD delegates authority to CDCs or the CD School Director/Commandant, as appropriate, in conjunction with PBOs and USPFO personnel, to deal directly with NGB-ARL-S.

c. When computers are issued via action originating with NGB J3-CD, special instructions will be provided.

d. Computer equipment, though usually non-expendable, will not be listed in the CD 06Z paragraph of the JFHQ-ST TDA. CDC or school staff, as appropriate, will retain authorization documents issued by NGB-ARL-S for as long as the equipment concerned is on hand, and ensure that computers are included in hand receipt accounts.

**7-9. ARNG and ANG Equipment Procedures and Accountability**

CD funds are "fenced" by Congressional mandate. Equipment purchased with such funds cannot be reallocated to other organizations and, by law, must be identified as CD equipment and maintained under CD control.

a. ANG Procedures, Support Equipment/Automated Data Processors. ANG organizations will submit requests for support equipment and automated data processing systems (for use in support of state CD operations) IAW this chapter. Compliance with these procedures will help maintain uniformity of document flow, minimize potential confusion/delay in document processing, and insure asset accountability.

b. ANG Information Processing Management System (IPMS). IPMS is the standard Air Force inventory system for Automated Data Processing Equipment (ADPE). All ADPE, with the exception of some Table of Allowance (TA) equipment, must be entered in IPMS. Follow unit policy/directives for procurement of ADPE (i.e., submission of AF Form 9 and AF Form 3215). The Communications Flight will enter CD ADPE in IPMS in PN "11". This PN must be created in IPMS. The PEC identifying CD equipment is 52889F. CD equipment custodians will ensure that automated data processors are listed on the unit Custodian Account/Custodian Request List (CA/CRL), after entry of equipment data in IPMS in PN 11.

c. ANG Equipment Procedures and Accountability. All equipment, non-accountable items (NF1 items - calculators or furniture) and automated data processors will be listed on the R15 Organizational Visibility List to track CD funds, IAW AFMAN 23-110 part two, and paragraph 22.31.3.

(1) CD equipment custodians of requesting organizations will submit requests through Air Force Equipment Management System (AFEMS), specifying Force Activity Designator Two (FAD II) and Allowance Source Code (ASC) 054DRUG. Justification statement through AFEMS will indicate whether equipment is requested for execution of the existing Governor's State Plan or pertains to a pending revision of the plan. The specific mission (See Chapter 2, Authorized Missions, of this regulation/instruction) will be indicated.

(2) The Equipment Management Section (EMS) of Base Supply will review the request, assign a base control number, maintain a suspense copy and forward a copy of the AFEMS request to the USPFO. USPFO personnel will review the request and State Plan with the CDC, or the Annual Training Plan with the CD School Director/Commandant, as appropriate, and other staff, if appropriate, and forward it to ANG Directorate of Logistics (ANG/LG). ANG/LG will forward the AFEMS request to NGB J3-CDS for approval. EMS, upon receipt of an approval, will clear the suspense copy, and process the request. Copies of the AFEMS approval will be provided to the requesting unit and the CDC or the CD School Director/Commandant, as appropriate.

(3) EMS will not request CD support equipment without AFEMS approval. When security concerns preclude listing specific mission data on the AFEMS request, included information will indicate that a separate classified message detailing the justification will be sent to NGB J3-CDS by facsimile.

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(4) The above "dual tracking" procedures will be followed. Accountability is established by the Base; the responsibility for use and reallocation of CD assets rests solely with the CDC or the CD School Director/Commandant, as appropriate.

#### **7-10. Loan and Lease of Equipment**

a. States may coordinate directly with other states for the temporary loan of additional federal property needed to support CD operations. Lease of property to LEAs and CBOs will be IAW 10 USC § 2667, 32 USC § 112, AR 700-131 or AFMAN 23-110 and DoD 1225.6, as applicable. All leases of federal property to LEAs must be in return for fair market value. Agreements will be coordinated with the USPFO to ensure requirements for approval by, or reporting to, higher headquarters are observed.

b. LEA/CBO requests for lease of equipment should be initially directed to the CDC for concurrence, then referred to the USPFO or designated state NG representative for action as appropriate.

#### **7-11. Restricted Use of 32 USC § 112 Equipment/Services**

a. All equipment/services purchased, leased, or otherwise obtained using 32 USC § 112 funds will be used for the Counterdrug Support Program, except as specified in paragraph 2-8.

b. The CDC or the CD School Director/Commandant, as appropriate, will avoid commingling of CD and non-CD equipment in storage wherever possible and will take measures as needed to prevent deliberate or unintentional transfer or misuse of CD equipment. Normal supply procedures may be supplemented by special markings, special procedures, and whatever additional management controls are necessary to enforce policies concerning use of equipment purchased with fenced funds.

c. Restricted use originates with the fiscal principle of "fenced funds" and applies to both ARNG and ANG equipment and services.

#### **7-12. Disposition of Excess Equipment**

The following policy is applicable to both ARNG and ANG equipment. "Excess equipment" in this context means any serviceable property (nonexpendable or durable expendable equipment) that was purchased with 32 USC § 112 funds and is no longer needed by the state CD program concerned. The purpose of the excess equipment policy is to ensure, as far as is practical, that property purchased with fenced funds remains in the service of the Counterdrug Support Program by transferring it to a state where it may be needed, once it is identified as excess in the state which purchased it.

a. NGB J3-CD is the clearinghouse to assist CDCs or the CD School Director/Commandant, as appropriate, in determining if their excess property can be used in another state or school.

b. CDC or CD school staff will contact NGB J3-CDS when an item has been identified as excess. NGB J3-CD Regional Coordinator personnel or the CD school Training Officer will contact other states and CD schools and determine if the equipment can be used elsewhere. Upon identifying a need, NGB J3-CDS will contact CDCs or the CD School Director/Commandant, as appropriate, of gaining and losing states or schools and lateral transfer procedures will be initiated IAW normal ARNG/ANG procedure for interstate transfer.

c. When NGB J3-CD finds no need for the item in other states or CD schools, the CDC or the CD School Director/Commandant, as appropriate, will be given permission to release the item for disposal as excess property IAW applicable directives.

d. Unserviceable equipment may be disposed of as excess property IAW applicable directives without first coordinating with NGB J3-CD.

### **Chapter 8**

#### **Personnel and Administration**

##### **8-1. Duty Status**

National Guard members may participate in the Counterdrug Support Program in the following paid duty statuses:

a. Full-time National Guard Duty Counterdrug (FTNGDCD). Orders will cite Title 32 USC § 502(f) as authority. National Guard members in FTNGDCD status must have Counterdrug Support Program duties as their primary mission. Duties must be IAW the funding citation (MAMSCO) and Type Duty Code (TDC) specified on the orders. See paragraphs 6-4.a. for member's PDS and entitlement to BAH.

b. State Active Duty (SAD). CD personnel may not perform state active duty while on CD orders, even during non-duty hours or while on military leave.



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c. IDT/IAD or AT, incidental to training. National Guard personnel may support LEAs and/or other activities in the Counterdrug Support Program in an IDT/IAD/AT status if the performance of that duty is incidental to the training already scheduled. National Guard units may perform their period of AT in support of CD missions which meet the Mission Essential Task List (METL) or readiness requirements of the unit, under authority of Section 1004, NDAA of 1991, as amended by Section 1021, NDAA of 1999. Prior approval of the NGB Chief, Operations, Training and Readiness Directorate (NGB-ARO) or the NGB Director, Operations, Plans and Programs (ANG/XO), is required.

#### **8-2. Utilization of Title 32 AGR Personnel, State Employees, and Civilian Personnel**

a. State employees will be utilized in FTNGDCD status only after confirmation by appropriate state authority that such duty does not violate state law, regulations or policy.

b. It is DoD policy that no federal or state civilian employees, military technicians, or "personnel service" contract personnel are authorized to perform CD duty pursuant to 32 USC § 112.

c. Title 32 AGR personnel will be utilized in CD activities only after confirmation by Human Resources Management Office (HRMO) personnel that they are eligible and that such duty does not violate federal law or regulations.

#### **8-3. Counterdrug OCONUS Travel**

This paragraph establishes the policy and procedures for temporary duty travel outside the Continental United States (OCONUS) for National Guard personnel. All Counterdrug personnel traveling OCONUS will follow policies and regulations in accordance with DODD 4500.54, AR 55-46 and AR 135-200. The authority to permit the issuance of orders for OCONUS duty lies expressly with NGB-ARO for the Army National Guard and with ANG-A3 for the Air National Guard. Coordination must be made with the NGB J3-CD State Support Division prior to scheduling any OCONUS travel requests. Regional Coordinators will coordinate on each OCONUS travel request to ensure the purpose of the travel meets the definition of an appropriate Counterdrug mission under NGR 500-2. Personnel traveling under Title 32 authority will require a separate Title 10 travel order which will not cause a break in the member's active duty service. National Guard aircraft will not be used for transportation in lieu of commercial transportation for OCONUS travel requirements. This requirement does not apply to normal operational missions being flown on a regular basis and under other approved agreements.

#### **8-4. Leave**

Soldiers and Airmen accrue leave on FTNGDCD status. Leave is managed IAW AR 600-8-10 and AFI 36-3003. The CDC or the CD School Director/Commandant, as appropriate, will manage leave procedures and should encourage CD personnel to use accrued leave during the duration of the tour order.

#### **8-5. End Strength Exemptions**

a. The number of Soldiers and Airmen serving on FTNGDCD tours for the Counterdrug Support Program will not impact allowable end strengths of personnel supporting reserve components. Neither will they count against authorizations outlined in 10 USC § 12012 and 12011.

b. Soldiers and Airmen serving on FTNGDCD in the Counterdrug Support Program are exempt from end strength reporting and limitations on the number of FTNGDSW days members may perform in a fiscal year under NGR 37-111 and/or ANGI 36-2001.

#### **8-6. Counterdrug Coordinator (CDC) Positions**

a. The NGB J3-CD funds a Title 32 CDC position for each state. States that accept this position must utilize the incumbent as the principal manager and administrator of the state Counterdrug Support Program. The position must be categorized as "authorized" and "required" on the State's JFHQ TDA.

b. This position is not included in inventories or quotas for normal full-time support positions (See paragraph 9-5, above). Individuals selected by states must meet normal selection criteria for ARNG/ANG Title 32 AGR status.

c. CDCs will have supervisory responsibilities over the JNGSAP. Duties and responsibilities will be carried out IAW provisions of AR 600-85, AFI 44-120, and this regulation, as applicable.

d. State CDCs may be designated as Task Force commanders, with commensurate responsibilities, by the State Adjutant General. All provisions of NGR 500-2/ANGI 10-801 apply in such cases.

#### **8-7. FTNGDCD Tour Order Periods**

a. Personnel serving on FTNGDCD are not subject to the same tour limitations or consecutive years of Active Federal Service (AFS) limitations as soldiers performing FTNGADSW.

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(1) The FTNGDCD orders may be published for periods up to three years, but orders that extend into or beyond the next fiscal year must state "subject to the availability of funding" in the orders remarks section.

(2) Follow-on tours are authorized.

b. Personnel voluntarily released from the AGR Program (32 USC § 502(f) or 10 USC § 12301(d)) may enter FTNGDCD status with no break in service.

c. Mandatory release from FTNGDCD: Officers, Warrant Officers, and Enlisted personnel may be released from FTNGDCD, upon completion of 20 years AFS. Retention beyond 20 years AFS on FTNGDCD will be based on the needs of the State CD Program as determined by the respective state AG.

### 8-8. FTNGDCD Special Considerations

a. Personnel on FTNGDCD may be offered tours that will place them in sanctuary and follow on tours until they attain 20 years of AFS, unless denial of such tour is approved by state AG.

b. Early release procedures for FTNGDCD.

(1) Voluntary early release. CD personnel may request early release. Requests will be in writing, will set forth the reasons for the request, and will be forwarded to the CDC or the CD School Director/Commandant for action.

(2) Involuntary early release. Personnel will be involuntarily released from FTNGDCD for the following reasons:

(a) The individual's conduct, degree of efficiency, or manner of performance is seriously deficient.

(b) Funds available for FTNGDCD tours are curtailed.

(c) The FTNGDCD programs must be managed to ensure that the Guardsmen's rank/pay grade is reasonably appropriate for the FTNGDCD task(s) they are performing. The CDC or the CD School Director/Commandant is required to ensure situations detailed below are corrected as they occur. If they are not corrected, these situations constitute grounds for involuntary early release.

1. If there is a change in mission requirements that results in no further need for, or mal-utilization of, the Soldier's skills/pay grade.

2. If the Guardsman is promoted or appointed to a higher grade based on his or her traditional National Guard unit assignment, and the Guardsman is no longer grade compatible with the duties performed in the FTNGDCD duty position. A member who is released or not granted a follow-on FTNGDCD under these circumstances will remain eligible to apply for separation pay if he/she has attained eligibility.

3. If the Soldier is assigned to a position that would cause a "grade inversion" incident where the supervisor is junior in military grade to the supervised.

c. The FTNGDCD member's CDC or NGCSP Director/Commandant is required to release Soldiers involuntarily when the incidents in paragraph 8-8c.(2)(a),(b) and/or (c) arise and cannot be corrected. Soldiers will be notified in writing with release date specified. Whenever possible, Guardsmen should receive at least 15 calendar days notification of their release but will be released upon termination date of their tour if that occurs first.

d. Involuntary early release from FTNGDCD tours pursuant to paragraph 8-8c.(2)(a) will be accomplished using the following procedures.

(1) Tours of 30 days or less. Involuntary release from tours of 30 days or less is at the discretion of the supervisor or program manager. Affected personnel will be notified in writing with release date specified.

(2) Tours of 31 days or more. To involuntarily release personnel on FTNGDCD tours exceeding 31 days in duration, the initiating CDC or CD School Director/Commandant will refer the recommendation for involuntary early release to the Guardsman for rebuttal or comment. Specific reasons must be included in the recommendation. The rebuttal or comments must be returned to the initiating supervisor or program manager within 15 calendar days from the date of receipt. Any information added to the recommendation after this time must again be referred to the affected member for rebuttal or comment. The initiating CDC or CD School Director/Commandant will forward the recommendation, together with the rebuttal or comments, through the chain of command or supervision to TAG for final action. If TAG decides to release the Soldier, the Soldier will be released within 30 calendar days of notification of the decision or on the termination date of the tour if that occurs first. A Soldier may submit a request for voluntary early release instead of responding to a recommendation for involuntary early release. A request for voluntary early release will be forwarded through the chain of command or supervision to TAG. If such request is approved by the TAG, then action to involuntarily release the Soldier will cease.

e. All Soldiers entering FTNGDCD will have a Basic Active Service Date (BASD) established in Retirement Points Accounting Management/Total Army Personnel Data Base (RPAM/TAPDB) for accounting purposes.

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**8-9. Personnel Screening**

a. Selection of personnel for CD duty (in both paid and unpaid statuses) must include screening which provides reasonable certainty that the member is of good character, well motivated and an appropriate representative of the National Guard in duties subject to high profile scrutiny by LEAs, National Guard senior commanders, news media, and the general public.

b. National Guard members pending disciplinary action, under civilian court orders or awaiting adjudication, or involved in other potentially negative situations will be carefully screened to ensure that they are not assigned in situations where their legal or personal affairs might reflect unfavorably on the Counterdrug Support Program, the National Guard, or the state.

**8-10. Screening of Mission 6 Volunteers in Non-pay Status**

The CDC will establish screening procedures for unpaid National Guard volunteers participating in mission 6 activities. It is recommended that this screening, as a minimum, include securing a favorable letter of recommendation from each person's unit commander. Mission 6 participants in a pay status will be screened in the same manner as other paid personnel.

**8-11. Early Notice of Special Requirements for Counterdrug Duty**

a. The CDC or the CD School Director/Commandant, as appropriate, will ensure that personnel for Counterdrug Support Program duty are well informed about the unique requirements for CD duty.

b. The CDC or the CD School Director/Commandant, as appropriate, will provide the members a written information sheet that details prerequisites. Such document should, as a minimum, include unique requirements such as:

(1) Urinalysis testing is required upon entry on active duty, and personnel are subject to periodic testing while on active duty. These requirements are in addition to testing by units of assignment during IDT/IAD under the JNGSAP.

(2) Requirement to continue attendance at IDT/IAD and AT while on FTNGDCD.

(3) Status of funding from year to year.

(4) Probability of criminal records checks, and/or security screening by LEAs of applicants serving in LEA offices or in positions where they are privy to operational information of LEAs. Applicants will be informed that such inquiries are likely to be completed after entry on duty and that rejection by LEAs could result in their removal from the CD program.

(5) Standards of Conduct.

(a) National Guard members participating in the Counterdrug Support Program are required to comply with state laws and with DoD 5500.7-R. They are required to uphold the highest standards of conduct and personal appearance.

(b) Outside employment, associations and off-duty conduct/activities must be consistent with federal directives on ethics and with state and federal conflict of interest policies. Outside employment will require written approval of CDC according to para 8-25 of this regulation.

c. The above conditions of service will be clearly stated in announcements and advertisements for CD positions.

**8-12. Screening for Duty of 30 or fewer Consecutive Days**

a. Personnel must be eligible for FTNGDCD IAW ARNG or ANG requirements.

b. Personnel must receive a written recommendation from their unit commander or designated equivalent or higher ranking officer.

c. ARNG Personnel must meet medical retention standards as set forth in AR 40-501 Chapter 3 and Chapter 10.

d. ANG personnel must meet the medical retention standards as set forth in AFI 48-123 Chapter 3 and Attachments 2, 9, and 19.

e. All applicants must undergo favorable drug testing upon entry on FTNGDCD. However, for periods of 30 days or less only, the CDC or the CD School Director/Commandant, as appropriate, has discretionary authority to waive the urinalysis requirement.

f. The CDC or the CD School Director/Commandant, as appropriate, may delegate execution of the screening process to organization/major command headquarters (ARNG) or to base/organization/unit commanders (ANG), when large numbers are involved or when it is justified by time considerations.

**8-13. Screening for Duty of 31 or More Days**

- a. Meet all requirements of paragraph 8-12.a.-e.
  - (1) ARNG/ANG personnel who serve on CD duty for 31 or more consecutive days are subject thereafter to retention standards of AR 40-501 or AFI 48-123 while they remain on duty.
  - (2) National Guard members are subject to unannounced drug testing while on duty in the Counterdrug Support Program. The CDC or the CD School Director/Commandant, as appropriate, will ensure that personnel on extended orders are tested at least annually. This is in addition to testing by units of assignment under the JNGSAP during IDT/IAD.
  - (3) All applicants ordered to duty of 31 or more consecutive days will be given drug testing upon entry on Title 32 duty.
    - (a) If unfavorable test results are received, orders will be terminated immediately.
    - (b) Favorable JNGSAP test results may be substituted for testing scheduled specifically to qualify for CD duty, providing the test was conducted within 30 days before entry on duty.
    - (c) Applicants for reentry will be tested IAW paragraph 8-12.e. These requirements will be adhered to when Soldiers and Airmen are REFRAD from war or contingency operations. In addition to the requirements listed above, the CDC may review the Soldier or Airmen's DD Form 2796 (Post-Deployment Health Assessment) prior to rehire.
- b. Favorable interview by the CDC, the CD School Director/Commandant, or representative.
- c. Favorable Entrance National Agency Check/National Agency Check (ENTNAC/NAC) within past 10 years (security clearance is not required).
- d. Favorable investigation/security check by LEA (if required by the specific LEA concerned).

**8-14. Conditional Duty**

- a. When delays in medical screening of applicants for duty of 31 or more consecutive days occur, the CDC or the CD School Director/Commandant, as appropriate, may permit applicants to serve under orders for 30 or fewer consecutive days until medical qualifications for the intended longer duty are confirmed. If medical qualifications are not received by the end of the 30 day orders, the applicant must have a 31 day break before any new order may be issued. Upon confirmation of medical qualifications, and if the applicant fully qualifies under personnel screening requirements, orders for the desired period may be issued.
- b. Authorization of short-term orders under paragraph 8-14.a., is at the discretion of the CDC or the CD School Director/Commandant, as appropriate. The CDC or the CD School Director/Commandant, as appropriate, should give first consideration to the interests of the Counterdrug Support Program and the National Guard when considering this option.

**8-15. Procedures for Personnel Screening**

- a. The CDC or the CD school staff, as appropriate, will coordinate with commanders, records custodians, and state security managers to review records and determine that the member is eligible for FTNGDCD IAW normal ARNG/ANG standards and if any of the considerations noted in paragraph 8-9. Commander's written recommendation will be secured in a safe or protected place due to its potential sensitivity. The CDC, the CD School Director/Commandant, as appropriate, or an authorized representative, will conduct a personal interview. State security managers (ARNG and ANG) will verify ENTNAC/NAC status of applicants.
- b. When duty positions are advertised competitively by the state Human Resources Office (HRO), the CDC or the CD school staff, as appropriate, will coordinate closely with HRO to ensure that program requirements are correctly advertised and that all the screening requirements of this chapter are met.
- c. Successful completion of personnel and medical screening may be considered qualification for reentry to CD duty for one year if a break in duty is less than 30 days. The CDC or the CD School Director/Commandant, as appropriate, may, however, require a complete screening. ANG members must meet worldwide duty standards as outlined in AFI 48-123, Attachment 9.

**8-16. Special Considerations Regarding ENTNAC, NAC, and LEA Investigations**

- a. State ARNG/ANG security managers will verify that applicants have had a favorable ENTNAC or NAC in the last 15 years (security clearance is not required). The CDC or the CD School Director/Commandant, as appropriate, will appoint a security manager for the state CD program to assist with personnel and physical security.
- b. The CDC or the CD School Director/Commandant will ensure a Police Records Check is submitted on each applicant before his or her receiving orders for duty.

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c. CDC staff or the CD school staff, as appropriate, not assigned to LEAs but privy to sensitive LEA operational information (for example, CDC administrative or operations personnel who review requests for support or maintain operations files) may be subject to the same security requirements. As in paragraph 8-15., this is a determination to be made by LEAs and/or the CDC or the CD School Director/Commandant, as appropriate.

d. When LEAs require investigation of supporting Guard members, the CDC or the CD School Director/Commandant, as appropriate, will refer applicants to the LEAs, who will be responsible for the entire process, including privacy act statements. The CDC staff or the CD school staff, as appropriate, and state full-time support personnel will not participate in the process, with the exception of National Guard members assigned to LEA support whose normal duties include participating in such inquiries.

e. When an LEA determines that a military security clearance meets their security requirements, the CDC staff or the CD school staff, as appropriate, may confirm existing security status with the help of the state level ARNG or ANG Security Managers, but any new inquiries must be made by LEAs IAW their own legal authority.

f. Applicants not acceptable to LEAs may be rejected from the program or relieved from duty.

#### 8-17. Medical Waivers

Medical waivers for ARNG personnel will be executed IAW with AR 40-501. ANG medical waivers will be IAW AFI 48-123.

#### 8-18. Retaining a Record of the Screening Process

The CDC staff or the CD school staff, as appropriate, will record names/ranks/titles/dates of personnel verifying applicant's qualifications (applicants for duty of 31 or more consecutive days only) on a checklist and retain it for the duration of the member's CD service plus one year. All applicants must meet all regulatory requirements and a semi-annual review of records will be conducted to verify regulatory requirements are met. At the discretion of the CDC or the CD School Director/Commandant, as appropriate, a checklist confirming successful screening can be used as authority for reentry on CD duty after a break not to exceed 30 days, with the exception that drug testing will be IAW paragraph 8-12. The checklist will include:

- a. Applicant's rank, name, and Social Security Number (SSN).
- b. Unit of assignment, indicating ARNG or ANG as applicable.
- c. Rank and name of unit commander recommending individual, and date recommended.
- d. Date of interview; rank, name and title of interviewer.
- e. Rank, name, and title of individual reviewing personnel records and date review conducted.
- f. Rank, name, and title of individual confirming ENTNAC/NAC status, and date status confirmed.
- g. Date urinalysis conducted; date results confirmed; rank, name and title of individuals confirming results.
- h. Annual review of Soldiers Periodic Health Assessment (PHA) and Medical Protection System (MEDPROS) printout and Airmen Preventive Health Assessment and Individual Medical Readiness (PIMR) printout .
- i. Waiver information, if applicable (date waiver granted, name of NGB staff element granting waiver).
- j. Reasons for rejection of an applicant if applicable (enclose related correspondence, explanatory Memorandum for Record or other documentation). In such cases, the checklist will be retained for two years after the close of the fiscal year in which rejection occurred.
- k. All personnel on duty in the CD program must meet the requirements of AR 350-15 and AR 600-9 or AFI 10-248. The CDC staff or the CD schools staff, as appropriate, will maintain a record of the date and score of the last two tests on record to verify personnel are in compliance with regulatory requirements.
- l. Personnel on duty in the CD program will be terminated from the program if they do not meet regulatory requirements. Termination procedures will be IAW the appropriate regulation that disqualifies them for duty.

#### 8-19. Personnel and Health Records

a. The CDC's or school's staff will coordinate with health records/personnel records custodians to determine if other documents generated in the selection process, such as medical waiver correspondence and supporting documents, should be placed in official records.

b. Documents containing sensitive personal or medical information, such as medical histories, examinations and related documents, will not be retained once the screening process is complete.

c. As an exception to b., above, counterdrug staff will retain any documents, however personal in nature, if they are necessary to explain or justify rejection of an applicant or relief from duty for cause, when the probability exists that they would otherwise not be available in response to future inquiries by higher headquarters. Retain such documents for two years after close of the fiscal year in which rejection or relief from duty occurred.

#### 8-20. Injury in Line of Duty



a. National Guard members on CD orders who are injured in the line of duty are entitled to benefits under 10 USC § 1074(a) during the period of their active duty. The CDC or the CD School Director/Commandant, as appropriate, will ensure a line of duty status is determined for all personnel who become ill or who are injured while on any form of CD duty.

b. Members on tours for over 30 days may be extended on active duty, with their consent, for medical treatment of a disability. Members on tours of 30 days or less may be extended when it is determined that the member is being treated for (or recovering from) an injury, illness or disease incurred or aggravated in the line of duty.

(1) Transition Assistance Management Program (TAMP) Benefits. ANG members who have performed active duty in support of Counterdrug operations, regardless of the length of time served are not eligible for TAMP benefits. However, members who have been processed for a medical evaluation board in accordance with AFI 48-123, and are found no longer fit for continued service, may be eligible for TAMP.

(2) Active Duty Medical Extension (ADME) Benefits. The ADME program is a voluntary program available to Reserve Component (RC) Soldiers who incur an injury or aggravate a previous illness or disease in the line of duty while performing duty in a non-mobilization active duty or IDT status. ADME applies when it is determined the Soldier is unable to perform normal military duties in their MOS/Area of Concentration (AOC) within the confines of a temporary profile given by a military medical authority.

(a) RC Soldiers who require more detailed medical evaluation, treatment, and possible entry into the Disability Evaluation System (DES) are placed on active duty with their consent pending resolution of their medical condition and/or processing through the Medical Evaluation Board (MEB) Physical Evaluation Board (PEB) process.

(b) If it is determined that the Soldier's treatment or medical evaluation board process will extend beyond 30 days, the soldier has two options:

1. Sign a release statement (ADME Declination Letter) stating that the Soldier declines ADME to receive medical care. The Soldier is entitled to medical care at an Army Medical Treatment Facility (MTF), on a space available basis, for medical treatment associated with their approved line of duty illness or injury, or a Department of Veterans Affairs treatment facility with a copy of a DA 2173 (Statement of Medical Examination and Duty Status)/DA 261 (Report of Investigation Line of Duty and Misconduct Status) and/or member's DD 214. If eligible, Soldiers may decline entering the ADME program and apply for incapacitation pay through their unit. Soldiers cannot participate in the ADME program and concurrently receive incapacitation pay.

2. Consent to remain or be placed on active duty. Soldiers who elect to apply to the ADME program and are found eligible, will receive orders "assigning" the Soldier to the Army MTF Medical Holding Unit (MHU) appropriate to provide medical care for the Soldier's condition. If medical care and/or DES process are not delayed, the command and control element of the MTF MHU has the authority to authorize endorsement or orders (IAW AR 600-8-105 (Military Orders)) for the Soldier to perform "duty at" either a unit on the installation or a unit close to the Soldier's home. The Soldier's command and control element will ensure the Soldier immediately enters the DES and initiate a MEB once an Army physician determines the Soldier has been identified with a medical condition listed in AR 40-501, Chapter 3.

(c) Soldiers must be counseled by an individual in his or her chain of command familiar with the ADME and Incapacitation (Incap) Pay programs. A Reserve Component (RC) teaching tool is available at the Army G-1 website: <http://www.armyg1.army.mil/MilitaryPersonnel/policy.asp>

#### **8-21. Report of Separation from Active Duty (DD Form 214)**

DD Form 214 will be issued to personnel performing qualifying CD duties IAW DoDI 1336.1 for duty of 90 consecutive days or greater. A DD Form 220 will be issued on release from FTNGD of less than 90 days.

#### **8-22. Personnel Evaluations**

a. The job performance of each member of the Counterdrug Program will be evaluated at least annually. Members will be counseled on the results of their evaluation. Evaluations will be made available to personnel on the official rating chain at their unit of assignment.

b. Soldiers/Airmen on CD duty will in many instances spend more duty days in that status than in normal drill, AT or training status, and should receive proper recognition for their contributions. The CDC or the CD School Director/Commandant, as appropriate, will coordinate with state level ARNG and ANG personnel staff to ensure compliance with applicable regulations/instructions.

#### **8-23. Records Identifying Individuals by Name and SSN**

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- a. The CDC staff or the NGCSP staff, as appropriate, will retain documents identifying individuals by name and social security number (SSN) only as necessary to perform CD missions and protect the interests of Soldiers and Airmen.
- b. When it is necessary to acquire, receive or forward personal, confidential or sensitive documents, or any documents identifying members by name and social security number, they will be retained only as long as necessary. Documents will be forwarded to records custodians or to individuals concerned, as appropriate.

**8-24. Privacy Act/Freedom of Information Act Review**

The CDC, or the NGCSP Director/Commandant, as appropriate, will periodically request a review by state ARNG and ANG staff, to ensure that internal procedures comply with The Privacy Act of 1974 (implemented by AR 340-21 and AFI 33-332 and the Freedom of Information Act (FOIA) (implemented by AR 25-55 and DoD 5400.7-R, AFSUP1).

**8-25. Outside Employment While on Counterdrug Orders**

Individuals on 32 USC § 112 CD orders may engage in outside employment during non-duty hours with the prior written approval of the CDC or the CD School Director/Commandant.

**Chapter 9****Records and Reports****9-1. Counterdrug Management Information System (CMIS)**

The primary management control for the National Guard Counterdrug Program and the NGCSP will be CMIS.

- a. This software is an automated information management system to facilitate CD operations performed by the Army and Air National Guard. This efficient, on-line, fully interactive system supports the planning, budgeting, execution and evaluation phases of the State National Guard Counterdrug Program including the National Guard Counterdrug Schools Program.
- b. CMIS contains an internal review and control capability to determine the National Guard's program effectiveness in both quality and quantity. CMIS also assists in strategic planning trend analysis and supports measures of effectiveness for reporting requirements of the Government Performance Results Act (GPRA).
- c. Data transmitted to the Counterdrug Office (NGB J3-CD) is maintained on a central database accessible by the states or schools on the CMIS website <https://www.cdcmis.net/getUser.do>. There are multiple access levels authorized for end users at a state or school level. The state or school CMIS Administrator controls access for all state users. The CMIS Program Manager at National Guard Bureau (NGB) controls the state or school's CMIS Administrator access.
- d. States or schools have the option to locally maintain a database of their state or school data. This is done by logging into CMIS and building a database and then saving the file to their local computer. States or schools may manipulate local CMIS data to create required reports not readily available within CMIS as "canned" reports.
- e. CMIS policy and procedures will be updated at the beginning of each fiscal year by issuance of a memorandum or email to announce new data entry requirements. The memorandum will then be incorporated into a new version of the CMIS User's Guide/Handbook so that this handbook will become the sole guidance for proper data entry. A new version of the Handbook will reflect any mandatory reporting changes that may have occurred for the new fiscal year and will be identified in some unique manner to a visual notice of change.

**9-2. CMIS Data Input**

- a. The state CMIS Administrator is responsible for ensuring that data is entered in a timely manner. Data must be entered at least weekly, daily would be optimum. Each user that will input data must have their own user identification and password to protect the integrity of the data. Refer to Section 1 of the CMIS handbook for access levels. The CDC or the NGCSP Director/Commandant should have an access level of one, for state or school read only. The reason for this level of status is that the CDC or the NGCSP Director/Commandant will not be entering data but can view all screens and data, and generate reports.
- b. Quality data versus Quantity: The quality of mission data is more important than how many missions a state or school can generate in CMIS. States or schools must follow the data input rule of "one original request equals one mission." How this can be accomplished is to establish year long letters of requests from lead agencies for both supply and community outreach support. This rule ensures the integrity of data will be accurate, by continuous data entry to one mission. It will also reduce input time.

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**9-3. CMIS Training**

a. Basic CMIS User Training consists of step-by-step, screen-by-screen instruction for individuals who are new to the CD program. It gives them the opportunity to get an understanding of the software. It also serves as refresher training. Basic User Training will take place once each quarter. There are two seats allocated for each state.

b. Administrator Training helps states and schools control and use their data more to their advantage. Newly appointed Administrators or basic users who want more experience using the CMIS software should attend. It teaches the individual how to query state or school data once in the Access format. During class, state and school personnel receive a detailed checklist with steps on how to review their state's data for accuracy and how to identify errors in data entry. The frequency of training attendance of state and school CMIS administrators is determined by the states.

**9-4. CMIS Data Evaluation**

State data will be evaluated during the CPE process. The data review will be from the last date of the CPE. Data integrity must be checked for each fiscal year to make sure the appropriate data was entered and that the accuracy of the data is verified.

**9-5. Organization Files**

a. Current and historical organization files of the Counterdrug Support Program will be established and maintained IAW AR 25-400-2 <https://www.arims.army.mil/rssanew/rssrch.asp>

b. Organization files will be maintained by CD personnel in a central location to the maximum extent possible. Such files will be maintained IAW this regulation/instruction and will be periodically integrated into historical files of the Counterdrug Support Program.

c. Electronic Records. Army records, regardless of medium, must follow the disposition instructions identified in ARIMS RRS-A (Records Retention Schedule – Army) and comply with the security requirements of AR 380-19. Any electronic information generated, contained, or created through an information system or other automation source must be preserved according to those instructions. Please review AR 25-400-2, Chapter 3 for maintenance of electronic record keeping.

**9-6. Counterdrug Support Program Operations Files**

a. The CDC or the CD School Director/Commandant, as appropriate, will ensure that a file is established for every operation conducted, in all mission categories. Files will be closed at the end of the fiscal year. New files will be initiated at the start of the fiscal year for operations continued from the previous fiscal year. Files shall be maintained IAW para 2-1i of this regulation.

b. Separate files will be prepared for each agency or organization supported. When a given agency/organization is supported in different locations, a file will be maintained for each location. The CDC or the CD School Director/Commandant, as appropriate, may at his/her discretion make exception to this rule, providing that files clearly indicate what dates, names, and other significant data apply to what location.

c. Aviation, Drug Demand Reduction (DDR) and/or SA operations files may be maintained separately when the activity's operation is not co-located with the CDC's office.

d. CD School operations files will be maintained at the school IAW paragraph 9-5 above.

**9-7. Contents of Operations Files**

The intent of operations files is to create and maintain an audit trail and clear history of operations and significant incidents in order to reinforce memory, inform internal staff, and contribute to lessons learned and future planning.

a. At a minimum, operations files will include the following documents:

(1) The LEA or CBO request which initiated the operation. When continuous support operations are renewed from year to year with the same agency, a request for continuation will be secured annually, before the start of the new fiscal year.

(2) DA Form 7566 (Composite Risk Management Worksheet). An annual risk assessment is sufficient for operations that continue year round in one location with relatively stable routines. When circumstances change and new risk factors are present, new assessments will be prepared.

(3) If the mission involved flight operations, photocopies of the DA Form 2408-12 (Army Aviator's Flight Record) and/or AFTO Form 781, Aircrew/Mission Flight Data Document, and mission briefings will be included.

(4) An Operations Plan (OPLAN), Operations Order (OPORD) or SOP outlining the nature of the operation. The essential requirement is that an outside party, unfamiliar with the operation, would be able to understand the



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nature of the operation. For instance, daily routine duty in an LEA office should be distinguishable from a remote field operation; continuous year round support should be distinguishable from short term or intermittent support.

(5) After Action Report/Review (AAR) or CMIS generated AAR

b. The following items will be included where applicable, at the discretion of the CDC:

(1) Copies of reports and news media articles pertaining to arrests and seizures associated with the operation.

(2) Copies of initial reports of major accidents or injuries, or reports of serious incidents or immediate action situations.

(3) Cross-references to appropriate accident reports, when major accidents, injuries or property loss occurs.

(4) SOPs, checklists, evaluations, job descriptions, etc., developed for particular operations, situations, locations or agencies and which may be useful for future reference.

(5) Mission 6 files, in order to indicate the nature of operations, participants, purposes, etc., may include letters, memos, announcements, letters of instruction (LOIs), or other materials not normally found in supply reduction operations files.

(6) Copies of orders of individuals serving in the operation. When volunteers not on orders perform mission 6 operations, a listing by name and rank will suffice.

c. Files should not include operation-specific information that LEAs may consider confidential or sensitive, unless the information is necessary for protecting the interests of the National Guard.

**9-8. Retention Periods for Counterdrug Records**

a. Generally, records on hand will include those of the current fiscal year and the two immediate previous fiscal years. In the event this guideline conflicts with other USA/USAF/ARNG/ANG regulations/ instructions, the other directives will take precedence, except that documents which may bear upon legal action under the Federal Tort Claims Act (FTCA) must be retained for at least two years subsequent to the incidents concerned.

b. Files should not include operational-specific information, which LEAs may consider confidential or sensitive, unless the information is necessary for protecting the interests of the National Guard.

c. Documents generated by the applicant screening process will be retained IAW Chapter 8 of this regulation/instruction.

**Chapter 10**

**Joint National Guard Substance Abuse Program (JNGSAP)**

**10-1. General**

a. National Guard Substance Abuse Program management is covered in AR 600-85 and AFI 44-120.

b. Members of the National Guard who test positive, or who have tested positive, for illegal drug use are barred from CD duty of any type unless the case is dismissed based upon:

(1) Written opinion from a military Medical Review Officer (MRO) stating that the drug use was legitimate; or

(2) Finding by the Adjutant General there was substantial error in the selection, collection, processing or testing process.

c. National Guard members currently on CD orders, who have tested positive for illegal drug use and are not covered by 10-1.b. (1) or (2), will have their orders revoked no later than 30 days after effective date of this regulation.

d. The Army and Air National Guard conduct the Drug Testing Program IAW AR 600-85 and AFI 44-120. These regulations/instructions refer to these programs collectively as the JNGSAP. These regulations/instructions do not apply to military technician assistance programs established pursuant to Technician Personnel Regulations.

e. The Prevention Treatment & Outreach (PT&O) program will provide prevention education and treatment resources to military members. It will also provide outreach and community resources to military families.

**10-2. Responsibilities**

a. The Chief, NGB J3-CD, is the National Guard Bureau program manager for the JNGSAP. The NGB J3-CD point of contact for state personnel is the Chief, Substance Abuse Program section (NGB-J3-CDO-SA).

b. Adjutants General will establish a Joint National Guard Substance Abuse Program that will be co-located at the state HQ level and designate a state program manager for the JNGSAP. Designations must not conflict with requirements of AR 600-85 and AFI 44-120.

c. Adjutants General or designee will appoint a State Substance Abuse Program, Prevention Coordinator (PC) to oversee the PT&O program for National Guard members and their family. The PCs will be trained as directed by NGB-J3-CDO-SA section Chief.

**10-3. Annual Plans and Budgets**

- a. Plans and budget requests must be submitted as directed by the Joint Substance Abuse Officer (JSAPO) IAW guidance from the NGB-J3-CDO-SA section Chief.
- b. Plans/requests for SA programs are not part of the Governor's State Plan for the Counterdrug Support Program.

**10-4. Funding for Substance Abuse Program**

- a. Funding for SA programs is issued to the states within the Counterdrug Support Program budget. These funds are fenced within that budget, and may be utilized only for the JNGSAP, as indicated in fund citations.
- b. JNGSAP:
  - (1) JNGSAP Operations and Maintenance (O&M) funds are used to purchase supplies to support the collection and shipment of urine specimens to the toxicology laboratory designated by NGB-J3-CDO-SA section Chief.
  - (2) The cost of Commander's Drug Testing Report is borne by NGB. The state JAG or the Substance Abuse Program Coordinator will submit requests for the Commander's Drug Testing Report to the appropriate toxicology laboratory. The Commander's Drug Testing Report must be ordered by a state JAG or JSAPC/JSAPO. These same procedures will be utilized for payment of expert witnesses and telephone consultation fees for drug boards, after coordination and approval from NGB-J3-CDO-SA section Chief.
  - (3) JNGSAP Pay and Allowance (P&A) funds are used for training personnel to conduct drug urinalysis collection, and for administrative support of the JNGSAP.
- c. Personnel on orders for the SA program are subject to all the provisions of this regulation/instruction. Funding, entitlements, and other fiscal information may be found in Chapter 6 of this regulation/instruction.
- d. Funding for the PT&O program will be fenced within the SA budget and separate from the testing budget. The PT&O funding is to be used strictly for supporting drug abuse prevention and/or educational message for service members and their families.

**10-5. Drug Urinalysis Collection**

National Guard personnel performing drug urinalysis collection procedures will receive training as directed by the NGB-J3-CDO-SA section, IAW AR 600-85 and AFI 44-120. State level responsibilities for training in these procedures are as follows:

- a. JNGSAP coordinators/officers must be trained as JSAPC/JSAPO, as directed by Chief, NGB-J3-CDO-SA.
- b. The JNGSAP coordinator will conduct further training of ANG and ARNG personnel as necessary to implement a decentralized drug testing program. (See Glossary, Terms)

**10-6. Records and Reports**

- a. Records and reports will be prepared and submitted IAW AR 600-85 and AFI 44-120 supplemented by periodic instructions from NGB-J3-CDO-SA.
- b. Substance abuse program details are to be reported in CMIS IAW instructions found in Section 3E of the CMIS Handbook.

**Chapter 11****National Guard Counterdrug School Program****11-1. General**

- a. Authority to Operate. Under such regulations as the SECDEF may prescribe, the CNGB may establish and operate or provide financial assistance to the states to establish and operate schools (to be known generally as "National Guard Counterdrug Schools Program") by the National Guard.
- b. National Guard Counterdrug Schools Program (NGCSP) Role. All courses administered by the CD schools using CD funds must have a CD or CNT nexus. Courses must have a bond, link, or direct correlation to the actual business of interdicting, identifying, seizing, or stopping drug trafficking and substance abuse. The CD schools conduct training in drug interdiction, CD activities, and drug demand reduction activities to the personnel of the following:
  - (1) Federal agencies.
  - (2) State and local law enforcement agencies.
  - (3) Community-based organizations.
  - (4) Other state and local governments, private entities, and organizations.

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- c. Counterdrug Schools Specified. The CD schools are as follows:
  - (1) The Midwest Counterdrug Training Center (MCTC).
  - (2) The Multi-Jurisdictional Counterdrug Task Force Training (MCTFT).
  - (3) The Northeast Counterdrug Training Center (NCTC).
  - (4) The Regional Counterdrug Training Academy (RCTA).
  - (5) The Western Region Counterdrug Training (WRCT).
  - (6) Such other CD schools as may be designated by the U.S. Congress.
- d. Standardized Training. Training programs will be standardized IAW this regulation/instruction for the improvement of training and recognition of professional excellence. It is understood that while format will be standardized, content may vary due to regional issues and requirements.
- e. Master Cooperative Agreements. All civilian state employees will be managed through master cooperative agreements with the applicable state.

### 11-2. Mission

The NGCSP is established to provide members of LEAs, CBOs, education, government, and military personnel with no-cost training to support and enhance their capabilities to remove illegal drugs from our streets and to educate our communities in the latest prevention techniques and to support and enhance training in areas related to narcoterrorism.

### 11-3. Charter and By-laws

A charter will be established for each CD school. The content of the charter will include at a minimum:

- a. Purpose.
- b. Mission.
- c. Organizational structure.
- d. The establishment of a Board of Directors/Representatives.

### 11-4. Annual School Training Plan

- a. Each CD school will submit for review an annual School Training Plan to the NGB, ATTN: NGB J3-CD, Training Branch. The plan will be approved and signed by the CD School Director/Commandant.
- b. The school plan must include approval by the Adjutant General.
- c. It is recommended that the plan include a certification from a senior law enforcement official that the missions/activities in the plan are consistent with, and not prohibited by state law.
- d. Plans will be published IAW instructions published each year by the Counterdrug Training Branch.
- e. Each CD school Director/Commandant is responsible for the submission of the *plan*.

### 11-5. Additional Responsibilities

- a. NGB J3-CD Responsibilities. NGB J3-CD will provide a single Training Officer that will coordinate with each CD School Director/Commandant or the CD school military liaison. The Training Officer will attend all scheduled meetings and provide interface with the Counterdrug Training Advisory Council (CTAC).
- b. Board of Directors/Representatives. Each CD school will operate under the advisory guidance of an established Board of Directors/Representatives. Each CD school will set forth in its by-laws the specific structure and role of the individual CD school board.
- c. Schools. Each CD school shall have sole responsibility in the following areas:
  - (1) Execute training programs.
  - (2) Oversee instruction.
  - (3) Develop the needs assessment.
  - (4) Maintain currency of instruction.
  - (5) Ensure student, staff, and instructor safety.
  - (6) Supervise all staff personnel.
  - (7) Market programs within their defined region.
  - (8) Provide administrative support.
  - (9) Acquire and account for equipment.
  - (10) Review courses.
  - (11) Ensure instructor qualifications.
  - (12) Manage budget.
  - (13) Develop courses.
  - (14) Review training.

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- (15) Develop policies and procedures.

#### 11-6. Training

a. Institutional Training. Each CD school will present training as designed or approved IAW the individual CD school charter. All CD schools will establish and disseminate student registration requirements, mode of registration and notification of acceptance procedures to potential students. Each CD school will manage student training and contract instructors by the following means:

(1) School staff and faculties will supervise and support instructors and students and ensure commitment to training and educating each student. Each CD school staff will ensure facilities are provided to accommodate training requirements.

(2) Trained, qualified, and experienced instructors will conduct and supervise student training. Trainer-to-student ratios will be sufficient to ensure student control, safety, and supervision, as well as to facilitate teaching, coaching, and mentoring individual students.

(3) Instructors will provide students with accurate student performance measurements such as tests, exercises, and/or performance evaluations.

(4) All course content must meet the approval of the Board of Directors/Representatives.

(5) The Board of Directors/Representatives or the Director of Training will ensure there are periodic instructor and/or facilitator assessments.

b. Instructional Products. Each CD school will use traditional classroom presentation, distributive training technology products (i.e., web-based training, video conferencing, CD-ROM, satellite television broadcast), or such other technologies as they become available.

c. Training Aids. Each CD school is supported with training material from several origins. These origins include, but are not limited to:

(1) Instructor provided power point presentations, handouts, demonstration weapons, etc.

(2) Standard training aids (charts, projectors, audio/video equipment, VTC).

(3) Specially developed training aids (artificial/simulated drugs, hidden compartment vehicles, Law Enforcement Television Network).

(4) Facilities (Military Operations in Urban Terrain (MOUT) village, raid house, specialty classrooms).

(5) Certified training aids (live or real illicit drugs and paraphernalia).

(6) Learning resource center or library.

(7) National Guard assets.

(8) Assets of other local, state, and federal agencies.

d. Student Performance Measurement Procedures. To ensure each course meets its goals and objectives, instruction and performance measurement must be based on the identified course core competencies. Practical exercises can be used.

(1) The lead instructor/coordinator is responsible for the development of all performance measurement material and procedures.

(2) As a minimum each course of instruction will contain a pre-test, as applicable and a post-test to measure the net effects of the course of instruction. Courses designed specifically as informational presentations do not require the administration of student performance measurement procedures.

(3) All hands-on or practical exercise components will have a rating value assigned by the instructor to measure effectiveness and student performance.

e. Attendance Policy

(1) Each course will have an attendance roster, which will be maintained with the course file.

(2) Students are required to attend and participate in scheduled instruction, to include practical exercise, classroom instruction, testing procedures and opening and closing exercises.

(3) Waiver authority will not drop below the CD School Director/Commandant for variances to the stated attendance policy.

f. Maintenance of Training Records

(1) Training support records will be maintained at each CD school site as required by that school and the NGB J3-CD.

(2) At a minimum, each NGCSP will maintain the following records:

(a) Lesson plans for each class.

(b) Lesson outlines.

(c) Copies of all hand-outs.

(d) Attendance roster.

(e) Student performance records.

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- (f) Certification of course completion.
- (g) Applicable risk assessments.
- (h) Miscellaneous course documentation (i.e. accident reports, etc.).
- (i) Course administrative data (names, date of instruction, etc.).
- (j) Evaluations.
- (k) Instructor biographies and qualifications.
- (l) Course description and requirements.
- (m) All counseling statements.
- (n) Dismissal/release records.
- (o) After Action Reports (AARs).
- (3) Training records will be maintained on site for the current and the previous year.
- g. Resources
  - (1) Each CD school is responsible for obtaining all resources associated with conducting a course of instruction. Inter-service agreements (ISA) and MOAs/MOUs will be established to facilitate the use of equipment or facilities.
  - (2) When equipment to support training is insufficient for all students or teams to perform tasks or practical exercises to standard, the following considerations apply:
    - (a) If equipment non-availability outweighs the benefit of training, training will not be conducted.
    - (b) Each CD Director/Commandant must approve an exception to policy/waiver before the start of scheduled training.
  - (3) All paid, non-military instructors will be required to execute appropriate funding documents IAW federal, state, and/or local contract requirements.
  - (4) Each CD school will conduct an ongoing needs assessment to determine the current year's training requirements.
- h. Training Programs Development. Each CD school will incorporate a training management cycle for use in developing training programs. The process shall identify the CD school's missions, establish mission priorities, consider needs assessment, preparation of a long-term strategic plan, preparation of a short-term plan, preparation of a current plan, execution of training, evaluation of training, and assessing training.
- i. Curriculum Design. Curriculum development should be based on the CD school's mission, legally mandated requirements, client needs and anticipated needs, as well as continuous self-evaluation.
- j. Accreditation. External accreditation of all schools is authorized by NGB J3-CD. These external accreditations may include, but are not limited to obtaining college level credits for courses of instruction, external accreditation of the organization and facilities, and Police Officer Standards of Training (POST) for all courses executed.

**11-7. Funding, Entitlements, and Other Fiscal Information**

Personnel on orders for the NGCSP are subject to all provisions of this regulation/instruction. Funding, entitlements, and other fiscal information may be found in Chapter 3 of this regulation/instruction.

**11-8. Student Training**

- a. Selection. Each CD school will establish standards for student selection based on professional guidance and tailored to specific course requirements identified in the Course Management Plan (CMP).
- b. Student Orientation.
  - (1) Students will be informed when and where to report, what to bring, and other course requirements.
  - (2) Each course will include a student orientation to the course, facilities, and equipment to provide a safe, comfortable and efficient environment. The orientation will include:
    - (a) Course scope and prerequisites (goals and objectives).
    - (b) Billeting, mess and support information.
    - (c) Clothing, equipment, documents, other items required for course attendance, and information concerning prohibited items.
    - (d) Post and local community information, including appropriate telephone numbers.
    - (e) Conduct requirement.
    - (f) Controlled or prohibited conduct.
    - (g) Supervision.
    - (h) Emergency procedures.
    - (i) Training schedule.
    - (j) Testing or evaluation systems.

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c. Student Evaluations

(1) The students will complete evaluations after each iteration of a training program or course of instruction. Evaluations will address content, instructors, and facilities.

(2) The CD School Director/Commandant, as well as NGB J3-CD, will use the results of student evaluations in its review of appropriate courses.

d. Student Release. Each CD school will address procedures regarding student denial of enrollment, withdrawal from courses, and/or student releases. In the event of a student release from a CD school, the CD School Director/Commandant will provide written notice to the student's agency head.

e. Course Completion Requirements

(1) The CD School Director/Commandant is responsible for ensuring all students who successfully complete the course of instruction receive a certificate of completion and that a record of it is maintained with the training file.

(2) All students will meet course measurement standards as determined by the CD Board of Directors/Representatives, Director of Training, or someone other than the course primary instructor for successful completion of that course of instruction.

(3) Attendance IAW paragraph 12-6e of this regulation/instruction.

f. Student Recognition/Certificate

(1) Certificates containing complete course title will be issued to all students upon successful completion of courses.

(2) Certificates will include the student's full name, course or phase, hours of instruction and beginning and completion dates of the course.

(3) A signature certifying course completion will be affixed to each certificate.

(4) Documentation to support college credits, in-service training and continuing education requirements, when applicable, will be provided to students.

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**Appendix A  
References**

**Section I**

**Required Publications**

This section contains no entries

**Section II**

**Related References**

**AFI 10-206**

Operational Reporting

**AFI 11-2C-26V2**

C-26 Aircrew Training

**AFI 14-104**

Conduct of Intelligence Activities

**AFI 14-201**

Intelligence Production and Applications

**AFI 31-101V1**

The Air Force Physical Security Program

**AFI 33-211**

Communications Security (COMSEC) User Requirements

**AFI 33-322**

Records Management Program

**AFI 33-332**

Air Force Privacy Act Program

**AFI 35-101**

Public Affairs Policies and Procedures

**AFI 36-3003**

Military Leave Program

**AFI 37-138**

Records Disposition Procedures and Responsibility

**AFI 40-501**

Air Force Fitness Program

**AFI 40-502**

The Weight and Body Fat Management Program

**AFI 44-120**

Drug Abuse Testing Program

**AFI 44-121**

Alcohol and Drug Abuse Prevention and Treatment (ADAPT) Program

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**AFI 48-123**

Medical Examinations and Standards

**AFI 51-301**

Civil Litigation

**AFI 65-103**

Temporary Duty Orders

**AFI 65-107**

Nonappropriated Funds Financial Management Oversight Responsibilities

**AFI 65-201**

Management Control

**AFI 65-601**

Budget Guidance and Procedures

**AFI 65-602**

Formal Training Course Cost Report

**AFI 65-603**

Official Representation Funds-Guidance and Procedures

**AFI 65-608**

Anti-deficiency Act Violations

**AFI 91-202**

The US Air Force Mishap Prevention Program

**AFI 91-202/ANGSUP 1**

US Air Force Mishap Prevention Program

**AFI 91-204/ANGSUP 1**

Safety Investigations and Reports

**AFI 91-213**

Operational Risk Management (ORM) Program

**AFI 91-301/ANGSUP 1**

Air Force Occupational and Environmental Safety, Fire Prevention and Health (AFOSH) Program

**AFMAN 10-206**

Operational Reporting

**AFMAN 23-110**

USAF Supply Manual

**AFMAN 36-2227**

V 1, Combat Arms Training Programs, Individual Use Weapons

V 2, Combat Arms Training Programs, Crew Served Weapons

**AFMAN 65-604**

Appropriation Symbols and Budget Codes (Fiscal Year XXXX)

**AFPD 36-27**

Social Actions

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**ANGI 36-2001**

Management of Training and Operational Support within the Air National Guard

**ANGI 36-2910**

Line of Duty and Misconduct Determinations

**ANGMD 38-01**

State Air National Guard Headquarters

**AR 5-13**

Training Ammunition Management System

**AR 11-2**

Management Control

**AR 25-1**

The Army Information Resources Management Program

**AR 25-50**

Preparing and Managing Correspondence

**AR 25-55**

The Department of the Army Freedom of Information Program

**AR 25-400-2**

The Army Records Information Management System (ARIMS)

**AR 27-40**

Litigation

**AR 37-1**

Army Accounting and Fund Control

**AR 40-3**

Medical, Dental, and Veterinary Care

**AR 40-8**

Temporary Flying Restrictions Due to Exogenous Factors

**AR 40-29/AFR 160-13/NAVMEDCOMINST 6120.2/CG COMDTINST M6120.8**

Medical Examination of Applicants for United States Service Academies, Reserve Officer Training Corps (ROTC) Scholarship Programs, Including 2- and 3-year College Scholarship Programs (CSP), and the Uniformed Services University of the Health Sciences (USUHS)

**AR 40-48**

Nonphysician Health Care Providers.

**AR 40-66**

Medical Record Administration and Health Care Documentation

**AR 40-400**

Patient Administration

**AR 40-501**

Standards of Medical Fitness

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**AR 40-562/AFJI 48-110/BUMEDINST 6230.15/CG COMDTINST M6230.4E**  
Immunizations and Chemoprophylaxis

**AR 55-29**  
Military Convoy Operations in CONUS

**AR 55-46**  
Travel Overseas

**AR 71-13**  
The Department of the Army Equipment Authorization and Usage Program

**AR 95-1**  
Flight Regulations

**AR 95-20/AFJI 10-220/NAVAIRINST 3710.1E/DCMA INST 8210.1**  
Contractor's Flight and Ground Operations

**AR 130-5/AFMD 12**  
Organization and Functions, National Guard Bureau

**AR 135-18**  
The Active Guard/Reserve (AGR) Program

**AR 135-100**  
Appointment of Commissioned and Warrant Officers of the Army

**AR 135-175**  
Separation of Officers

**AR 135-178**  
Army National Guard and Army Reserve Enlisted Administrative Separations

**AR 140-10**  
Assignments, Attachments, Details, and Transfers

**AR 145-1**  
Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training

**AR 145-2**  
Organization, Administration, Operation, and Support

**AR 190-11**  
Physical Security of Arms, Ammunition, and Explosives

**AR 190-13**  
The Army Physical Security Program

**AR 190-40**  
Serious Incident Report

**AR 190-51**  
Security of Unclassified Army Property (Sensitive and Nonsensitive)

**AR 310-49**  
The Army Authorization Documents System (TAADS)

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**AR 340-21**

The Army Privacy Program

**AR 350-1**

Army Training and Leadership Development

**AR 360-1**

The Army Public Affairs Program

**AR 360-5**

Public Information

**AR 360-81**

Command Information Program

**AR 380-5**

Department Of The Army Information Security Program

**AR 380-13**

Acquisition and Storage of Information Concerning Non-Affiliated Persons and Organizations

**AR 380-19**

Information Systems Security

**AR 381-10**

US Army Intelligence Activities

**AR 385-10**

The Army Safety Program

**AR 385-40**

Accident Reporting and Records

**AR 385-55**

Prevention of Motor Vehicle Accidents

**AR 385-95**

Army Aviation Accident Prevention

**AR 420-90**

Fire and Emergency Services

**AR 525-13**

Antiterrorism

**AR 530-1**

Operations Security (OPSEC)

**AR 600-8-10**

Leaves and Passes

**AR 600-8-24**

Officer Transfers and Discharges

**AR 600-8-101**

Personnel Processing (In-, Out-, Soldier Readiness, Mobilization, and Deployment Processing)

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**AR 600-8-105**

Military Orders

**AR 600-55**

The Army Driver and Operator Standardization Program (Selection/Training/Testing/Licensing)

**AR 600-85**

Army Substance Abuse Program

**AR 600-9**

The Army Weight Control Program

**AR 600-105**

Aviation Service of Rated Army Officers

**AR 600-106**

Flying Status for Nonrated Army Aviation Personnel

**AR 600-110**

Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV).

**AR 601-270/AFR 33-7/MCO P-1100.75A**

Military Entrance Processing Stations (MEPS)

**AR 608-75**

Exceptional Family Member Program

**AR 611-5**

Army Personnel Selection and Classification Testing

**AR 611-85**

Aviation Warrant Officer Training

**AR 611-110**

Selection and Training of Army Aviation Officers

**AR 614-30**

Overseas Service

**AR 614-200**

Enlisted Assignments and Utilization Management

**AR 635-40**

Active Duty Enlisted Administrative Separations.

**AR 635-200**

Active Duty Enlisted Administrative Separations

**AR 672-74**

Army Accident Prevention Award Program

**AR 700-131**

Loan and Lease of Army Materiel

**AR 710-2**

Inventory Management Supply Policy Below the Wholesale Level

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**CJCSM 3701.01A**

Classification Guide for Counterdrug Information

**CTA 50-909**

Field and Garrison Furnishings and Equipment

**DA Pam 350-38**

Standards in Weapons Training

**DA Pam 350-39**

Standards in Weapons Training (Special Operations Forces)

**DA Pam 385-1**

Small Unit Safety Officer/NCO Guide

**DA Pam 385-40**

Army Accident Investigation and Reporting

**DA Pam 710-2-1**

Using Unit Supply System (Manual Procedures)

**DA Pam 710-2-2**

Supply Support Activity Supply System: Manual Procedures

**DFAS-IN Regulation 37-1**

Finance and Accounting Policy Implementation

**DoD Directive 5010.38**

Management Control (MC) Program

**DoD 5100.76-M**

Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives

**DoD 5500.7-R**

Joint Ethics Regulation (JER)

**DoD 7000.14-R Volume 7A**

Department of Defense Financial Management Regulation (Military Pay Policy and Procedures Active Duty and Reserve Pay)

**DoD 7650.1**

General Accounting Office (GAO) and Comptroller General Access to Records

**DFAS-IN Manual 37-100-XX**

The Army Management Structure

**DFAS-IN 37-1**

Finance and Accounting Policy Implementation

**DSM-IV**

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Revised, American Psychiatric Association. (Cited in paras 3-30j and 4-23.) (This manual may be ordered at [www.appi.org](http://www.appi.org).)

**Executive Order 12333**

United States Intelligence Activities

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**FM 3-04.119**

Security and Support Helicopter Battalion

**FM 25-100**

Training the Force

**FM 25-101**

Battle Focused Training

**FM 100-14**

Risk Management

**Joint Pub 3-07.4**

Joint Counterdrug Operations

**National Defense Authorization Act (FY 91)**

Additional Support for Counterdrug Activities (Public Law 101-510, Section 1004)

**National Defense Authorization Act (FY 99)**

Department Of Defense Support to Other Agencies for Counter-Drug Activities (Public Law 105-261, Sec. 1021).

**NGR 10-2**

State Area Command, Army National Guard

**NGR 20-10/ANGI 14-101**

Inspector General Intelligence Oversight Procedures

**NGR 37-111**

Administration of Training and Special Work Workdays

**NGR 37-160**

Participation of National Guard Personnel at Meetings of Private Organizations

**NGR 40-3**

Medical Care for Army National Guard Members (Cited in paragraph 2-10b (3))

**NGR 40-501**

Standards of Medical Fitness

**NGR (AR) 95-1**

ARNG Aviation Flight Regulations

**NGR (AR) 95-210**

Army National Guard: General Provisions and Regulations for Aviation Training

**NGR (AR) 350-1**

Army National Guard Training

**NGR 385-10**

Army National Guard Safety And Occupational Health Program

**NGR 500-1/ANGI 10-8101**

Military Support to Civil Authorities

**NGR 600-10**

ARNG Tour Program (NGB-Controlled Title 10 USC Tours)

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**NGR 600-21**

Equal Opportunity Program in the Army National Guard

**NGR (AR) 600-85**

Drug Abuse Prevention and Control

**NGB Pam 11-5**

Army National Guard Internal Control Program

**NGB Pam 25-91**

Visual Information Procedures

**NGB Pam 360-5/ANGP 35-1**

National Guard Public Affairs Guidelines

**NGB Pam 600-4**

Prevention of Sexual Harassment

**NGTC 1-500**

Counterdrug Aviation Tactics, Techniques, and Procedures (ARNG)

**OMB Circular A-123**

**P.L. 92-129**

Identification & Treatment of Drug and Alcohol Dependent Persons in the Armed Forces

**P.L. 97-255**

Federal Managers' Financial Integrity Act (FMFIA)

**TB MED 287**

Pseudofolliculitis of the Beard and Acne Keloidalis Nuchae (Available at <http://www.armymedicine.army.mil>.)

**TC 8-640**

Joint Motion Measurement

**TPR 990-2**

Hours of Duty, Pay and Leave

**TRADOC 350-18**

The Army School System (TASS)

**TRADOC 350-70**

Systems Approach to Training Management, Processes, and Products

**29 CFR Part 1910**

OSHA Standards

**5 USC § 81**

Compensation for Work Injuries

**5 USC § 552**

Public Information

**5 USC § 7902**

Occupational Safety & Health Act (OSHA)(Public Law 91-596)

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**10 USC § 375**

Restriction on Direct Participation by Military Personnel in Interdiction, Search, Seizure, Arrest, Unless Authorized by Law

**10 USC § 1074**

Medical and Dental Care for Members and Certain Former Members

**10 USC § 1174**

Separation Pay Upon Involuntary Discharge or Release from Active Duty

**10 USC § 2667**

Leases: Non-Excess Property of Military Departments

**10 USC § 12011**

Authorized Strengths: Reserve Officers on Active Duty or on Full-Time National Guard Duty for Administration of The Reserves or the National Guard

**10 USC § 12012**

Authorized Strengths: Senior Enlisted Members on Active Duty or on Full-Time National Guard Duty for Administration of the Reserves or the National Guard

**18 USC § 1385**

Use of Army and Air Force as Posse Comitatus

**28 USC § 2671-2680**

Federal Tort Claims Act (FTCA)

**31 USC § 3511**

Federal Managers' Financial Integrity Act of 1982  
(Public Law 97-255)

**32 USC § 112**

National Guard Drug Interdiction and Counter-Drug Activities

**32 USC § 502(f)**

National Guard Training or Other Duty in Addition to Drill And Annual Training

**42 USC § 3782 (a)**

General Authorization of Certain Federal Agencies

**Section III**

**Prescribed Forms**

This section contains no entries

**Section IV**

**Referenced Forms**

**AF Form 9**

Request for Purchase

**AF Form 616**

Fund Cite Authorization (FCA)

**AF Form 3215**

C4 Systems Requirements Document



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**AFTO Form 781**

AFORMS Aircrew/Mission Flight Data Document

**DA Form 1379**

U.S. Army Reserve Components Unit Record of Reserve Training

**DA Form 2028**

Recommended Changes to Publications and Blank Forms

**DA Form 2408-12**

Army Aviator's Flight Record

**DA Form 3081**

Periodic Medical Examination (Statement of Exemption). (Prescribed in para 8-14a(4).)

**DA Form 3083**

Medical Examination for Certain Geographical Areas. (Prescribed in para 8-24b(5).)

**DA Form 3349**

Physical Profile

**DA Form 3725**

Army Reserve Status and Address Verification

**DA Form 4186**

Medical Recommendation for Flying Duty. (Prescribed in para 6-2n.)

**DA Form 4497**

Interim (Abbreviated) Flying Duty Medical Examination. (Prescribed in para 6-7a(4).)

**DA Form 4700**

Medical Record—Supplemental Medical Data

**DA Form 5888**

Family Member Deployment Screening Sheet

**DA Form 7349**

Initial Medical Review—Annual Medical Certificate. (Prescribed in para 8-19c(5).)

**DA Form 7566**

Composite Risk Management Worksheet

**DD Form 214**

Report of Separation from Active Duty (Not Reproducible)

**DD Form 220**

Active Duty Report

**DD Form 448**

Military Interdepartmental Purchase Request

**DD Form 689**

Individual Sick Slip

**DD Forms 1966/1 through 5**

Record of Military Processing—Armed Forces of the United States

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**DD Form 2351**

DOD Medical Examination Review Board (DODMERB) Report of Medical Examination

**DD Form 2697**

Report of Medical Assessment. (Prescribed in para 8-12e(11).)

**DD Form 2766**

Adult Preventive and Chronic Care Flowsheet. (This form is available in paper through normal supply channels.)

**DD Form 2807-1**

Report of Medical History. (Prescribed in para 6-6.)

**DD Form 2807-2**

Medical Prescreen of Medical History Report  
106 AR 40-501 • 12 April 2004

**DD Form 2808**

Report of Medical Examination. (Prescribed in para 6-6.)

**NGB Form 26**

Performance Evaluation of FTNGDCD personnel

**NGB Form 62**

Application for Federal Recognition as an ARNG Officer or Warrant Officer and Appointment as a Reserve Commissioned Officer or Warrant Officer of the Army in the ARNG of the United States. (This form is available at <http://www.ngbpcd.ngb.army.mil>.)

**SF 507**

Clinical Record—Report on or Continuation of SF. (Available from <http://contacts.gsa.gov/webforms.nsf>.)

**SF 513**

Medical Record—Consultation Sheet. (Available from <http://contacts.gsa.gov/webforms.nsf>.)

**SF 600**

Health Record—Chronological Record of Medical Care. (Available from <http://contacts.gsa.gov/webforms.nsf>.)

**SF 603**

Health Record—Dental. (This form is available through normal supply channels.) 107 AR 40-501 • 12 April 2004

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## Appendix B MOA Template

(State Letterhead)

MEMORANDUM OF AGREEMENT  
BETWEEN  
Counter Drug Coordinator  
And  
State Army Aviation Officer

SUBJECT: Memorandum of Agreement for (State) Army National Guard Counterdrug Aviation Operational Support

### 1. REFERENCES:

- A. NGR 500-2
- B. NG Supplement 1 to AR 95-1
- C. Governor's State Counterdrug Plan
- D. 32 USC 112
- E. FM 3-04.119, Security and Support Helicopter Battalion
- F. Others that may include standing agreements with LEAs, interstate compacts or MOAs regarding the use of CD assets or support across state lines; etc..

2. PURPOSE: This Memorandum of Agreement (MOA) establishes the framework for management and use of (State) Army National Guard (XY ARNG) aviation assets for operational support of law enforcement agencies (LEAs) counterdrug missions. The State Counterdrug Coordinator (CDC) and the State Army Aviation Officer (SAAO) agree to provide aviation support to LEA counterdrug operations and to work collaboratively to ensure continued support of the law enforcement operations that are integral to the Governor's State Counterdrug Plan. This MOA defines the responsibilities of the CDC and the SAAO and the lines of communication between the CDC in areas that include personnel, funding, training, operations, and logistics. It recognizes the roles and responsibilities of respective aviation unit commanders and the J3/G3. This MOA is not intended to nor may it be used to supersede existing federal or state laws, Department of Defense or Army/National Guard Bureau regulations

3. BACKGROUND: 32 USC § 112 provides the statutory authority for the National Guard Counterdrug (CD) Program and the approved plans for the State of (XX). Consistent with OSD and ONDCP direction and guidance, the (XX) National Guard develops the Governor's State Plan for National Guard Counterdrug Support. It is signed by the Governor and Attorney General, reviewed by the National Guard Bureau, coordinated with NORTHCOM, and approved by the Secretary of Defense. The approval of the plan constitutes authority to utilize appropriated CD funds and requires accountability for the use of those funds. Various actions take place following the OSD approval of the Governor's State Counterdrug Plan resulting in the allocation of funds for the National Guard Bureau to the (XXNG) for personnel, OPTEMPO, and training to support LEA counterdrug operational missions.

The State's Counterdrug Program uses (XX) ARNG aviation assets for operational support to law enforcement counterdrug operations. Aircrews supporting LEA counterdrug operational missions assigned to aviation units on Fulltime National Guard Duty Counterdrug Duty (FTNGDCD) orders and traditional NG personnel that may be periodically placed on CD orders. Aircraft typically used for support operations include the (XX, YY, and ZZ). The Governor's State CD Plan requires (XX ARNG) aviation assets to support approved missions.

### 4. COORDINATION: This MOA has been coordinated with the (XX) NG:

- A. JA
- B. J3
- C. PA
- D. CoS
- E. USP&FO

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### F. HRO

5. LINES of COMMUNICATION: This MOA is not intended to circumvent existing lines of communication between the principle staff and the chain of command as established by The Adjutant General. However, matters of routine nature that can be addressed within the context of this MOA may be communicated directly between the CDC and SAAO. Issues requiring policy, regulatory change, or resource adjudication shall be addressed through the normal staffing process.

6 MISSION: The (XX) National Guard will support law enforcement CD operations with selected (XX) ARNG aviation assets consistent within law, OSD directives, regulations, and the Governor's State Counterdrug Plan. Based on priorities established by ONDCP and missions approved by OSD, the Governor's State Counterdrug Plan provides the framework within which support to LEA counterdrug missions are accomplished. Definitions of missions contained within that framework are detailed in NGR 500-2. All missions performed by (XX ARNG) aviation personnel must fall within one of the missions approved in the Governor's State Counterdrug Plan.

A. Mission Approval / Execution Process: This five step process includes: Receipt, validation, acceptance, prioritization, and execution. All CD mission requests must be received, validated, accepted, and prioritized by the CDC. The CDC validates that the requested mission falls within the definition of one of the approved mission categories noted in the Governors' State Counterdrug Plan. Once validated, the CDC may accept the mission and establish the priority of the mission within the National and/or State counterdrug strategies. Mission execution is coordinated with (XX) ARNG aviation units through the SAAO.

B. Homeland defense / security missions, military assistance to civil authorities, and mobilizations are the purview of the J3/G3.

### 7. ROLES and RESPONSIBILITIES:

A. Counterdrug Coordinator: The CDC is the point of contact for the Governor's State Counterdrug Plan. In that role the CDC is responsible for initiating and coordinating the development of the Governor's State Counterdrug Plan each fiscal year. The CDC is responsible for all resource management pertaining to Counterdrug support. The CDC validates OPTEMPO requirements contained in the Governor's State Counterdrug Plan. The CDC is the point of contact between the (XX) NG and National Guard Bureau J3-CD, law enforcement agencies and community based organizations on matters relating to the Governor's State Counterdrug Plan and use of CD funds.

B. State Army Aviation Officer: The SAAO is the point of contact for the Adjutant General and is responsible for all ARNG aviation matters including use of aircraft, staff oversight of aviation missions, aviation training, and standardization, and maintenance support. The SAAO is the point of contact between the (XX) NG and National Guard Bureau Aviation and Safety Division.

### C. Funding/Resource Management:

(1) CDC: The CDC will manage all funds that support the counterdrug operations for which DoD has provided counterdrug funding based Governor's State Counterdrug Plan. Funds to be managed include, among others:

- (a) Pay and allowance funding for fulltime National Guard Counterdrug personnel.
- (b) Supporting pay and allowances for counterdrug missions that may be applied to traditional personnel supporting periodic and cyclical CD missions.
- (c) Funds used to procure CD mission equipment.

(2) SAAO: The SAAO will assist the CDC in developing aircraft OPTEMPO requirements for inclusion in the Governor's State Counterdrug Plan and manage the CD flying hours required to support the Governor's State Counterdrug Plan.

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### D. FTNGD-CD Program Responsibilities:

- (1) CDC: Subject to CD funding availability, the CDC will maintain a FTNGD-CD manning level for pilots and crew chiefs required to support the aviation mission requirements for the Governor's State Counterdrug Plan.
- (2) SAAO: The SAAO will coordinate technician and AGR authorizations/requirements for the Army Aviation Support Facility, S&S battalions, companies, and detachments with the Human Resources Office.
- (3) FTNGDCD personnel shall not be used to fill shortages in fulltime technician or AGR requirements/authorizations.

### E. Training.

- (1) CDC:
  - (a) Support counterdrug specific training requirements for FTNGD-CD personnel that may include academic, flight simulator, and flight training directly related to the operational CD mission.
  - (b) Pay and allowances and travel/per diem for CD mission equipment qualification of FTNGD-CD personnel.
  - (c) Travel and per diem for traditional (M-Day) aircrew personnel to qualify on counterdrug mission equipment and the basic mission qualification.
  - (d) Provide initial CD Program qualification noted in NG 500-2 for all aircrew personnel that support LEA CD operations.
- (2) SAAO:
  - (a) Coordinate and/or manage all other aviation training costs.
  - (b) Pay and allowances and travel/per diem required for airframe qualification will be funded/programmed by the SAAO in coordination with the G3/State Training Officer.

### F. Logistics.

- (1) CDC:
  - (a) Will ensure any program requirements changes to the counterdrug aviation missions that may require logistical support are coordinated with SAAO.
  - (b) Ensure support operations are projected as far in advance as possible to permit development and execution of appropriate FHP obligation plans.
- (2) SAAO:
  - (a) Ensure CDC visibility on aircraft readiness issues that may impact CD operations.
  - (b) Coordinate FHP obligation plans in coordination with the CDC.

### G. Safety:

- (1) CDC shall:

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- (a) Support annual aviation and safety conferences conducted by the SAAO with counterdrug related safety and operational presentations where appropriate.
- (b) Participate in counterdrug related aviation mishap investigations and/or review and comment on related findings and recommendations.

(2) SAAO will include:

- (a) Counterdrug risk management strategies in the appropriate State regulations and policies. Counterdrug unique risk management issues will be coordinated with the CDC.
- (b) The CDC in all counterdrug related mishap investigations and reviews.
- (c) Counterdrug risk management presentations by the CDC in the Aviation and Safety Conferences when appropriate.

### H. Inspections and Management Controls

(1) CDC:

- (a) The CDC will be the principle point of contact for the NGB J3-CD Counterdrug Program Evaluations (CPE). The CPE will review the CD resources used in all aviation operations to include the embedded counterdrug mission of the S&S battalions, companies, and detachments. Findings and recommendations shall be coordinated with the SAAO. The CDC will support the SAAO in aviation inspections (ARMS, etc.) when required.
- (b) Establish management controls to ensure counterdrug funding is applied to counterdrug operations.
- (c) Coordinate counterdrug management controls affecting aviation with SAAO.
- (d) Manage data provided through the Counterdrug Management Information System (CMIS).

(2) SAAO:

- (a) Support the Counterdrug Program Evaluations where aviation assessments are required.
- (b) Ensure the financial and management controls relating to counterdrug missions and operations are integrated in appropriate aviation regulations and policies.
- (c) The CDC will ensure timely CMIS data entry. SAAO's will ensure timely reporting of required data to the CDC's.
- (d) Ensure that ARMS and DES inspection results of S&S units are provided to the CDC and endorsements to the respective units are coordinated with CDC.

8. Other State unique issues or concerns:

9. This Memorandum of Agreement shall be effective upon signature and expire upon rescission by (XXXXXXXXXX).

\_\_\_\_\_  
CDC

\_\_\_\_\_  
SAAO

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**Glossary**

**Section I  
Abbreviations**

**AASF**  
Army Aviation Support Facility

**AC**  
Active Component

**A/C**  
Aircraft Commander (ANG)

**AD**  
Active duty

**ADAPCP**  
Alcohol and Drug Abuse Prevention Control Program (ARNG)

**ADCO**  
Alcohol Drug Abuse Control Officer in the ADAPCP

**ADCON**  
Administrative Control

**ADPE**  
Automated Data Processing Equipment

**ADSW**  
Active Duty/Special Work

**AFI**  
Air Force Instruction

**AFMAN**  
Air Force Manual

**AFMD**  
Air Force Mission Directive

**AFPD**  
Air Force Policy Directive

**AFR**  
Air Force Regulation

**AFS**  
Active Federal Service

**AFSC**  
United States Air Force Specialty Code

**AFTO**  
Air Force Technical Order

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**AGR**  
Active Guard/Reserve

**AMSCO**  
Army Management Structure Code

**ANG**  
Air National Guard

**ANGI**  
Air National Guard Instruction

**ANG/LG**  
Directorate of Logistics (ANG)

**ANGMD**  
Air National Guard Mission Directive

**ANGP**  
Air National Guard Pamphlet

**ANGR**  
Air National Guard Regulation

**AR**  
Army Regulation

**ARIMS**  
Army Records Information Management System

**ARNG**  
Army National Guard

**AS**  
Active Service

**ASAP**  
Army Substance Abuse Program

**ASC**  
Allowance Source Code

**ASI**  
Additional Skill Identifier

**AT**  
Annual Training

**ATAMS**  
Automated Training Ammunition Management System

**BX**  
Base Exchange

**CA/CRL**  
Custodian Account/Custodian Request List

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**CADCA**

Community Anti-Drug Coalitions of America

**CBAS**

Command Budget Authority System

**CBO**

Community-Based Organization

**CBOP**

Counterdrug Budget Obligation Plan

**CCDR**

Combatant Commander

**CDAB**

Counterdrug Advisory Board

**CDAC**

Counterdrug Advisory Council

**CD AVOPS**

CD Aviation Operations

**CDC**

Counterdrug Coordinator

**CD-GIST**

Counterdrug Geographic Information Systems Training

**CD GRASS**

Counterdrug Geographic Regional Assessment Training

**CD-R**

Compact Disc – Recordable Media

**CEs**

Crew Chiefs

**CGAC**

Counterdrug GRASS Advisory Council

**CHL**

Center for higher Learning

**CID**

Criminal Investigation Division

**CJCSM**

Chairman of the Joint Chiefs of Staff Manual

**CMIS**

Counterdrug Management Information System

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**CMP**  
Course Management Plan

**CMO**  
Central MASINT Office

**CMRC**  
Crime Mapping Research Center

**CNAC**  
Customs National Aviation Center

**CNGB**  
Chief, National Guard Bureau

**COMSEC**  
Communications Security

**CofS**  
Chief of Staff

**CNAC**  
Customs National Aviation Center

**CONUS**  
Continental United States

**CONUSA**  
Continental United States Army

**CPE**  
Counterdrug Program Evaluation

**CQB/CQC**  
Close Quarters Battle/Close Quarters Contact

**CTA**  
Common Table of Allowance

**CTAC**  
Counterdrug Training Advisory Council

**CY**  
Calendar Year

**DAACC**  
Drug and Alcohol Abuse Control Committee (ANG)

**DA**  
Department of the Army

**DAF**  
Department of the Air Force

**DAI**  
Digital Archive Initiative

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**DANG**

Director, Air National Guard

**DA PAM**

Department of the Army Pamphlet

**DARNG**

Director, Army National Guard

**DASD/CN, CP & GT**

Deputy Assistant Secretary of Defense for Counternarcotics, Counterproliferation, and Global Threats

**DAT**

Drug Analysis Testing

**DBMS**

Director of Base Medical Services (ANG)

**DDANG**

Deputy Director, Air National Guard

**DDARNG**

Deputy Director, Army National Guard

**DDR**

Drug Demand Reduction

**DDRA**

Drug Demand Reduction Administrator

**DES**

The US Army Department of Evaluation and Standards

**DFAS**

Defense Finance Accounting Service

**DLEA**

Drug Law Enforcement Agency

**DMC**

Digital Mapping Center

**DMS**

Digital Mapping Server

**DoD**

Department of Defense

**DoD**

Department of Defense Directive

**DoDI**

Department of Defense Instruction

**DoDPM**

Department of Defense Pay Manual

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**DOIM**

Director of Information Management

**DPP**

Dedicated Procurement Program

**DPRM**

Demand Reduction Program Manager

**DSN**

Defense Switched Network

**DTPAM**

Drug Testing Program Administration Manager

**EMS**

Equipment Management Section

**ENTNAC**

Entrance National Agency Check

**EOR**

Elements of Resource

**EPA**

Environmental Protection Agency

**EPIC**

El Paso Intelligence Center

**EPR**

Enlisted Performance Report

**ESP**

Emergency Special Program

**ESSO**

Executive Support Staff Officer (ANG)

**FAD**

Financial Authorization Document or Force Activity Designator

**FATS**

Funding Allowance Targets

**FHP**

Flying Hour Program

**FICA**

Federal Involuntary Contributions Act

**FLETC**

Federal Law Enforcement Training Center

**FLIR**

Forward Looking Infrared

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**FM**  
Field Manual

**FMFIA**  
Federal Managers' Financial Integrity Act

**FOIA**  
Freedom of Information Act

**FOUO**  
For Official Use Only

**FRIES**  
Fast Rope Infiltration/Exfiltration

**FTCA**  
Federal Tort Claims Act

**FTDTL**  
Forensic Toxicology Testing Laboratory

**FTNGDCD**  
Full-Time National Guard Duty Counterdrug

**FY**  
Fiscal Year

**GIS**  
Geographic Information System

**GPRA**  
Government Performance Results Act

**GS**  
General Staff

**GSR**  
Ground Surveillance Radar

**GSU**  
Geographically Separated Unit (ANG)

**HELOCAST**  
Helicopter cast and recovery

**HRMO**  
Human Resources Management Office

**HRO**  
Human Resources Officer or Human Resources Office

**IAD**  
Inactive Duty (ANG equivalent to IDT)

**IAW**  
In Accordance With

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**IDT**  
Inactive Duty Training (ARNG equivalent to IAD)

**IO**  
Intelligence Oversight

**IPMS**  
Information Processing Management System (USAF)

**ISA**  
Inter-Service Agreements

**ISSA**  
Inter-Service Support Agreement

**JA**  
Judge Advocate

**JAG**  
Judge Advocate General

**JCS**  
Joint Chiefs of Staff

**JER**  
Joint Ethics Regulation

**JFHQ-ST**  
Joint Force Headquarters-State

**JFTR**  
Joint Federal Travel Regulation

**JNGSAP**  
Joint National Guard Substance Abuse Program

**JTF**  
Joint Task Force

**LAN**  
Local Area Network

**LAV**  
Light Armored Vehicle

**LEA**  
Law Enforcement Agency/Agent

**LEO**  
Law Enforcement Officer

**LES**  
Leave and Earnings Statement

**LFC**  
Local files check (criminal records)

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**LIN**

Line Item Numbers

**LOI**

Letter of Instruction

**LP/OP**

Listening Post/Observation Post

**LSP**

Litigation Support Package

**MAMSCO**

Modified Army Management Structure Code

**MASINT**

Measurement and Signature Intelligence

**MCA**

Master Cooperative Agreement

**MCTFT**

Multijurisdictional Counterdrug Task Force Training

**ME**

Maintenance Examiner

**MEPS**

Military Entrance Processing Station

**METL**

Mission Essential Task List

**MILPO**

Military Personnel Officer

**MPs**

Military Police

**MOA**

Memorandum of Agreement

**MOI**

Memorandum of Instructions

**MOS**

Military Occupational Specialty

**MOU**

Memorandum of Understanding

**MOUT**

Military Operations in Urban Terrain

**MPA**

Military Personnel Appropriation

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## APPENDIX 6: COUNTERDRUG OPERATIONS

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**MRD**

Mandatory Removal Date

**MRO**

Medical Review Officer (ANG)

**MSCA**

Military Support to Civil Authorities

**MSD**

Mandatory Separation Date

**MSO**

Mission System Operator

**MUTA**

Multiple Unit Training Assembly

**MUTPM**

Medical Urinalysis Testing Program Monitor (ANG)

**MVACIS**

Mobile Vehicle And Cargo Inspection System

**MWR**

Morale, Welfare, and Recreation

**NAC**

National Agency Check

**NAF**

Nonappropriated Funds

**NCIC**

National Crime Information Center

**NCO**

Noncommissioned Officer

**NCOER**

Noncommissioned Officer Evaluation Report

**NCOES**

Noncommissioned Officer Education System

**NCTC**

Northeast Counterdrug Training Center

**NDIC**

National Drug Intelligence Center

**NDS**

Normal Duty Station

**NGB**

National Guard Bureau

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**NGR**

National Guard Regulation

**NGTC**

National Guard Training Circular

**NII**

Non-Intrusive Inspection

**NORAD**

North American Aerospace Defense Command

**NSSEs**

National Special Security Events

**OCONUS**

Outside Continental United States

**OCR**

Office of Collateral Responsibility (Assist)

**OER**

Officer Evaluation Report

**O&M**

Operations and Maintenance

**OMNG**

Army National Guard Operations and Maintenance Appropriation

**OMPF**

Official Military Personnel File (OMPF)

**OPCON**

Operational Control

**OPLAN**

Operations Plan

**OPORD**

Operations Order

**OPSEC**

Operations Security

**OPR**

Office of Primary Responsibility

**OSD**

Office of the Secretary of Defense

**OTD**

Other training duty

**P&A**

Pay and Allowances or Personnel and Administration (ARNG)

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**PAO**  
Public Affairs Officer

**PBO**  
Property Book Officer

**PCS**  
Permanent Change of Station

**PDS**  
Permanent Duty Station

**PEC**  
Professional Education Center

**PEC**  
Project Element Code

**PIC**  
Pilot in Command (ARNG)

**PMD**  
Program Management Directive

**PMD**  
Position Manning Document

**PME**  
Professional Military Education

**PN**  
Part Number (ANG IPMS)

**POC**  
Point of Contact

**POE**  
Port of Entry

**POI**  
Program of Instruction

**POM**  
Program Objective Memorandum

**POMSO**  
Plans, Operations, and Military Support Officer (ARNG)

**POST**  
Police Officer Standards of Training

**POTO**  
Plans, Operations, and Training Officer (ARNG)

**PX**  
Post Exchange

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**RCAS**

Reserve Component Automation System

**RCTA**

Regional Counterdrug Training Academy

**RLSO**

Regional Logistical Support Office

**RO-RO**

Roll On-Roll Off

**RPAM/TAPDB**

Retirement Points Accounting Management /Total Army Personnel Data Base

**RRS-A**

Records Retention Schedule – Army

**RUF**

Rules for Use of Force

**SA**

Substance Abuse

**SAAC**

Substance Abuse Advisory Council

**SAAO**

State Army Aviation Officer (ARNG)

**SAD**

State Active Duty

**SAO**

Social Actions Officer (ANG)

**SAPC**

Substance Abuse Program Coordinator

**SAPO**

Substance Abuse Program Officer

**SECDEF**

Secretary of Defense

**SEI**

Special Experience Identifier

**SF**

Standard Form

**SIC**

Senior Installations Commander (ANG)

**SIP**

Standardization Instructor Pilot

## APPENDIX 6: COUNTERDRUG OPERATIONS

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**SITREP**

Situation Report

**SOC**

Special Operations Command

**SOP**

Standing Operating Procedures

**SPIES**

Special Operations Patrol Infiltration/Exfiltration

**SSB CD RAID**

Security and Support Battalion Counterdrug Reconnaissance and Interdiction Detachment

**SSN**

Social Security Number

**ST**

Special Training

**STABO**

Stability Airborne Operations

**STAM**

State Ammunition Managers

**TA**

Table of Allowances

**TAADS**

The Army Authorization Documents System

**TAG**

The Adjutant General

**TAMIS-R**

Training Ammunition Management Information System – Redesign

**TC**

Training Circular

**TDA**

Table of Distribution and Allowances

**TDC**

Type Duty Code

**TI**

Technical Inspector

**TM**

Technical Manual

**TPFP**

Total Package Fielding Program

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**TPR**

Technician Personnel Regulation

**TRADOC**

US Army Training and Doctrine Command

**UADC**

Unit Alcohol and Drug Coordinator

**UAV**

Unmanned Aerial Vehicle

**UIC**

Unit Identification Code

**UMD**

Unit Manning Document

**UMR**

Unit Manning Report

**USA**

United States Army

**USADAOA**

United States Army Drug and Alcohol Operations Agency

**USAF**

United States Air Force

**USAFR**

United States Air Force Reserve

**USAMPS**

United States Army Military Police School

**USAR**

United States Army Reserve

**USCS**

United States Customs Service

**USMEPCOM**

United States Military Entrance Processing Command

**USPFO**

United States Property and Fiscal Officer or United States Property and Fiscal Office

**USSID**

United States Signals Intelligence Directives

**VCNGB**

Vice Chief, National Guard Bureau

**VTC**

Video Tele-Conference

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**WAN**  
Wide Area Network

**WRCT**  
Western Regional Counterdrug Training

**WUC**  
Workday Utilization Code

## **Section II** **Terms**

**Active Duty (AD)**  
Full-time duty in the active military service of the United States (10 USC § 101(d)(1)). Active duty is always performed in a Title 10 (Federal) status. Active duty includes active duty for training (ADT) and active duty other than for training (ADOT).

**Active Service**  
Service on active duty or full-time National Guard duty (10 USC § 101(d)(3)).

**Adjutant General**  
ARNG or ANG officer responsible for management of the National Guard of a State and Territory, Puerto Rico, and the District of Columbia not on federal duty (In Washington D.C. and Rhode Island, there is a Commanding General rather than an Adjutant General; they perform most of the same functions as Adjutants General).

**Administrative Control**  
Direction or exercise of authority over subordinate or other organizations in respect to administration and support, including organization of Service forces, control of resources and equipment, personnel management, unit logistics, individual and unit training, readiness, mobilization, demobilization, discipline, and other matters not included in the operational missions of the subordinate or other organizations.

**Army Substance Abuse Program**  
Drug testing program applicable to members of the Active Army, the Army National Guard of the United States, the Army National Guard, the U.S. Army Reserve, and Department of the Army Civilian Employees, as prescribed by AR 600-85.

**Attorney General**  
Principal legal officer of state government (or equivalent in states without an Attorney General).

**Civil Authorities**  
Elected and appointed public officials and employees of Federal, state, and local governments.

**Coalition**  
A combination into one body of different factions, parties, or organizations for a specific purpose.

**Combatant command (command authority)**  
Nontransferable command authority established by title 10 ("Armed Forces"), United States Code, section 164, exercised only by commanders of unified or specified combatant commands unless otherwise directed by the President or the Secretary of Defense. Combatant command (command authority) cannot be delegated and is the authority of a combatant commander to perform those functions of command over assigned forces involving organizing and employing commands and forces, assigning tasks, designating objectives, and giving authoritative direction over all aspects of military operations, joint training, and logistics necessary to accomplish the missions assigned to the command. Combatant command (command authority) should be exercised through the commanders of subordinate organizations. Normally this authority is exercised through subordinate joint force commanders and Service and/or functional component commanders. Combatant command (command authority) provides full authority to organize and employ commands and forces as the combatant commander considers necessary to

## APPENDIX 6: COUNTERDRUG OPERATIONS

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accomplish assigned missions. Operational control is inherent in combatant command (command authority). Also called COCOM. See also combatant command; combatant commander; operational control; tactical control.

### **Combatant commander**

A commander of one of the unified or specified combatant commands established by the President. Also called CCDR. See also combatant command; specified combatant command; unified combatant command.

### **Commingling**

Per “The American Heritage Dictionary” – To blend or cause to blend together; mix. Per “Webster’s Third New International Dictionary” – To mingle or mix together.

### **Community**

People with common interests living in a particular area, the area itself, or a group linked by a common history and/or social, economic or political interests.

### **Community Based Organizations**

Civilian agencies, coalitions, committees, councils, task forces, and similar groups who support drug abuse education, awareness, and prevention.

**Counterdrug Nexus.** CD nexus means that the operation’s primary purpose is counterdrug, counternarcotics or counternarcoterrorism. The CD purpose must be preeminent; all other purposes must be incidental.

**Counternarcoterrorism.** Funds provided pursuant to 32 USC 112 may be used in support of law enforcement agencies engaging in counternarcoterrorism. For the purposes of this regulation, two separate, but related types of narcoterrorism exist: (1) Narco-driven terrorism, which is terrorism conducted by drug traffickers to further their aims of drug trafficking; and (2) Narco-supported terrorism, which is terrorism that benefits from or uses drug trafficking to further individual or group activities. 32 USC 112 assets may be used to support activities countering either of these types of narcoterrorism.

### **Counterdrug Security Manager**

The counterdrug security manager will be appointed to assist with personnel and physical security issues affecting only the state counterdrug programs.

### **Counterdrug Support Program**

Support provided to federal, state, or local LEAs, civil authorities or Community Based Organizations to assist with drug interdiction and demand reduction activities under authority of Title 32 USC § 112, in support of the National Drug Control Strategy. This includes both the Army Substance Abuse Program and the ANG Drug Abuse Testing Program. It also includes the National Guard Counterdrug School Program.

### **Decentralized Drug Testing Program**

When the paperwork for the drug testing is generated by the SAPC and sent to the Units/Wings. The Units/Wings will have personnel appointed as Unit Prevention Leaders (UPLs)/Drug Testing Administrative Program Managers (DTPAMs) to administer the collection process. The specimens will then be sent to the SAPC for a quality control inspection before sending the specimens to the laboratory for testing.

### **Exigent Circumstances**

Circumstances in which immediate action is necessary to protect police officers, National Guard personnel or other persons from injury, to prevent loss or destruction of evidence, or to prevent the escape of a suspect already in custody.

### **Full-Time National Guard Duty**

Training or other duty, other than inactive duty performed by a member of the Army National Guard of the United States Training or the Air National Guard of the United States in the member’s status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505, of Title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States. Generally, counterdrug duty is performed in FTNGD status, although it may be performed in State Active Duty (SAD) status.

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**Immediate Response**

Imminently serious conditions resulting from any civil emergency or attack may require immediate action by local National Guard commanders or other responsible National Guard officials 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 National Guard commanders or other responsible National Guard officials are authorized to take necessary action to respond to requests of civil authorities.

**Imminently Serious Conditions**

Emergency conditions in which, in the judgment of the local National Guard commander or other responsible National Guard 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. Higher headquarters must be notified as soon as possible.

**Inactive Duty for Training**

Training or duty performed by members of the ARNG in state status under Title 32 USC § 502(a)(1) or 502(f), or under Title 37 USC § 1002.

**Inactive Duty for Training**

Training or duty performed by members of the ANG in state status under Title 32 USC § 502(a)(1) or 502(f) and 37 USC § 1002.

**Incidental to Training**

Term describing Counterdrug Support Program operations conducted during a training period, which would have been conducted regardless of counterdrug operations. Routes and schedules may be altered in order to maximize counterdrug benefits.

**Inter-Service Agreements**

Formal, long-term or operational specific support agreements between Services, Department of Defense (DoD), and/or non-DoD agencies governed by DoD Instruction 4000.19, Interservice and Intragovernmental Support. These agreements, normally developed at the Service Secretariat and governmental agency director level, document funding and reimbursement procedures as well as standards of support between the supplying and receiving Services or agencies.

**Inter-Service Support Agreements**

Action by one Military Service or element thereof to provide logistic and/or administrative support to another Military Service or element thereof. Such action can be recurring or nonrecurring in character on an installation, area, or worldwide basis.

**Law Enforcement Agency**

An organization, coordinating council, or a task force comprised of several LEAs, empowered by Federal, state or local law to investigate, enforce or prosecute criminal laws regarding illegal drugs and controlled substances.

**Military Personnel Appropriations an-days**

MPA man-days provided by active AF organizations to support active duty missions accomplished by ANG members.

**Mishap Sequence**

All events that lead up to and all action or inaction's that involve an accident or incident that results in death, bodily injury, and/or loss or damage to property and/or equipment which may create liability for an individual or the United States.

**Narcoterrorism**

The financing of terrorist activities by participation in the drug trade. This includes, but is not limited to measures taken to detect, interdict, disrupt, or curtail activities related to substances, materiel, weapons, or resources used to finance, support, secure, cultivate, process, and/or transport illegal drugs.



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**National Guard**

Except as stated otherwise, National Guard means a state National Guard when not in Federal service, or all such organizations collectively.

**Nexus**

A means of connection, link or tie.

**Operational Control**

Transferable command authority that may be exercised by commanders at any echelon at or below the level of combatant command. Operational control is inherent in combatant command (command authority). Operational control may be delegated and is the authority to perform those functions of command over subordinate forces involving organizing and employing commands and forces, assigning tasks, designating objectives, and giving authoritative direction necessary to accomplish the mission. Operational control includes authoritative direction over all aspects of military operations and joint training necessary to accomplish missions assigned to the command. Operational control should be exercised through the commanders of subordinate organizations. Normally this authority is exercised through subordinate joint force commanders and Service and/or functional component commanders. Operational control normally provides full authority to organize commands and forces and to employ those forces as the commander in operational control considers necessary to accomplish assigned missions. Operational control does not, in and of itself, include authoritative direction for logistics or matters of administration, discipline, internal organization, or unit training.

**Other Training Duty**

Training, other than IADT or AT, (i.e., special training, formal school training) that provides all other structured training, to include on the job training, for individuals or units to enhance proficiency.

**Rules for Use of Force/Use of Force Policy**

Policy guidance issued by the Adjutant General (or Commanding General) on the use of force and weapons within the state for counterdrug missions.

**Security and Support Battalion**

The CD element of a SSB (company or detachment) that includes FTNGDCD personnel and equipment. The SSB receives Counterdrug P&A and O&M funding to conduct their mission. Refer to para. 9-1.c. for clarification of SSB companies/detachments in support of CD missions or conduct IDT/IAD incidental to training or AT in support of CD missions that meet the METL or readiness of the SSB.

**Standing Operating Procedures (SOP)**

Also known as Standard Operating Procedures, however, the DoD Dictionary prefers Standing to Standard.

**State Active Duty**

Duty performed by a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia in the member's status as a member of the State organized militia pursuant to State law and not pursuant to Title 10 or Title 32.

**States**

For the purpose of this regulation/instruction: all 50 states, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Territory of Guam and the District of Columbia are inclusive per 10 USC § 10001.

**State Plans**

Plan submitted annually by the states for National Guard Counterdrug Support Program activities under authority of Title 32 USC § 112.

**Substance Abuse programs**

A term referring collectively to the ARNG ASAP and the ANG Drug Abuse Testing Program.

**Title III**

Title III of Omnibus Crime Control and Safe Streets Act of 1968 (18 USC § 2510 et seq) as amended.

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29 August 2008

### **Use of Force Continuum**

Composed of five color-coded levels of force designed to correspond to officers' perceptions of the level of threat with which they are confronted and describes the progression or de-escalation of force on the basis of the demonstrated level of compliance or resistance from a subject.

### **Workdays**

Workdays is a general term for all categories of training funded by the Air National Guard: Annual, Special, School, ADSW or inactive duty periods: Unit Training Assemblies, Proficiency Training, Training Period Preparation Assemblies or Additional Flying Training Periods.

**APPENDIX 6-8: Memorandum, Deputy Secretary of Defense, Subject: Department of Defense Counternarcotics Policy (31 Jul 2002)**



**DEPUTY SECRETARY OF DEFENSE**

1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

31 JUL 2002



MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARY OF DEFENSE FOR POLICY  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
COMMANDERS OF THE COMBATANT  
COMMANDS  
DIRECTOR OF ADMINISTRATION AND  
MANAGEMENT  
DIRECTOR, DEFENSE SECURITY COOPERATION  
AGENCY  
DIRECTOR, DEFENSE INTELLIGENCE AGENCY  
DIRECTOR, NATIONAL SECURITY AGENCY

000.5

**SUBJECT:** Department of Defense Counternarcotics Policy

As the consequence of the changed national security environment, the corresponding shift in the Department's budget and other priorities and evolving support requirements, the Department carefully reviewed its existing counternarcotics policies. Attached reflects the current DoD counternarcotics policy. Detailed implementing instructions for counternarcotics policy and support operations will follow.

Attachment  
As stated

31Jul02

U09505-02

DoD Counternarcotics Policy

I. The Department of Defense will execute drug demand and supply reduction programs consistent with statutory responsibilities, Presidential direction, and Department priorities. The Department will implement:

- *Demand reduction* programs that promote the readiness of the Armed Forces and the Department's civilian personnel and that reduce illegal drug use within the Department's communities; and
- *Supply reduction* programs that collect, analyze and disseminate intelligence, support interdiction operations, and train host nation counternarcotics forces.

**A. Demand Reduction.** The Department will expand its testing, education, and prevention programs. The Department's demand reduction programs shall include:

- Active-duty and civilian drug testing;
- Expanded testing of the Reserves and National Guard;
- Consistent Service Department and Defense Agency policies regarding drug use;
- Community outreach programs for Department dependents; and the
- Expanded use of the Reserves and National Guard in demand reduction programs.

**B. Supply Reduction.** The Department will execute:

- **Detection and Monitoring** programs that integrate military, United States law enforcement agency, and foreign capabilities against illegal air and maritime drug shipments to the United States. These programs will use:
  - (1) Military command, control, communications and intelligence resources; and
  - (2) Military operational planning capabilities that support the interdiction of suspected drug shipments.

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- **Other Programs that:**

(1) Support foreign military and law enforcement counternarcotics activities; and

(2) Benefit the Department.

II. The Department will focus its counternarcotics activities on programs that:

- Enhance the readiness of the Department of Defense;
- Satisfy the Department's statutory detection and monitoring responsibilities;
- Contribute to the war on terrorism;
- Advance the Department's security cooperation goals; or
- Enhance national security.

III. The Department will review counternarcotics activities and transfer functions to law enforcement agencies, where appropriate, to ensure the efficient and effective use of resources and to complement efforts that combat transnational threats to the United States.

IV. Program Execution

The Deputy Assistant Secretary of Defense for Counternarcotics, reporting through the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict to the Under Secretary of Defense (Policy), shall:

- Develop and implement the Department's counternarcotics policy, conduct analyses, make recommendations and issue guidance regarding the Department's counternarcotics plans and programs;
- Coordinate and monitor the Department's counternarcotics plans and programs to ensure adherence to this policy; and
- Direct and oversee the planning, programming, and budget formulation, justification, and execution for the Department's counternarcotics programs.

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- **Work with the Joint Staff, Unified Commanders, and Chiefs of the Reserve and National Guard on all issues and actions relating to the execution of the Department's counternarcotics program and their missions.**

**APPENDIX 6-9: DepSecDef Memo: USE OF COUNTERNARCOTICS FUNDING FOR  
COUNTERTERRORISM**

**See next page.**

# APPENDIX 6: COUNTERDRUG OPERATIONS



DEPUTY SECRETARY OF DEFENSE  
1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010



APR 26 2006

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
UNDER SECRETARIES OF DEFENSE  
ASSISTANT SECRETARIES OF DEFENSE  
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF ADMINISTRATION AND MANAGEMENT  
DIRECTOR, DEFENSE SECURITY COOPERATION AGENCY  
DIRECTOR, DEFENSE INTELLIGENCE AGENCY  
DIRECTOR, NATIONAL SECURITY AGENCY  
DIRECTOR, JOINT STAFF

SUBJECT: Use of Counternarcotics Funding for Counterterrorism

This memorandum provides policy guidance pertaining to the use of Department of Defense (DoD) counternarcotics (CN) resources during Fiscal Years 2006 and 2007 to support law enforcement agencies conducting counterterrorism (CT) activities, pursuant to section 1022 of the National Defense Authorization Act for Fiscal Year 2006 Public Law 109-163, January 6, 2006 "Section 1022."

When Congress passed Section 1022, it recognized that narcotics traffickers and terrorists often use the same methods to smuggle money, people, information, weapons, and substances, and that in many cases, narcotics traffickers and terrorists are one and the same. Based on this recognition and the Department's request, Congress authorized DoD Joint Task Forces with CN funds to use those funds to provide support to law enforcement agencies conducting CT activities during Fiscal Years 2006 and 2007.

Accordingly, I authorize DoD Joint Task Forces that support or participate in CN activities, including but not limited to Joint Task Force variations such as Joint Inter-Agency Task Forces, Joint Inter-Agency Coordination Groups, Combined Joint Task Forces, and Joint Headquarters that control Joint Task Force variations, to make incidental use of CN resources, capabilities, and structures to detect, monitor, and interdict terrorists and terrorist-related activities and material, and to increase the capacity of partner nation security forces within the Joint Task Force's geographic area of responsibility that address these common threats.

Joint Task Force commanders may approve the use of this authority when it is employed incidentally to ongoing CN and counter-narcoterrorism (CNT) activities. "Incidental use" includes emergency situations (whether CN, CNT, or not) where the Joint Task Force is required to respond immediately. All non-incidental use of this authority requires the prior approval of the Deputy Assistant Secretary of Defense for



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Counternarcotics (DASD-CN). This authority is not to be used as a means to shift resources from CN missions to CT missions, and its use shall not materially affect Department of Defense support to narcotics interdiction and CN and CNT activities.

Combatant Commanders that intend to employ DoD Joint Task Forces using this authority will notify the DASD-CN of the identity of the Joint Task Force within 30 days of their determination.

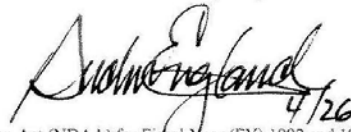
In order to prepare the congressionally-requested report on employment of this authority, Joint Task Force commanders that exercise this authority must provide a report through operational channels to the Office of the DASD-CN no later than November 10, 2006. The report will explain and evaluate the factual circumstances under which the authority was exercised, describe the cost and type of support provided, and evaluate;

1. any additional costs,
2. the effect on counternarcotics and counterterrorism activities, and
3. the objectives of using counternarcotics funds to provide counterterrorism support.

Joint Task Force commanders should be prepared to provide data concerning the use of this authority at any time upon request by the DASD-CN.

The types of activities that Joint Task Force commanders may conduct using this authority are those contained in Title 10, United States Code, Section 124; Chapter 18, Title 10, United States Code; Title 32, United States Code, Section 112, Section 1004, National Defense Authorization Act for Fiscal Year 1991, as amended<sup>1</sup>; and Section 1033, National Defense Authorization Act for Fiscal Year 1998, as amended<sup>2</sup>. Nothing in this policy precludes Joint Task Force Commanders from providing information to commands engaged in counterterrorism operations. Finally, the authority provided by Section 1022 does not pre-empt, and is additional to Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375, October 28, 2004).

Questions concerning this policy may be directed to DASD-CN at (703) 697-3186.



<sup>1</sup> Pub. L. No. 101-510, amended by §1088(a), National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1992 and 1993, Pub. L. No. 102-190; §1041, NDAA for FY 1993, Pub. L. No. 102-484; §1121(a) and (b), NDAA for FY 1994, Pub. L. No. 103-160; §1011, NDAA for FY 1995, Pub. L. No. 103-337; §1021, NDAA for FY 1999, Pub. L. No. 105-261, and §1021, NDAA for FY 2002, Pub. L. No. 107-107.

<sup>2</sup> Public Law No. 105-85, Nov. 18, 1997, amended by §1021, National Defense Authorization Act for Fiscal Year 2001, (Pub. L. No. 106-398), amended by §1021, National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136.

### APPENDIX 6-10: ASD MEMO: COUNTERDRUG SUPPORT TO COUNTER-NARCOTERRORIST ACTIVITIES



SPECIAL OPERATIONS/  
LOW-INTENSITY CONFLICT

THE ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301-2500

26 August 2005

MEMORANDUM FOR CHIEF, NATIONAL GUARD BUREAU

SUBJECT: Counterdrug Support to Counter-Narcoterrorist Activities

This memorandum responds to your July 22, 2005 memo regarding Counterdrug Support to Counter-Narcoterrorist Activities.

When I published the April 12, 2004 Policy on the definition, I neglected to include the National Guard along with the combatant commands. It was an oversight. To the extent that state laws allow it, please apply the April 12, 2004 policy to state counternarcotics plans.

The point of contact is LTC Larry Wilbanks, USA, ODASD for Counternarcotics, at (703) 697-3325.

A handwritten signature in cursive script, appearing to read "J. H. Brownell".



SPECIAL OPERATIONS/  
LOW-INTENSITY CONFLICT

THE ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301-2500

APR 12 2004

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTOR, DEFENSE INTELLIGENCE AGENCY  
DIRECTOR, DEFENSE SECURITY COOPERATION AGENCY  
DIRECTOR, NATIONAL SECURITY AGENCY  
DEPUTY UNDER SECRETARY OF DEFENSE FOR  
READINESS  
DEPUTY UNDER SECRETARY OF DEFENSE  
FOR RESOURCE PLANNING AND MANAGEMENT  
DIRECTOR, JOINT STAFF  
CHIEF, NATIONAL GUARD BUREAU

SUBJECT: Policy Definition of "Narcoterrorism"

To assist the Combatant Commands developing and implementing new strategies against terrorism linked to drug trafficking, several of the Commands asked us to review and, as appropriate, revise the definition for narcoterrorism contained in DoD publications.

The Deputy Assistant Secretary of Defense for Counternarcotics previously defined the term "Counterdrug Activities" (Memorandum, 23 Oct 2002) as:

- Those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to narcotics trafficking.
- This includes, but is not limited to, measures taken to detect, interdict, disrupt, or curtail activities related to substances, materiel, weapons, or resources used to finance, support, secure, cultivate, process, and/or transport illegal drugs.

This definition allows the Combatant Commanders to use the Department's counternarcotics authorities and funds to assist in the War on Terrorism when an illegal drug nexus is known or suspected. The Department and the interagency have recognized the growing links between terrorism and drug trafficking and have begun using counternarcoterrorist as a term to reflect those links.

The current definition for narcoterrorism contained in Joint Pubs does not reflect the terrorist linkage, but rather tools that could be used by drug traffickers, such as assassinations, extortion, hijackings and bombings. We believe that the definition should, instead, be adapted to reflect terrorists' exploitation of narcotics trafficking to support terrorist activities.

In coordination with the Joint Staff, and within the context of supporting the activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency; we define the term "narcoterrorism" as:

**Narco-terrorism: Terrorism that is linked to drug trafficking. Two separate, but related, types of narco-terrorism exist: (1) narco-driven terrorism, which is terrorism conducted by drug traffickers to further their aims of drug trafficking; and (2) narco-supported terrorism, which is terrorism that benefits from or uses drug trafficking to further terrorist individual or group activities.**

Questions regarding this policy shall be directed to the Office of the Deputy Assistant Secretary of Defense for Counternarcotics.



Thomas W. O'Connell

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<sup>1</sup> Joint Pub 1-02, DoD Dictionary of Military and Associated Terms, 12 Apr 01 As Amended through 5 Sep 03 (page 355) and Joint Pub 3-07.4 Joint Counterdrug Operations, 17 Feb 98 (page GL-16).

APPENDIX 6-11: CALIFORNIA NATIONAL GUARD COUNTERDRUG TASK FORCE  
STANDING RULES OF ENGAGEMENT

CALIFORNIA  
NATIONAL  
GUARD  
COUNTERDRUG  
TASK FORCE



STANDING  
RULES OF  
ENGAGEMENT

in custody. The use of deadly force is not authorized to protect property, prevent the loss of evidence, or prevent the escape of a suspect unless it is immediately necessary to protect against unlawful deadly force.

- c. Exigent circumstances exist when:
  - (1) Immediate action is necessary to protect LEOs, National Guard personnel or others from death or injury.
  - (2) Immediate action is necessary to prevent the loss or destruction of evidence.
  - (3) Immediate action is necessary to prevent escape of a suspect already in custody.

4. **Surface/Aerial Reconnaissance**  
a. During approved reconnaissance/observation missions by mobile patrol, listening posts/observation posts (LPs/OPs) or CD RAID/C-26/FLIR aerial missions:

- (1) LEO must be present or in direct contact with the CD Personnel.
- (2) CD Personnel are prohibited from pursuing or targeting specific persons for surveillance.

STANDING RULES OF ENGAGEMENT  
(CONTINUED)

1. CD Personnel serve in a support role to LEAs and will not directly engage in law enforcement duties. CD Personnel at all levels will ensure that a risk assessment analysis of potential threats to personnel and equipment is conducted during the planning stage of any operation.

2. **Investigative Case and Analyst Support.**

- a. Independent intelligence activities are prohibited. Intelligence information may not be maintained or stored in National Guard facilities or databases. CD Personnel can assist LEAs in the establishment of counterdrug intelligence system databases and may come into temporary possession of criminal intelligence information while in a support role.
- b. CD Personnel will not participate in active/real time conversation monitoring or directly participate in interrogations activities. CD Personnel can provide transcription/translation of audio/video tapes, seized documents and other information media.

3. **Arrests, searches and seizures.**

- a. Unless specifically authorized or exigent circumstances exist, CD personnel will not directly participate in the arrest of suspects, conduct searches that include direct contact with suspects or the general public or become involved in the chain of custody for any evidence. Law Enforcement Officers (LEOs) should seize, handle, and/or maintain custody of potential evidentiary items.
- b. Restraining, detaining, subduing are examples of the appropriate level of force that can be used in exigent circumstances to protect property, prevent loss/destruction of evidence, or prevent the escape of a suspect

VERSION 00-01

1. **MINIMUM FORCE:** All counterdrug personnel (CD Personnel) in the California National Guard Counterdrug Task Force (CD Task Force) will use minimum force to accomplish the mission. Minimum force is lowest level of force required under the circumstances.
  2. **SELF-DEFENSE:** Nothing in these Rules of Engagement shall limit a commander's inherent duty to safeguard his or her force or an individual soldier's or airman's inherent right of self-defense.
  3. **DEADLY FORCE:** Deadly force refers to the use of any type of physical force in a manner, which could reasonably be expected to result in death whether or not death is the intent. Before resorting to deadly force, all the following conditions must be met:
    - a. All other means have been exhausted or not readily available, including but not limited to restraining, detaining, and subduing.
    - b. The use of deadly force does not significantly increase the risk of death or serious bodily harm to innocent persons.
    - c. It is used for one or more of the following circumstances:
      - (1) Self-defense to avoid death or serious bodily harm. The threat of harm is not restricted to firearms, but may include assault with bricks, pipes or other heavy missiles, incendiary and explosive devices, or any other material which could be reasonably expected to cause death or serious bodily harm.
      - (2) Prevention of crime that involves a substantial risk of death or very serious bodily harm, including the defense of others (e.g., arson, sniping, and assault).
  - (3) Detention or prevention of the escape of a person who during detention or in the act of escape presents a clear threat of loss of life or serious bodily harm to another person. Attempt to escape by itself does not justify the use of deadly force. Use of deadly force is justified only when it is immediately necessary to protect against unlawful deadly force.
    - d. If the need to fire a weapon occurs, the individual will shoot to stop. No warning shots will be fired. No blanks are authorized. The discharge of a firearm is always considered to be deadly force.
  4. **ARMING ORDERS:**
    - a. CD Personnel will be armed only in coordination with the supported law enforcement agency (LEA) and with appropriate approval delegated from The Adjutant General through the Commander, Joint Task Force-Domestic Support, to CD Task Force Commander and the subordinate chain of command.
    - b. CD Personnel shall be armed only for force protection with only military issued weapons and ammunition.
    - c. CD Personnel who are armed must be trained, qualified, and tested on the type of weapon issued, IAW current qualification standards.
    - d. Arms and ammunition will be secured at all times IAW appropriate regulations and policies. Military weapons will not be secured in private dwellings at anytime.
    - e. Rounds will be chambered only on order of the commander/senior officer/senior NCO present, in coordination and conjunction with the supported LEAs, except in cases of exigent circumstances.
  - f. When the M16/16A1/16A2 rifle is employed, a lock plate must be installed to prevent automatic firing.
  - g. Team/mission commanders will determine which of the following will be used based on mission requirements.
    - h. Arming order matrix:
 

RIFLE	* PISTOL	MAGAZINE	CHAMBER
AO-1	SLUNG	IN HOLSTER	IN POUCH
AO-2	PORT	IN HOLSTER	IN POUCH
AO-3	PORT	IN HOLSTER	IN WEAPON
AO-4	PORT	IN HAND	IN WEAPON

 \* Port arms is defined as having the rifle at the ready.
5. **WEAPON LIMITATION:** There will be no deployment of automatic weapons (e.g., M60, squad automatic weapons), shotguns, riot batons, or riot control agents, except upon express order of The Adjutant General.
6. **AIRCRAFT & VEHICLE OPERATIONS:**
  - a. Firing of weapons from aircraft is not authorized under any circumstances.
  - b. Pilots in Command (PC) of aircraft have the authority to override an order to chamber rounds while onboard the aircraft.
  - c. Firing of weapons from moving vehicles is not authorized unless exigent circumstances exist for self defense or defense of others in a life threatening situation.
  - d. PC have the authority to prohibit passengers from carrying any CS gas onboard the aircraft.
7. **CHANGES TO ROE:** The CD Task Force Commander will approve changes to these Standing Rules of Engagement should timely changes be required by mission, terrain, troops, time or security of the force. The Commander will report such changes to Commander, Joint Task Force-Domestic Support as soon as practicable.

## APPENDIX 6-12: JOINT PUB. 3-07.4, APPENDIX E, LEDETS

APPENDIX E  
LAW ENFORCEMENT DETACHMENTS

**1. General**

USN ships contribute significantly to the D&M phase of CD operations, as they are frequently in a position to intercept and apprehend maritime drug smugglers. However, since the Department of Defense does not participate in drug apprehensions, USCG personnel (who are authorized to perform law enforcement activities) are frequently embarked in USN ships to act in this capacity (as prescribed in 10 USC section 379).

**2. Command Relationships**

The USN Fleet Commanders and the USCG area commanders for the Atlantic and Pacific areas have drafted memorandums of agreement (MOAs) to govern LEDET procedures. Under these MOAs the Navy fleet commanders, and occasionally the USCG commanders, provide ships and cutters to operate under JIATF TACON when engaged in the D&M mission. The USCG deploys LEDETs aboard USN combatants to perform law enforcement activities. The JIATFs hold periodic scheduling conferences to match JIATF D&M requirements, Navy ships, and USCG LEDETs. While under JIATF TACON, any surface vessel with a LEDET aboard will coordinate to shift TACON to either USCG area or district TACON when it detects a target deemed suitable for interception and boarding. Boardings are conducted in accordance with USCG law enforcement procedures and policy, including Use of Force Policy. USN ships carrying LEDETs must display the USCG ensign. The ensign also must be illuminated at night when engaged in law enforcement operations.

**3. Availability of Ships**

Geographic combatant commanders make USN ships available in support of USCG law enforcement operations. These ships are categorized as either "specially designated," or "ships of opportunity."

a. **Specially Designated.** Specially designated (or dedicated) ships are ones under JIATF TACON being used in direct support of CD operations, and which conduct the interception and/or apprehension phase of law enforcement operations under USCG TACON.

b. **Ships of Opportunity.** USN ships of opportunity are ones that are operating in or transiting through possible drug trafficking areas and are not under the control of a CD JIATF and/or USCG command. These ships may be diverted for a law enforcement role after TACON has been shifted to the USCG.

**4. Assignments**

A LEDET is normally a seven-person team assigned on a temporary basis to US or foreign military vessels. The LEDET consists of an officer in charge (E-7 through O-3) assigned to serve as the command maritime law enforcement advisor for the host commanding officer; a boarding officer (E-5 or above); and boarding team members. While assigned to a USN ship, LEDET activities are governed by the MOAs signed between the USCG area commanders and the respective Navy fleet CINC.

## Appendix E

a. **Officer in Charge (OIC).** The team leader advises the Navy Commanding Officer on USCG policies and maritime law enforcement procedures. His duties are similar to those of an operations officer aboard a medium or high endurance cutter in regards to law enforcement. During boardings, the OIC directs all searches and makes all law enforcement decisions. The OIC coordinates USN vessel support for the boarding party during boarding operations, provides guidance for the boarding officer, and is responsible for all law enforcement message traffic. The team leader will be a graduate of maritime law enforcement (MLE) school at Reserve Training Center, Yorktown, Virginia, be a qualified boarding officer, and possess at least a SECRET clearance.

b. **Boarding Officer.** The duties of a LEDET boarding officer are the same as any other USCG boarding officer. The boarding officer is responsible to the OIC for the safety and conduct of the boarding party, and will be guided by current USCG policies in executing these responsibilities. The boarding officer will be a graduate of MLE school, be qualified by the group or district commander, and have at least a CONFIDENTIAL clearance.

c. **Boarding Team Members.** The remainder of the LEDET will be comprised of five qualified boarding team members. Ideally, all boarding team members should be graduates of either the boarding officer course at the MLE school or the boarding team member course at Training Center, Petaluma, California.

d. **Specialty Billets.** Each LEDET will have at least one person designated as a Spanish linguist and at least two personnel qualified in accordance with current Naval Air Training Operating Procedures Standards requirements as helicopter special mission

passengers (including 9D5 multiple egress Navy "Dunker" training).

## 5. Boarding Procedures

The following paragraphs provide an overview of LEDET boarding procedures. More detailed guidance for the LEDETs themselves are found in COMDTINST M16240.1, "Law Enforcement Detachment (LEDET) Administrative and Operating Guidelines."

a. Boarding parties consist of at least two members and are armed and equipped as required. Utilizing the appropriate boarding kit and the USCG boarding checklist, the boarding party will expeditiously carry out their assigned duties.

b. The boarding party will approach a vessel of interest and note its location, activities, and identifying characteristics. While maintaining continuous surveillance of the vessel and in an *enhanced state of readiness*, the boarding party will hail the vessel.

c. If the determination is made to board the vessel, the master will be instructed to heave to and prepare for boarding. The vessel is boarded and, in cases where a felony violation is suspected or when it is believed that there is a potential threat to the boarding party's safety, the vessel's crew will be instructed to move to a single open location such as the vessel's fantail. The boarding party will secure any weapons found on board and conduct a personnel security sweep for hidden or missing crewmembers.

d. Once the boarding party's safety is deemed secure, the accuracy of any information provided by the vessel's crew is verified. The vessel is inspected and any arrests or seizures are made. Debriefings and documentation of the boarding are completed after debarking the suspect vessel.



**APPENDIX 6-13: SAMPLE LEDET MOA**

**AGREEMENT BETWEEN  
THE GOVERNMENT OF [STATE ONE]  
AND  
THE GOVERNMENT OF [STATE TWO]  
CONCERNING COOPERATION TO SUPPRESS ILLICIT TRAFFIC**

**Preamble**

The Government of [STATE ONE] and the Government of [STATE TWO] (hereinafter, "the Parties");

Bearing in mind the complex nature of the problem of illicit traffic by sea;

Having regard to the urgent need for international cooperation in suppressing illicit traffic by sea, which is recognized in the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, in the 1971 Convention on Psychotropic Substances, in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereinafter, "the 1988 UN Convention"), and in the 1982 United Nations Convention on the Law of the Sea;

Recalling that the 1988 UN Convention requires the Parties to consider entering into bilateral agreements to carry out, or to enhance the effectiveness of, its provisions;

Desiring to promote greater cooperation between the Parties, and thereby enhance their effectiveness, in combating illicit traffic by sea;

Conscious of the fact that, in order to combat drug-related activities effectively and efficiently, the active participation of all States affected is needed, that is, consumer and producer States, States whose territories are used as transshipment points for narcotic drugs, and States used to launder the proceeds of drug trafficking;

Conscious of the fact that [STATE TWO] is experiencing increased use of its maritime zones for the transshipment of drugs;

Have agreed as follows:

**I. DEFINITIONS**

In this Agreement, it shall be understood that:

1. "Illicit traffic" has the same meaning as in Article 1(m) of the 1988 UN Convention.
2. "[STATE TWO]'s waters and airspace" means the territorial sea and internal waters of [STATE TWO], and the air space over [STATE TWO].
3. "Law enforcement vessels" means warships of the Parties and other ships of the Parties clearly marked and identifiable as being on government non-commercial service and authorized to that effect, including any boat and aircraft embarked on such ships, aboard which law enforcement officials are embarked.
4. "Law enforcement aircraft" means military aircraft of the Parties and other aircraft of the Parties engaged in law enforcement operations or operations in support of law enforcement activities clearly marked and identifiable as being on government non-commercial service and authorized to that effect.

## APPENDIX 6: COUNTERDRUG OPERATIONS

5. "Law enforcement authorities" means for the Government of [STATE TWO], the \_\_\_\_\_, without prejudice to the powers of the appropriate judicial authorities, and, for the Government of [STATE ONE], the [STATE TWO] \_\_\_\_\_.
6. "Law enforcement officials" means, for the Government of [STATE ONE], uniformed members of the [STATE TWO] \_\_\_\_\_, and for the Government of [STATE TWO], uniformed members of the \_\_\_\_\_.
7. "Shiprider" means one or more law enforcement officials, including boarding teams, of one Party authorized to embark on a law enforcement vessel of the other Party.
8. "Suspect vessel or aircraft" means a vessel or aircraft used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is involved in illicit traffic.

### II. NATURE AND SCOPE OF AGREEMENT

1. The Parties shall cooperate in combating illicit traffic by sea to the fullest extent possible, consistent with available law enforcement resources and related priorities.
2. The Government of [STATE ONE] shall continue to provide the Government of [STATE TWO] with available information collected by electronic, air and maritime surveillance means, on the presence of suspect vessels or aircraft in or over [STATE TWO]'s waters or airspace, so that the law enforcement authorities of [STATE TWO] may take appropriate control measures. The Parties undertake to agree on procedures for improving intelligence sharing.

### III. OPERATIONS IN AND OVER NATIONAL WATERS

Operations to suppress illicit traffic in and over the waters of a Party are subject to the authority of that Party.

### IV. PROGRAM FOR LAW ENFORCEMENT OFFICIALS ABOARD THE OTHER PARTY'S VESSELS

1. The Parties shall establish a joint law enforcement shiprider program between their law enforcement authorities. Each Party may designate a coordinator to organize its program activities and to notify the other Party of the types of vessels and officials involved in the program.
2. The Government of [STATE TWO] may designate qualified law enforcement officials to act as law enforcement shipriders. The Government of [STATE TWO] may assign boarding teams to conduct boardings, searches and detentions from [STATE ONE] law enforcement vessels under the flag of [STATE TWO] of suspect [STATE TWO]'s vessels and other suspect vessels located in [STATE TWO]'s waters in accordance with paragraph 5, subject to subparagraphs b and c of paragraph 6. Subject to [STATE TWO]'s law, these shipriders may, in appropriate circumstances:
  - a. embark on [STATE TWO] law enforcement vessels;
  - b. authorize the pursuit, by the [STATE ONE] law enforcement vessels on which they are embarked, of suspect vessels and aircraft fleeing into [STATE TWO]'s waters;
  - c. authorize the [STATE ONE] law enforcement vessels on which they are embarked to conduct patrols to suppress illicit traffic in [STATE TWO]'s waters; and
  - d. enforce the laws of [STATE TWO] in [STATE TWO]'s waters, or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law.
3. The Government of [STATE ONE] may designate qualified law enforcement officials to act as law enforcement shipriders. Subject to [STATE TWO] law, these shipriders may, in appropriate circumstances:

## APPENDIX 6: COUNTERDRUG OPERATIONS

- a. embark on [STATE TWO]'s law enforcement vessels;
  - b. advise [STATE TWO]'s law enforcement officials in the conduct of boardings of vessels to enforce the laws of [STATE TWO];
  - c. enforce, seaward of the territorial sea of [STATE TWO], the laws of the [STATE TWO] where authorized to do so, in accordance with the principles of international law; and
  - d. authorize the [STATE TWO]'s vessels on which they are embarked to assist in the enforcement of the laws of the [STATE TWO] seaward of the territorial sea of [STATE TWO], in accordance with the principles of international law.
4. The Government of [STATE ONE] shall, whenever feasible, assign as shipriders persons fluent in \_\_\_\_\_, and to have liaison officials fluent in \_\_\_\_\_ on board [STATE ONE] law enforcement vessels on which [STATE TWO]'s shipriders are embarked.
5. When a shiprider is embarked on the other Party's vessel, and the enforcement action being carried out is pursuant to the shiprider's authority, any search or seizure of property, any detention of a person, and any use of force pursuant to this Agreement, whether or not involving weapons, shall be carried out by the shiprider, except as follows:
- a. crewmembers of the other Party's vessel may assist in any such action if expressly requested to do so by the shiprider and only to the extent and in the manner requested. Such request may only be made, agreed to, and acted upon in accordance with the applicable laws and policies; and
  - b. such crewmembers may use force in self-defense, in accordance with the applicable laws and policies.
6. The Government of [STATE ONE] may only conduct operations to suppress illicit traffic in [STATE TWO]'s waters and airspace with the permission of the Government of [STATE TWO] in any of the following circumstances:
- a. an embarked [STATE TWO]'s shiprider so authorizes;
  - b. In those exceptional occasions when a suspect vessel, detected seaward of [STATE TWO]'s waters, enters [STATE TWO]'s waters and no [STATE TWO]'s shiprider is embarked in a [STATE ONE] law enforcement vessel, and no [STATE TWO]'s law enforcement vessel is immediately available to investigate, the [STATE ONE] law enforcement vessel may follow the suspect vessel into [STATE TWO]'s waters, in order to board the suspect vessel and secure the scene, while awaiting expeditious instructions from [STATE TWO]'s law enforcement authorities and the arrival of [STATE TWO]'s law enforcement officials.
  - c. In those equally exceptional occasions when a suspect vessel is detected within [STATE TWO]'s waters, and no [STATE TWO]'s shiprider is embarked in a [STATE ONE] law enforcement vessel, and no [STATE TWO]'s law enforcement vessel is immediately available to investigate, the [STATE ONE] law enforcement vessel may enter [STATE TWO]'s waters, in order to board the suspect vessel and secure the scene, while awaiting expeditious instructions from [STATE TWO]'s law enforcement authorities and the arrival of [STATE TWO]'s law enforcement officials.
- The [STATE TWO] shall provide prior notice to the [STATE TWO]'s law enforcement authority of action to be taken under subparagraphs (b) and (c) of this paragraph, unless not operationally feasible to do so. In any case, notice of the action shall be provided to the [STATE TWO]'s law enforcement authority without delay.
7. Law enforcement vessels of a Party operating with the authorization of the other Party pursuant to Section IV of this Agreement shall, during such operations, fly, in the case of [STATE ONE], [STATE TWO]'s flag, and in the case of [STATE TWO], the [STATE TWO] \_\_\_\_\_ flag.

## APPENDIX 6: COUNTERDRUG OPERATIONS

8. The Government of [STATE TWO] shall permit the mooring or stay of law enforcement vessels of [STATE ONE] at national ports, after authorization by the Minister of Public Security, on the occasions and for the time necessary for the proper performance of the operations required under this Agreement.

9. The Government of [STATE TWO] reserves the right to authorize, in accordance with the laws of [STATE TWO], other operations to suppress illicit traffic not otherwise foreseen in this Agreement.

10. When aircraft of the Government of [STATE ONE] (hereafter, "[STATE ONE] aircraft") are operating to suppress illicit traffic or supporting such operations, the Government of [STATE TWO] shall permit those [STATE ONE] aircraft:

a. to overfly its territory and waters with due regard for the laws and regulations of [STATE TWO] for the flight and maneuver of aircraft, subject to paragraph 11 of this section;

b. to land and remain in national airports, after receiving authorization from \_\_\_\_\_, on the occasions and for the time necessary for proper performance of the operations necessary under this Agreement; and

c. to transmit orders from competent [STATE TWO]'s authorities to suspect aircraft to land in the territory of [STATE TWO], subject to the laws of each Party.

11. The Government of [STATE ONE] shall, in the interest of flight safety, observe the following procedures for facilitating flights within [STATE TWO]'s airspace by [STATE ONE] aircraft:

a. In the event of planned law enforcement operations, the [STATE TWO] shall provide reasonable notice and communications frequencies to the appropriate [STATE TWO]'s aviation authorities responsible for air traffic control of planned flights by its aircraft over [STATE TWO]'s territory or waters.

b. In the event of unplanned operations, which may include the pursuit of suspect aircraft into [STATE TWO]'s airspace pursuant to this Agreement, the Parties shall exchange information concerning the appropriate communications frequencies and other information pertinent to flight safety.

c. Any aircraft engaged in law enforcement operations or operations in support of law enforcement activities in accordance with this Agreement shall comply with such air navigation and flight safety directions as may be required by [STATE TWO]'s aviation authorities, and with any written operating procedures developed for flight operations within its airspace under this Agreement.

### V. OPERATIONS SEAWARD OF THE TERRITORIAL SEA

1. Whenever [STATE ONE] law enforcement officials encounter a suspect vessel flying the [STATE TWO]'s flag or claiming to be registered in [STATE TWO], located seaward of any State's territorial sea, this Agreement constitutes the authorization of the Government of [STATE TWO] for the boarding and search of the suspect vessel and the persons found on board by such officials.

If evidence of illicit traffic is found, [STATE ONE] law enforcement officials may detain the vessel and persons on board pending expeditious disposition instructions from the Government of [STATE TWO].

2. Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels seaward of any State's territorial sea, conducted by either Party in accordance with international law, whether based, *inter alia*, on the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, the consent of the vessel master, or an authorization from the flag State to take law enforcement action.

### VI. JURISDICTION OVER DETAINED VESSELS

1. In all cases arising in [STATE TWO]'s waters, or concerning [STATE TWO]'s flag vessels seaward of any State's territorial sea, the Government of [STATE TWO] shall have the primary right to exercise jurisdiction over a detained vessel, cargo and/or persons on board (including seizure, forfeiture, arrest, and prosecution), provided,

## APPENDIX 6: COUNTERDRUG OPERATIONS

however, that the Government of [STATE TWO] may, subject to its Constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of [STATE TWO] law against the vessel, cargo and/or persons on board.

2. Instructions as to the exercise of jurisdiction pursuant to paragraph 1 shall be given without delay.

### VII. IMPLEMENTATION

1. Operations to suppress illicit traffic pursuant to this Agreement shall be carried out only against suspect vessels and aircraft, including vessels and aircraft without nationality, and vessels assimilated to vessels without nationality.

2. A Party conducting a boarding and search pursuant to this Agreement shall promptly notify the other Party of the results thereof. The relevant Party shall timely report to the other Party, consistent with its laws, on the status of all investigations, prosecutions and judicial proceedings resulting from enforcement action taken pursuant to this Agreement where evidence of illicit traffic was found.

3. Each Party shall ensure that its law enforcement officials, when conducting boardings and searches and air interception activities pursuant to this Agreement, act in accordance with the applicable national laws and policies of that Party and with the applicable international law and accepted international practices.

4. Boardings and searches pursuant to this Agreement shall be carried out by law enforcement officials from law enforcement vessels or aircraft. The boarding and search teams may operate from such ships and aircraft of the Parties, and seaward of the territorial sea of any State, from such ships of other States as may be agreed upon by the Parties. The boarding and search team may carry standard law enforcement small arms.

5. While conducting air intercept activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board and the safety of civil aircraft.

6. All use of force pursuant to this Agreement shall be in strict accordance with the applicable laws and policies and shall in all cases be the minimum reasonably necessary under the circumstances, except that neither Party shall use force against civil aircraft in flight. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either Party.

7. When carrying out operations pursuant to this Agreement, in accordance with the 1988 UN Convention, the Parties shall take due account of the possible advantage of conducting boarding and search operations in safer conditions at the closest [STATE TWO]'s port to minimize any prejudice to the legitimate commercial activities of the suspect vessel or aircraft, or its flag State or any other interested State; the need not to delay unduly the suspect aircraft or vessel; the need not to endanger the safety of life at sea without endangering the safety of the law enforcement officials or their vessels or aircraft; and the need not to endanger the security of the suspect vessel, aircraft or cargo.

8. To facilitate implementation of this Agreement, each Party shall ensure the other Party is fully informed of its respective applicable laws and policies, particularly those pertaining to the use of force. Each Party shall ensure that all of its law enforcement officials are knowledgeable concerning the applicable laws and policies of both Parties.

9. Assets seized in consequence of any operation undertaken in [STATE TWO]'s waters pursuant to this Agreement shall be disposed of in accordance with the laws of [STATE TWO]. Assets seized in consequence of any operation undertaken seaward of the territorial sea of [STATE TWO] pursuant to this Agreement shall be disposed of in accordance with the laws of the seizing Party. To the extent permitted by its laws and upon such terms as it deems appropriate, a Party may, in any case, transfer forfeited assets or proceeds of their sale to the other Party. Each transfer generally will reflect the contribution of the other Party to facilitating or effecting the forfeiture of such assets or proceeds.

10. The law enforcement authority of one Party (the "first Party") may request, and the law enforcement authority of the other Party may authorize, law enforcement officials of the other Party to provide technical assistance to law

## APPENDIX 6: COUNTERDRUG OPERATIONS

enforcement officials of the first Party in their boarding and investigation of suspect vessels located in the territory or waters of the first Party.

11. Any injury to or loss of life of a law enforcement official of a Party shall normally be remedied in accordance with the laws of that Party. Any other claim submitted for damage, injury, death or loss resulting from an operation carried out under this Agreement shall be processed, considered, and if merited, resolved in favor of the claimant by the Party whose officials conducted the operation, in accordance with the domestic law of that Party, and in a manner consistent with international law. If any loss, injury or death is suffered as a result of any action taken by the law enforcement or other officials of one Party in contravention of this Agreement, or any improper or unreasonable action is taken by a Party pursuant thereto, the Parties shall, without prejudice to any other legal rights which may be available, consult at the request of either Party to resolve the matter and decide any questions relating to compensation.

12. Disputes arising from the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

13. The Parties agree to consult, on at least an annual basis, to evaluate the implementation of this Agreement and to consider enhancing its effectiveness, including the preparation of amendments to this Agreement that take into account increased operational capacity of the [STATE TWO]'s law enforcement authorities and officials. In case a difficulty arises concerning the operation of this Agreement, either Party may request consultations with the other Party to resolve the matter.

14. Nothing in this Agreement is intended to alter the rights and privileges due any individual in any legal proceeding.

15. Nothing in this Agreement shall prejudice the position of either Party with regard to the international law of the sea.

### VIII. ENTRY INTO FORCE AND DURATION

1. This Agreement shall enter into force upon exchange of notes indicating that the necessary internal procedures of each Party have been completed.

2. This Agreement shall be registered with the Secretary-General of the United Nations for purposes of publication in accordance with article 102 of the Charter of the United Nations.

3. This Agreement may be terminated at any time by either Party upon written notification to the other Party through the diplomatic channel. Such termination shall take effect one year from the date of notification.

4. This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement during the time that it was in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE AT \_\_\_\_\_, [STATE TWO], this first day of \_\_\_\_\_, 20\_\_, in duplicate in the \_\_\_\_\_ and \_\_\_\_\_ languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE  
[STATE ONE] :  
/s/  
Ambassador  
[STATE ONE]

FOR THE GOVERNMENT OF  
[STATE TWO]:  
/s/  
Minister of Government,  
[STATE TWO]

APPENDIX 6: COUNTERDRUG OPERATIONS

**Appendix 6-14: ASD Memo – Policy Definition of “Narcoterrorism”, 12 APR 04**

See next page.



THE ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301-2500

APR 12 2004

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTOR, DEFENSE INTELLIGENCE AGENCY  
DIRECTOR, DEFENSE SECURITY COOPERATION AGENCY  
DIRECTOR, NATIONAL SECURITY AGENCY  
DEPUTY UNDER SECRETARY OF DEFENSE FOR  
READINESS  
DEPUTY UNDER SECRETARY OF DEFENSE  
FOR RESOURCE PLANNING AND MANAGEMENT  
DIRECTOR, JOINT STAFF  
CHIEF, NATIONAL GUARD BUREAU

SUBJECT: Policy Definition of "Narcoterrorism"

To assist the Combatant Commands developing and implementing new strategies against terrorism linked to drug trafficking, several of the Commands asked us to review and, as appropriate, revise the definition for narcoterrorism contained in DoD publications.

The Deputy Assistant Secretary of Defense for Counternarcotics previously defined the term "Counterdrug Activities" (Memorandum, 23 Oct 2002) as:

- Those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to narcotics trafficking.
- This includes, but is not limited to, measures taken to detect, interdict, disrupt, or curtail activities related to substances, material, weapons, or resources used to finance, support, secure, cultivate, process, and/or transport illegal drugs.

This definition allows the Combatant Commanders to use the Department's counternarcotics authorities and funds to assist in the War on Terrorism when an illegal drug nexus is known or suspected. The Department and the interagency have recognized the growing links between terrorism and drug trafficking and have begun using counternarcoterrorist as a term to reflect those links.



The current definition for narcoterrorism contained in Joint Pubs does not reflect the terrorist linkage, but rather tools that could be used by drug traffickers, such as assassinations, extortion, hijackings and bombings. We believe that the definition should, instead, be adapted to reflect terrorists' exploitation of narcotics trafficking to support terrorist activities.

In coordination with the Joint Staff, and within the context of supporting the activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency; we define the term "narcoterrorism" as:

**Narco-terrorism: Terrorism that is linked to drug trafficking. Two separate, but related, types of narco-terrorism exist: (1) narco-driven terrorism, which is terrorism conducted by drug traffickers to further their aims of drug trafficking; and (2) narco-supported terrorism, which is terrorism that benefits from or uses drug trafficking to further terrorist individual or group activities.**

Questions regarding this policy shall be directed to the Office of the Deputy Assistant Secretary of Defense for Counternarcotics.



Thomas W. O'Connell

<sup>1</sup> Joint Pub 1-02, DoD Dictionary of Military and Associated Terms, 12 Apr 01 As Amended through 5 Sep 03 (page 355) and Joint Pub 3-07.4 Joint Counterdrug Operations, 17 Feb 98 (page GL-16).

**Appendix 6-15: CNGB Memo, Implementation of Procedures for Handling Requests for Counterdrug Narcoterrorist Support, 2 JUN 2006**

See next page.

## APPENDIX 6: COUNTERDRUG OPERATIONS



DEPARTMENT OF THE ARMY AND THE AIR FORCE  
NATIONAL GUARD BUREAU  
1411 JEFFERSON DAVIS HIGHWAY  
ARLINGTON, VA 22202-4331

6 2 JUN 2006

NGB-J3-CD

MEMORANDUM FOR THE ADJUTANTS GENERAL OF ALL STATES, PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM AND THE COMMANDING GENERAL OF THE DISTRICT OF COLUMBIA

SUBJECT: Implementation of Procedures for Handling Requests for Counterdrug Narcoterrorist Support

1. It is well established that drug trafficking and terrorism are often linked. Some Terrorist organizations provide protection and support to drug traffickers, and drug profits fund terrorist activities. Since the attacks of September 11, 2001, Counterdrug assets are increasingly requested to provide support to the Global War on Terror (GWOT). In recognition of the connection between drugs and terrorism, and in order to facilitate support to law enforcement agencies (LEAs) engaged in activities involving narco-terrorism and as directed in the All States Memorandum 22 December 2005, the following guidance is provided.
2. Counterdrug funds may be used for the purpose of drug interdiction and Counterdrug activities in which drug traffickers use terrorism to further their aims of drug trafficking. Requests for such support will be handled in accordance with NGR 500-2.
3. Counterdrug funds may be used for the purpose of drug interdiction and Counterdrug activities in which terrorists benefit from or use drug trafficking to further the individual, group and/or organization's terrorist activities. Requests for such support will be handled in accordance with NGR 500-2, and must include the following evidence as applicable:
  - a. Evidence that the activity for which the LEA is requesting support involves a terrorist individual and/or organization. Such evidence does not have to show with certainty that a terrorist individual, group and/or organization is involved but should establish a substantial basis for concluding such involvement. Evidence such that a reasonable person could conclude that a terrorist individual, group and/or organization is involved is satisfactory. This can be done by showing the basis of knowledge for such belief and the truthfulness thereof. Unsupported, conclusory statements are insufficient.
  - b. Evidence that the identified terrorist individual and/or organization receives support through the sale and/or trafficking of drugs. Such evidence does not have



## APPENDIX 6: COUNTERDRUG OPERATIONS

NGB-J3-CD

SUBJECT: Implementation of Procedures for Handling Requests for Counterdrug Narcoterrorist Support

to establish that specific acts of the identified terrorist individual, group and/or organization are being or have been funded through the sale and/or trafficking of drugs. Evidence such that a reasonable person could conclude that the individual, group and/or organization receives funding from drug trafficking and/or sales is satisfactory. Unsupported conclusory statements are insufficient.

4. Information received pursuant to the requirements of Paragraph 3 will be retained for administrative purposes. All such materials will be marked "LAW ENFORCEMENT SENSITIVE" and treated as though classified as "SECRET". Such information will be disposed of in accordance with the applicable disposition schedules and procedures pertaining to materials classified as "SECRET".

5. States will retain their existing mission approval procedures, however, a new mission request is required for each mission involving narco-terrorism. Each narco-terrorism mission will be entered in CIMS and identified as such.

6. NGR 500-2 / ANGI 10-801 will be updated to include the following:

a. The following definitions will be added:

(1) "Counterdrug activities" means those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to narcotics trafficking. This includes, but is not limited to, measures taken to detect, interdict, disrupt, or curtail activities related to substances, material weapons, or resources used to finance, support, secure, cultivate, process and/or transport illegal drugs.

(2) "Narco-terrorism" means terrorism that is linked to drug trafficking. There are two separate, but related, types of narco-terrorism: (1) narco-driven terrorism, which is terrorism conducted by drug traffickers to further their aims of drug trafficking; and (2) narco-supported terrorism, which is terrorism that benefits from or uses drug trafficking to further terrorist individual or group activities.

b. The procedure for handling narco-terrorism support requests, as detailed in Paragraphs 3, 4 and 5 above.

7. Beginning in FY '07, governor's state plans may include counterdrug narco-terrorist support to law enforcement agencies or agencies that support law enforcement.

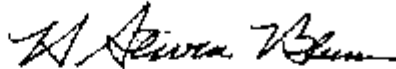
8. A sample Request for Counterdrug Narco-terrorist Support for Operations Involving Terrorists Groups Who Benefit From or Use Drug Trafficking is enclosed

## APPENDIX 6: COUNTERDRUG OPERATIONS

NGB-J3-CD

SUBJECT: Implementation of Procedures for Handling Requests for Counterdrug Narcoterrorist Support

9. Point of contact is Col Earl Bell at DSN 327-5647 or Commercial (703) 607-5647.



H STEVEN BLUM  
Lieutenant General, US Army  
Chief, National Guard Bureau

2 Encs

1. Request Format
2. Request Example

CF:

NGB-J3

NGB-J3-CD

NGB-JA

Each State CoS

Each State JA

Each State USPFO

Each State POTO

Each State Counterdrug Coordinator

**SAMPLE**  
**AGENCY LETTERHEAD**

**TO:** CDC  
Office Symbol  
Address  
City, State Zip

**DATE**

**RE:** Request for Counterdrug Narcoterrorist Support for Operations Involving Terrorists Groups Who Benefit From or Use Drug Trafficking

1. Please provide a brief outline of the type of support required, including time period.
2. Please provide evidence that the activity for which you are requesting support involves an individual, group and/or organization that engages in terrorist activities. Such evidence does not have to show with certainty that a terrorist individual, group and/or organization is involved but should establish a substantial basis for concluding such involvement. Evidence such that a reasonable person could conclude that a terrorist individual, group and/or organization is involved is satisfactory. This can be done by showing the basis of knowledge for such belief and the truthfulness thereof. Unsupported, conclusory statements are insufficient.
3. Please provide evidence that the identified terrorist individual, group and/or organization receives support from the sale and/or trafficking of illegal drugs. Such evidence does not have to establish that specific acts of the identified terrorist individual, group and/or organization are being or have been funded through the sale and/or trafficking of drugs. Evidence such that a reasonable person could conclude that the individual, group and/or organization receives funding from drug trafficking and/or sales is satisfactory. Unsupported, conclusory statements are insufficient.
4. Include a Point of Contact name, telephone and fax number for coordination purposes. To expedite processing, a copy of the request may be faxed to (XXX) XXX-XXXX, and mail the original to the above listed address. Your agency will be contacted upon receipt of the request.

**Signature**

Name (Agency Official)

Authorized Signature

(If you have any questions about how to complete this and any other paperwork required for National Guard Support, or if you would like to know more about National Guard Counterdrug Support call our Operations Section, (XXX) XXX-XXXX

**SAMPLE**

**AGENCY LETTERHEAD**

**TO:** CDC  
Office Symbol  
Address  
City, State Zip

**DATE**

**RE.** Request for Counterdrug Narcoterrorist Support for Operations Involving Terrorists Groups Who Benefit From or Use Drug Trafficking

1. We have received information that a member of Hizballah may attempt to bring components of a weapon of mass destruction (WMD) across the US/Mexico border, vicinity Eagle Crossing. Please provide reconnaissance assistance, either aerial or ground, of this location between April 25-28, 2006.

2. We were provided information from a confidential informant that a member or members of Hizballah may attempt to smuggle components of a WMD into the United States. On at least two prior occasions, information provided by this informant was found to be truthful and accurate. Additionally, the informant provided information that between March 13th and 17th, two individuals traveling on Syrian passports entered Mexico via a flight from London to Mexico City. We have verified that this information is correct.

3. Hizballah has been designated a foreign terrorist organization by the US Department of State. Additionally, it is known to generate significant income by controlling the sale of various types of contraband, including drugs, liquor, cigarettes, weapons, and forged documents. Intelligence suggests that a large sum of the earnings from these illegal activities goes in support of the operatives' respective organizations in Lebanon.  
Sources: <http://www.state.gov/s/br/rlr/2002/03/0303167.htm>  
<http://www.uscib.gov/idea/cuba/2002/05/050903031.htm>

4. If you have any questions or require additional information, please contact Special Agent R. Paul Coltrane, (202) 555-1212, (fax) 555-1414.

**Signature**

5/1/06

Special Agent R. Coltrane

**APPENDIX 7**

**MILITARY SUPPORT TO SPECIAL EVENTS**

**APPENDIX 7-1: 10 U.S.C. § 422 – Use of funds for certain incidental purposes**

**Sec. 422. - Use of funds for certain incidental purposes**

(a) Counterintelligence official reception and representation expenses. The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters.

(b) Promotional items for recruitment purposes. The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.

**APPENDIX 7-2: 10 U.S.C. § 2012 - Support and Services for Eligible Organizations and Activities Outside the Department of Defense**

**Sec. 2012. - Support and services for eligible organizations and activities outside Department of Defense**

**(a) Authority To Provide Services and Support. -**

Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may in accordance with this section authorize units or individual members of the armed forces under that Secretary's jurisdiction to provide support and services to non-Department of Defense organizations and activities specified in subsection (e), but only if -

- (1) such assistance is authorized by a provision of law (other than this section); or
- (2) the provision of such assistance is incidental to military training.

**(b) Scope of Covered Activities Subject to Section. -**

This section does not -

- (1) apply to the provision by the Secretary concerned, under regulations prescribed by the Secretary of Defense, of customary community relations and public affairs activities conducted in accordance with Department of Defense policy; or
- (2) prohibit the Secretary concerned from encouraging members of the armed forces under the Secretary's jurisdiction to provide volunteer support for community relations activities under regulations prescribed by the Secretary of Defense.

**(c) Requirement for Specific Request. -**

Assistance under subsection (a) may only be provided if -



## APPENDIX 7: SPECIAL EVENTS

(1) the assistance is requested by a responsible official of the organization to which the assistance is to be provided; and

(2) the assistance is not reasonably available from a commercial entity or (if so available) the official submitting the request for assistance certifies that the commercial entity that would otherwise provide such services has agreed to the provision of such services by the armed forces.

### (d) Relationship to Military Training. -

(1) Assistance under subsection (a) may only be provided if the following requirements are met:

(A) The provision of such assistance -

(i) in the case of assistance by a unit, will accomplish valid unit training requirements; and

(ii) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member.

(B) The provision of such assistance will not adversely affect the quality of training or otherwise interfere with the ability of a member or unit of the armed forces to perform the military functions of the member or unit.

(C) The provision of such assistance will not result in a significant increase in the cost of the training.

(2) Subparagraph (A)(i) of paragraph (1) does not apply in a case in which the assistance to be provided consists primarily of military manpower and the total amount of such assistance in the case of a particular project does not exceed 100 man-hours.

### (e) Eligible Entities. -

The following organizations and activities are eligible for assistance under this section:

(1) Any Federal, regional, State, or local governmental entity.

(2) Youth and charitable organizations specified in section [508](#) of title [32](#).

(3) Any other entity as may be approved by the Secretary of Defense on a case-by-case basis.

### (f) Regulations. -

The Secretary of Defense shall prescribe regulations governing the provision of assistance under this section. The regulations shall include the following:

(1) Rules governing the types of assistance that may be provided.

(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance -

(A) meets a valid need; and

## APPENDIX 7: SPECIAL EVENTS

**(B)** does not duplicate other available public services.

**(4)** Procedures to ensure that Department of Defense resources are not applied exclusively to the program receiving the assistance.

**(g)** Treatment of Member's Participation in Provision of Support or Services. -

**(1)** The Secretary of a military department may not require or request a member of the armed forces to submit for consideration by a selection board (including a promotion board, command selection board, or any other kind of selection board) evidence of the member's participation in the provision of support and services to non-Department of Defense organizations and activities under this section or the member's involvement in, or support of, other community relations and public affairs activities of the armed forces.

**(2)** Paragraph (1) does not prevent a selection board from considering material submitted voluntarily by a member of the armed forces which provides evidence of the participation of that member or another member in activities described in that paragraph.

**(h)** Advisory Councils. -

**(1)** The Secretary of Defense shall encourage the establishment of advisory councils at regional, State, and local levels, as appropriate, in order to obtain recommendations and guidance concerning assistance under this section from persons who are knowledgeable about regional, State, and local conditions and needs.

**(2)** The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

**(3)** The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

**(i)** Construction of Provision. -

Nothing in this section shall be construed as authorizing -

**(1)** the use of the armed forces for civilian law enforcement purposes or for response to natural or manmade disasters; or

**(2)** the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.

**(j)** Oversight and Cost Accounting. -

The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with this section. The program shall include measures to accomplish the following:

**(1)** Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

- (2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.
- (3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).
- (4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.
- (5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved

Source: <http://www4.law.cornell.edu/uscode/10/2012.html>

### **APPENDIX 7-3: 10 U.S.C. § 2554 - PROVISION OF SUPPORT FOR CERTAIN SPORTING EVENTS**

#### **Sec. 2554. - Equipment and other services: Boy Scout Jamborees**

- (a) The Secretary of Defense is hereby authorized, under such regulations as he may prescribe, to lend to the Boy Scouts of America, for the use and accommodation of Scouts, Scouters, and officials who attend any national or world Boy Scout Jamboree, such cots, blankets, commissary equipment, flags, refrigerators, and other equipment and without reimbursement, furnish services and expendable medical supplies, as may be necessary or useful to the extent that items are in stock and items or services are available.
- (b) Such equipment is authorized to be delivered at such time prior to the holding of any national or world Boy Scout Jamboree, and to be returned at such time after the close of any such jamboree, as may be agreed upon by the Secretary of Defense and the Boy Scouts of America. No expense shall be incurred by the United States Government for the delivery, return, rehabilitation, or replacement of such equipment.
- (c) The Secretary of Defense, before delivering such property, shall take from the Boy Scouts of America, good and sufficient bond for the safe return of such property in good order and condition, and the whole without expense to the United States.
- (d) The Secretary of Defense is hereby authorized under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for
  - (1) those Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America at any national or world Boy Scout Jamboree, and
  - (2) the equipment and property of such Boy Scouts, Scouters, and officials and the property loaned to the Boy Scouts of America, by the Secretary of Defense pursuant to this section to the extent that such transportation will not interfere with the requirements of military operations.
- (e) Before furnishing any transportation under subsection (d), the Secretary of Defense shall take from the Boy Scouts of America, a good and sufficient bond for the reimbursement to the United States by the Boy Scouts of America, of the actual costs of transportation furnished under this section.

(f) Amounts paid to the United States to reimburse it for expenses incurred under subsection (b) and for the actual costs of transportation furnished under subsection (d) shall be credited to the current applicable appropriations or funds to which such expenses and costs were charged and shall be available for the same purposes as such appropriations or funds.

(g) In the case of a Boy Scout Jamboree held on a military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support authorized under subsections (a) and (d).

(h) Other departments of the Federal Government are authorized, under such regulations as may be prescribed by the Secretary thereof, to provide to the Boy Scouts of America, equipment and other services, under the same conditions and restrictions prescribed in the preceding subsections for the Secretary of Defense

Source: <http://www4.law.cornell.edu/uscode/10/2554.html>

## **APPENDIX 7-4: HSPD 7 – CRITICAL INFRASTRUCTURE IDENTIFICATION, PRIORITIZATION, AND PROTECTION**

### **Purpose**

(1) This directive establishes a national policy for Federal departments and agencies to identify and prioritize United States critical infrastructure and key resources and to protect them from terrorist attacks.

### **Background**

(2) Terrorists seek to destroy, incapacitate, or exploit critical infrastructure and key resources across the United States to threaten national security, cause mass casualties, weaken our economy, and damage public morale and confidence.

(3) America's open and technologically complex society includes a wide array of critical infrastructure and key resources that are potential terrorist targets. The majority of these are owned and operated by the private sector and State or local governments. These critical infrastructures and key resources are both physical and cyber-based and span all sectors of the economy.

(4) Critical infrastructure and key resources provide the essential services that underpin American society. The Nation possesses numerous key resources, whose exploitation or destruction by terrorists could cause catastrophic health effects or mass casualties comparable to those from the use of a weapon of mass destruction, or could profoundly affect our national prestige and morale. In addition, there is critical infrastructure so vital that its incapacitation, exploitation, or destruction, through terrorist attack, could have a debilitating effect on security and economic well-being.

(5) While it is not possible to protect or eliminate the vulnerability of all critical infrastructure and key resources throughout the country, strategic improvements in security can make it more difficult for attacks to succeed and can lessen the impact of attacks that may occur. In addition to strategic security enhancements, tactical security improvements can be rapidly implemented to deter, mitigate, or neutralize potential attacks.

### **Definitions**

(6) In this directive:

## APPENDIX 7: SPECIAL EVENTS

- (a) The term "critical infrastructure" has the meaning given to that term in section 1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C. 5195c(e)).
- (b) The term "key resources" has the meaning given that term in section 2(9) of the Homeland Security Act of 2002 (6 U.S.C. 101(9)).
- (c) The term "the Department" means the Department of Homeland Security.
- (d) The term "Federal departments and agencies" means those executive departments enumerated in 5 U.S.C. 101, and the Department of Homeland Security; independent establishments as defined by 5 U.S.C. 104(1); Government corporations as defined by 5 U.S.C. 103(1); and the United States Postal Service.
- (e) The terms "State," and "local government," when used in a geographical sense, have the same meanings given to those terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).
- (f) The term "the Secretary" means the Secretary of Homeland Security.
- (g) The term "Sector-Specific Agency" means a Federal department or agency responsible for infrastructure protection activities in a designated critical infrastructure sector or key resources category. Sector-Specific Agencies will conduct their activities under this directive in accordance with guidance provided by the Secretary.
- (h) The terms "protect" and "secure" mean reducing the vulnerability of critical infrastructure or key resources in order to deter, mitigate, or neutralize terrorist attacks.

### **Policy**

- (7) It is the policy of the United States to enhance the protection of our Nation's critical infrastructure and key resources against terrorist acts that could:
  - (a) cause catastrophic health effects or mass casualties comparable to those from the use of a weapon of mass destruction;
  - (b) impair Federal departments and agencies' abilities to perform essential missions, or to ensure the public's health and safety;
  - (c) undermine State and local government capacities to maintain order and to deliver minimum essential public services;
  - (d) damage the private sector's capability to ensure the orderly functioning of the economy and delivery of essential services;
  - (e) have a negative effect on the economy through the cascading disruption of other critical infrastructure and key resources; or
  - (f) undermine the public's morale and confidence in our national economic and political institutions.
- (8) Federal departments and agencies will identify, prioritize, and coordinate the protection of critical infrastructure and key resources in order to prevent, deter, and mitigate the effects of deliberate efforts to destroy, incapacitate, or exploit them. Federal departments and agencies will work with State and local governments and the private sector to accomplish this objective.

## APPENDIX 7: SPECIAL EVENTS

(9) Federal departments and agencies will ensure that homeland security programs do not diminish the overall economic security of the United States.

(10) Federal departments and agencies will appropriately protect information associated with carrying out this directive, including handling voluntarily provided information and information that would facilitate terrorist targeting of critical infrastructure and key resources consistent with the Homeland Security Act of 2002 and other applicable legal authorities.

(11) Federal departments and agencies shall implement this directive in a manner consistent with applicable provisions of law, including those protecting the rights of United States persons.

### **Roles and Responsibilities of the Secretary**

(12) In carrying out the functions assigned in the Homeland Security Act of 2002, the Secretary shall be responsible for coordinating the overall national effort to enhance the protection of the critical infrastructure and key resources of the United States. The Secretary shall serve as the principal Federal official to lead, integrate, and coordinate implementation of efforts among Federal departments and agencies, State and local governments, and the private sector to protect critical infrastructure and key resources.

(13) Consistent with this directive, the Secretary will identify, prioritize, and coordinate the protection of critical infrastructure and key resources with an emphasis on critical infrastructure and key resources that could be exploited to cause catastrophic health effects or mass casualties comparable to those from the use of a weapon of mass destruction.

(14) The Secretary will establish uniform policies, approaches, guidelines, and methodologies for integrating Federal infrastructure protection and risk management activities within and across sectors along with metrics and criteria for related programs and activities.

(15) The Secretary shall coordinate protection activities for each of the following critical infrastructure sectors: information technology; telecommunications; chemical; transportation systems, including mass transit, aviation, maritime, ground/surface, and rail and pipeline systems; emergency services; and postal and shipping. The Department shall coordinate with appropriate departments and agencies to ensure the protection of other key resources including dams, government facilities, and commercial facilities. In addition, in its role as overall cross-sector coordinator, the Department shall also evaluate the need for and coordinate the coverage of additional critical infrastructure and key resources categories over time, as appropriate.

(16) The Secretary will continue to maintain an organization to serve as a focal point for the security of cyberspace. The organization will facilitate interactions and collaborations between and among Federal departments and agencies, State and local governments, the private sector, academia and international organizations. To the extent permitted by law, Federal departments and agencies with cyber expertise, including but not limited to the Departments of Justice, Commerce, the Treasury, Defense, Energy, and State, and the Central Intelligence Agency, will collaborate with and support the organization in accomplishing its mission. The organization's mission includes analysis, warning, information sharing, vulnerability reduction, mitigation, and aiding national recovery efforts for critical infrastructure information systems. The organization will support the Department of Justice and other law enforcement agencies in their continuing missions to investigate and prosecute threats to and attacks against cyberspace, to the extent permitted by law.

(17) The Secretary will work closely with other Federal departments and agencies, State and local governments, and the private sector in accomplishing the objectives of this directive.

### **Roles and Responsibilities of Sector-Specific Federal Agencies**

## APPENDIX 7: SPECIAL EVENTS

(18) Recognizing that each infrastructure sector possesses its own unique characteristics and operating models, there are designated Sector-Specific Agencies, including:

- (a) Department of Agriculture -- agriculture, food (meat, poultry, egg products);
- (b) Health and Human Services -- public health, healthcare, and food (other than meat, poultry, egg products);
- (c) Environmental Protection Agency -- drinking water and water treatment systems;
- (d) Department of Energy -- energy, including the production refining, storage, and distribution of oil and gas, and electric power except for commercial nuclear power facilities;
- (e) Department of the Treasury -- banking and finance;
- (f) Department of the Interior -- national monuments and icons; and
- (g) Department of Defense -- defense industrial base.

(19) In accordance with guidance provided by the Secretary, Sector-Specific Agencies shall:

- (a) collaborate with all relevant Federal departments and agencies, State and local governments, and the private sector, including with key persons and entities in their infrastructure sector;
- (b) conduct or facilitate vulnerability assessments of the sector; and
- (c) encourage risk management strategies to protect against and mitigate the effects of attacks against critical infrastructure and key resources.

(20) Nothing in this directive alters, or impedes the ability to carry out, the authorities of the Federal departments and agencies to perform their responsibilities under law and consistent with applicable legal authorities and presidential guidance.

(21) Federal departments and agencies shall cooperate with the Department in implementing this directive, consistent with the Homeland Security Act of 2002 and other applicable legal authorities.

### **Roles and Responsibilities of Other Departments, Agencies, and Offices**

(22) In addition to the responsibilities given the Department and Sector-Specific Agencies, there are special functions of various Federal departments and agencies and components of the Executive Office of the President related to critical infrastructure and key resources protection.

- (a) The Department of State, in conjunction with the Department, and the Departments of Justice, Commerce, Defense, the Treasury and other appropriate agencies, will work with foreign countries and international organizations to strengthen the protection of United States critical infrastructure and key resources.
- (b) The Department of Justice, including the Federal Bureau of Investigation, will reduce domestic terrorist threats, and investigate and prosecute actual or attempted terrorist attacks on, sabotage of, or disruptions of critical infrastructure and key resources. The Attorney General and the Secretary shall use applicable statutory authority and attendant mechanisms for cooperation and coordination, including but not limited to those established by presidential directive.

## APPENDIX 7: SPECIAL EVENTS

(c) The Department of Commerce, in coordination with the Department, will work with private sector, research, academic, and government organizations to improve technology for cyber systems and promote other critical infrastructure efforts, including using its authority under the Defense Production Act to assure the timely availability of industrial products, materials, and services to meet homeland security requirements.

(d) A Critical Infrastructure Protection Policy Coordinating Committee will advise the Homeland Security Council on interagency policy related to physical and cyber infrastructure protection. This PCC will be chaired by a Federal officer or employee designated by the Assistant to the President for Homeland Security.

(e) The Office of Science and Technology Policy, in coordination with the Department, will coordinate interagency research and development to enhance the protection of critical infrastructure and key resources.

(f) The Office of Management and Budget (OMB) shall oversee the implementation of government-wide policies, principles, standards, and guidelines for Federal government computer security programs. The Director of OMB will ensure the operation of a central Federal information security incident center consistent with the requirements of the Federal Information Security Management Act of 2002.

(g) Consistent with the E-Government Act of 2002, the Chief Information Officers Council shall be the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of information resources of Federal departments and agencies.

(h) The Department of Transportation and the Department will collaborate on all matters relating to transportation security and transportation infrastructure protection. The Department of Transportation is responsible for operating the national air space system. The Department of Transportation and the Department will collaborate in regulating the transportation of hazardous materials by all modes (including pipelines).

(i) All Federal departments and agencies shall work with the sectors relevant to their responsibilities to reduce the consequences of catastrophic failures not caused by terrorism.

(23) The heads of all Federal departments and agencies will coordinate and cooperate with the Secretary as appropriate and consistent with their own responsibilities for protecting critical infrastructure and key resources.

(24) All Federal department and agency heads are responsible for the identification, prioritization, assessment, remediation, and protection of their respective internal critical infrastructure and key resources. Consistent with the Federal Information Security Management Act of 2002, agencies will identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of information.

### **Coordination with the Private Sector**

(25) In accordance with applicable laws or regulations, the Department and the Sector-Specific Agencies will collaborate with appropriate private sector entities and continue to encourage the development of information sharing and analysis mechanisms. Additionally, the Department and Sector-Specific Agencies shall collaborate with the private sector and continue to support sector-coordinating mechanisms:

(a) to identify, prioritize, and coordinate the protection of critical infrastructure and key resources; and

(b) to facilitate sharing of information about physical and cyber threats, vulnerabilities, incidents, potential protective measures, and best practices.



**National Special Security Events**

(26) The Secretary, after consultation with the Homeland Security Council, shall be responsible for designating events as "National Special Security Events" (NSSEs). This directive supersedes language in previous presidential directives regarding the designation of NSSEs that is inconsistent herewith.

**Implementation**

(27) Consistent with the Homeland Security Act of 2002, the Secretary shall produce a comprehensive, integrated National Plan for Critical Infrastructure and Key Resources Protection to outline national goals, objectives, milestones, and key initiatives within 1 year from the issuance of this directive. The Plan shall include, in addition to other Homeland Security-related elements as the Secretary deems appropriate, the following elements:

- (a) a strategy to identify, prioritize, and coordinate the protection of critical infrastructure and key resources, including how the Department intends to work with Federal departments and agencies, State and local governments, the private sector, and foreign countries and international organizations;
- (b) a summary of activities to be undertaken in order to: define and prioritize, reduce the vulnerability of, and coordinate the protection of critical infrastructure and key resources;
- (c) a summary of initiatives for sharing critical infrastructure and key resources information and for providing critical infrastructure and key resources threat warning data to State and local governments and the private sector; and
- (d) coordination and integration, as appropriate, with other Federal emergency management and preparedness activities including the National Response Plan and applicable national preparedness goals.

(28) The Secretary, consistent with the Homeland Security Act of 2002 and other applicable legal authorities and presidential guidance, shall establish appropriate systems, mechanisms, and procedures to share homeland security information relevant to threats and vulnerabilities in national critical infrastructure and key resources with other Federal departments and agencies, State and local governments, and the private sector in a timely manner.

(29) The Secretary will continue to work with the Nuclear Regulatory Commission and, as appropriate, the Department of Energy in order to ensure the necessary protection of:

- (a) commercial nuclear reactors for generating electric power and non-power nuclear reactors used for research, testing, and training;
- (b) nuclear materials in medical, industrial, and academic settings and facilities that fabricate nuclear fuel; and
- (c) the transportation, storage, and disposal of nuclear materials and waste.

(30) In coordination with the Director of the Office of Science and Technology Policy, the Secretary shall prepare on an annual basis a Federal Research and Development Plan in support of this directive.

(31) The Secretary will collaborate with other appropriate Federal departments and agencies to develop a program, consistent with applicable law, to geospatially map, image, analyze, and sort critical infrastructure and key resources by utilizing commercial satellite and airborne systems, and existing capabilities within other agencies. National technical means should be considered as an option of last resort. The Secretary, with advice from the Director of Central Intelligence, the Secretaries of Defense and the Interior, and the heads of other appropriate Federal departments and agencies, shall develop mechanisms for accomplishing this initiative. The Attorney General shall provide legal advice as necessary.

## APPENDIX 7: SPECIAL EVENTS

(32) The Secretary will utilize existing, and develop new, capabilities as needed to model comprehensively the potential implications of terrorist exploitation of vulnerabilities in critical infrastructure and key resources, placing specific focus on densely populated areas. Agencies with relevant modeling capabilities shall cooperate with the Secretary to develop appropriate mechanisms for accomplishing this initiative.

(33) The Secretary will develop a national indications and warnings architecture for infrastructure protection and capabilities that will facilitate:

- (a) an understanding of baseline infrastructure operations;
- (b) the identification of indicators and precursors to an attack; and
- (c) a surge capacity for detecting and analyzing patterns of potential attacks.

In developing a national indications and warnings architecture, the Department will work with Federal, State, local, and non-governmental entities to develop an integrated view of physical and cyber infrastructure and key resources.

(34) By July 2004, the heads of all Federal departments and agencies shall develop and submit to the Director of the OMB for approval plans for protecting the physical and cyber critical infrastructure and key resources that they own or operate. These plans shall address identification, prioritization, protection, and contingency planning, including the recovery and reconstitution of essential capabilities.

(35) On an annual basis, the Sector-Specific Agencies shall report to the Secretary on their efforts to identify, prioritize, and coordinate the protection of critical infrastructure and key resources in their respective sectors. The report shall be submitted within 1 year from the issuance of this directive and on an annual basis thereafter.

(36) The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs will lead a national security and emergency preparedness communications policy review, with the heads of the appropriate Federal departments and agencies, related to convergence and next generation architecture. Within 6 months after the issuance of this directive, the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall submit for my consideration any recommended changes to such policy.

(37) This directive supersedes [Presidential Decision Directive/NSC-63](#) of May 22, 1998 ("Critical Infrastructure Protection"), and any Presidential directives issued prior to this directive to the extent of any inconsistency. Moreover, the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall jointly submit for my consideration a Presidential directive to make changes in Presidential directives issued prior to this date that conform such directives to this directive.

(38) This directive is intended only to improve the internal management of the executive branch of the Federal Government, and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH

## APPENDIX 7-5: DODD 1100.20 - Support and Services for Eligible Organizations and Activities Outside the Department of Defense

### Department of Defense DIRECTIVE

NUMBER 1100.4  
August 20, 1954

Certified Current as of November 21, 2003

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SUBJECT: Guidance for Manpower Programs

References:(a) DoD Directive 1100.2, "Preparation, Evaluation and Administration of Manpower Programs," August 20, 1953

#### 1. PURPOSE

1.1. In accordance with reference (a), the Assistant Secretary of Defense (Manpower and Personnel) will issue each fiscal year guidance to be used by the Services in the preparation and administration of their manpower programs and will review such programs, military and civilian. This guidance will include the strengths to be used for programming and such detailed information, policies, and instructions as are pertinent to the fiscal year program under development.

1.2. The purpose of this Directive is to prescribe the continuing general manpower policies upon guidance such guidance shall be based.

#### 2. OBJECTIVE

Accomplish approved national military objectives with a minimum of manpower so organized and employed as to provide maximum effectiveness and combat power. To this end, each Service shall seek optimum personnel utilization, maintain a high level of personnel performance and morale, and accomplish missions with a minimum number of personnel.

#### 3. MANPOWER REQUIREMENTS

3.1. Each Service shall undertake only such programs as are actually essential, and shall program manpower requirements at the minimum necessary to achieve specific vital objectives.

3.2. Each Service shall program within the strengths confirmed by the Secretary of Defense with first priority assigned to major combat forces. Major combat units will be manned in accordance with Joint Chiefs of Staff guidance as approved by the Secretary of Defense. Remaining forces will be manned, within approved total strengths, adequately to support combat forces.

3.3. In areas which require military personnel only, manpower requirements shall be based upon applicable manning documents, with authorized strengths held to a minimum consistent with assigned tasks and missions. Civilian requirements will be determined on the basis of planning and workload factors with strengths maintained at the minimum necessary to accomplish the required tasks. In areas which require both military and civilian personnel, manpower requirements shall be determined as a total.

3.4. The highest practicable proportion of Operating Forces to total forces will be maintained. Within the Operating Forces emphasis will be placed on reducing support-type positions.

#### 4. PERSONNEL UTILIZATION

## APPENDIX 7: SPECIAL EVENTS

4.1. Management improvement programs will be pursued with a view toward correlating job requirements and personnel qualifications, preventing non-essential or marginal employment, and maintaining the grade requirement of each space consistent with the responsibility thereof.

4.2. Civilian personnel will be used in positions which do not require military incumbents for reasons of law, training, security, discipline, rotation, or combat readiness, which do not require a military background for successful performance of the duties involved, and which do not entail unusual hours not normally associated or compatible with civilian employment.

4.3. Maximum stability of personnel assignment and minimum rotation or turnover will be maintained to the extent consistent with requirements of training readiness, and morale. Voluntary enlistment and reenlistment will be emphasized and encouraged, in order to increase the level of training, experience, and combat readiness of our forces, and minimize involuntary induction.

4.4. Optimum performance, standards and discipline will be sought at all levels. To this end, command authority will be maintained commensurate with responsibility. Officer and noncommissioned officer responsibility and prestige will be safe-guarded by avoidance of over-centralization, over-supervision, or over-management.

4.5. No policy including fiscal policy will be established without full evaluation of its effect on morale and effectiveness of personnel. Manning levels of staffs, headquarters, attache posts, and similar assignments will be maintained at lowest practicable levels.

4.6. Travel time and costs will be maintained at lowest levels consistent with other requirements. The number of personnel in non-available status will be held as low as feasible. Specifically, time awaiting transportation, assignment, or trial will be minimized.

4.7. Indigenous personnel will be utilized to the maximum extent practicable consistent with security and the necessity of maintaining a high state of readiness.

4.8. Necessary steps will be taken to avoid all types of dual staffing of positions.

### 5. FACILITIES AND MATERIEL

In planning the establishment, activation, transfer, deployment or redeployment of units, consideration will be given to availability of facilities, present or planned, for housing, training and support. The phasing of personnel, facilities, equipment, and materiel will be coordinated.

### 6. TRAINING

6.1. Training programs will be based on the planned force structure, numbers of personnel presently qualified in each category, and the estimated gains and losses in each occupational category. Training time, costs, and overhead will be maintained as low as is consistent with training requirements. Large fluctuations in training loads will be avoided insofar as feasible.

6.2. In connection with the continuous review of standards and requirements for various types of specialties, emphasis will be given to training needs in critical specialties requiring extended training periods. Stress will be placed on utilizing to best advantage the quality of manpower actually available, particularly mentally qualified and motivated personnel with the required standards for training in special categories. Periods of productive service must be established which will give adequate return for cost of training.

6.3. Training in formal or technical schools will be utilized only to the extent to which training requirements exist which cannot be adequately or profitably met by on-the-job training. Formal training should be followed as soon as feasible by on-the-job application of learned skills.

## APPENDIX 7: SPECIAL EVENTS

6.4. Advanced training for short-term or non-career personnel and post-graduate instruction for officers will be limited to areas meeting definite needs of the Services.

6.5. Training facilities should be utilized at maximum practicable efficiency. The length of each course should be minimized to that required to accomplish the primary missions. The input of students should be phased to avoid peak loads, and overall load stabilized so as to permit minimum feasible overhead.

### 7. RESERVE FORCES

7.1. The Reserve components programs will be prepared in accordance with existing laws, on the basis of mobilization requirement, and the feasibility of meeting these requirements in the year programmed.

7.2. Personnel having a remaining Ready Reserve service obligation on release from active duty shall be informed immediately prior to such release of their duty, as prescribed by the Universal Military Training and Service Act, as amended, to participate in an accredited training program in the Ready Reserve. Such personnel shall, if qualified, and if a mobilization requirement exists in an available unit, be transferred upon their release from active duty to such unit of the Ready Reserve of the appropriate Reserve component for the remainder of their Ready Reserve service obligation unless sooner released because of availability of replacements.

7.3. Personnel participation in Reserve training program in a drill pay status will be limited to those personnel for whom mobilization requirements exist and who have been determined to be available upon mobilization.

7.4. Every effort will be made to reduce the turnover of personnel in Reserve units and to bring enlisted-officer ratios, and pay grade distribution within each into balance with requirements.

7.5. Emphasis will be placed on improving the training given the Reservists both as to quality and level of instruction and by improved administration within units.

/S/

Secretary of Defense

## APPENDIX 7-6: DODD 2000.15 - Support to Special Events

### Department of Defense DIRECTIVE

NUMBER 2000.15  
November 21, 1994

Certified Current as of December 8, 2003

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USD(P&R)

SUBJECT: Support to Special Events

#### References:

- (a) Assistant Secretary of Defense Memorandum, "DoD Defense Support to International Special Events," August 12, 1993 (hereby canceled)
- (b) Deputy Secretary of Defense Memorandum, "DoD Support to International Sporting Events," February 20, 1990 (hereby canceled)
- (c) Deputy Secretary of Defense Memorandum, "DoD Support to the 1990 Goodwill Games," October 24, 1988 (hereby canceled)
- (d) Secretary of Defense Memorandum, "DoD Support to International Sporting Events Held in the United States," July 11, 1988 (hereby canceled)

(e) through (h), see enclosure 1

1. PURPOSE

This Directive:

1.1. Supersedes references (a) through (g).

1.2. Establishes policy and assigns responsibilities for managing DoD support to international and national special events.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Defense Agencies (hereafter referred to collectively as "the DoD Components"). The term "Military Departments," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps (including their National Guard and Reserve components).

3. DEFINITIONS

3.1. Special Event. A planned program of athletic competition and related activities involving participants from the United States and/or other nations. Historic examples of such events are the Olympic Games, the Pan American Games, the World University Games, and the International Special Olympics. The Secretary of Defense may also designate non-athletic international or national events to receive support in accordance with this Directive. Historic examples of such non-athletic special events include Summits, World's Fairs, and the Universal Postal Union Congress.

3.2. Support. Support may include equipment, personnel, technical or managerial advice, or guidance. Support may be funded on a reimbursable basis or by specific appropriation.

4. POLICY

It is DoD policy that:

4.1. DoD resources may be used to provide support for international and national special events as authorized by law.

4.2. The Department of Defense may support such events with personnel and equipment, barring interference with primary DoD mission accomplishment, and in accordance with applicable laws and regulations.

4.3. Security-related support for the event shall have precedence over logistics assistance; however, logistics assistance may be provided if deemed appropriate and necessary, contingent on authorizing statutes and local community capabilities.

4.4. Support may either be on a reimbursable basis in accordance with DoD 7000.14-R, Volume 2, (reference (h)), or with appropriations specifically provided. The Department of Defense shall be considered the supplier of last resort.

4.5. Such support shall be provided in the most efficient manner. The central coordination and management function is deemed necessary and is assigned to the Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The DoD Components shall neither offer nor provide direct support to public and private organizations involved in sponsoring events covered by this Directive.

5. RESPONSIBILITIES

## APPENDIX 7: SPECIAL EVENTS

5.1. The Under Secretary of Defense for Personnel and Readiness shall manage all DoD support and activities for international and national special events and shall, in accordance with law and regulations, do the following:

5.1.1. Represent the Department of Defense with other Federal Agencies, State and local governments, and private organizers in planning and managing DoD support to international special events.

5.1.2. Develop policies, plans, and procedures for the delivery of DoD support to special events.

5.1.3. Manage the delivery of DoD personnel and equipment assets to special event organizers, State and local governments, and other bodies authorized to receive DoD support.

5.1.4. Manage the expenditure of appropriated funds or acquire reimbursement as directed by applicable laws and regulations.

5.1.5. Obtain materials, services, facilities, and equipment to be used for special event support activities through contracting or established supply channels operated by the Department of Defense or other Federal Agencies.

5.1.6. Establish and operate a system for delivering DoD assets to authorized recipients and for recovering loaned assets at the conclusion of the event.

5.1.7. Maintain a system for the management, storage, and maintenance of DoD equipment for use in special events, and maintain internal controls to ensure the security and accountability of DoD assets at all times.

5.1.8. Ensure the agency authorized to accept DoD assets provides a surety bond or other suitable insurance protection to cover the cost of lost, stolen, or damaged DoD property.

5.1.9. Establish and maintain effective liaison with the DoD Components for the timely exchange of information about special event projects.

5.1.10. Provide support to other events as directed by the Secretary of Defense.

5.2. The Heads of the DoD Components shall designate a Special Events Coordinator. The Coordinator shall notify the USD(P&R) of the designation within 90 days. The Coordinator shall be responsible for providing timely information and technical support to USD(P&R), to include ensuring that equipment and personnel resources are made available when requested by USD(P&R), within the constraints of operational requirements and the impact on readiness.

5.3. The Secretaries of the Military Departments shall assign Military Service personnel to USD(P&R) to support international special events. These assignments may be on a short-term basis for specific events, within the constraints of operational requirements and the impact on readiness.

### 6. EFFECTIVE DATE

This Directive is effective immediately.

/S/  
John M. Deutch  
Deputy Secretary of Defense

Enclosures - 1

E1. References, continued

E1. ENCLOSURE 1  
REFERENCES, continued

## APPENDIX 7: SPECIAL EVENTS

- (e) Deputy Secretary of Defense Memorandum, "DoD Support to the 1988 Winter and Summer Olympic Games," July 25, 1986 (hereby canceled)
- (f) Secretary of Defense Memorandum, "DoD Support to the 1987 Pan American Games," February 24, 1986 (hereby canceled)
- (g) Secretary of Defense Memorandum, "1984 Los Angeles Summer Olympic Games," September 27, 1982 (hereby canceled)
- (h) DoD 7000.14-R, "Department of Defense Financial Management Regulation," Volume 2A & 2B, "Budget Formulation and Presentation," June 1993

### **APPENDIX 7-7: IRT POLICY**

See next page.





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
MANPOWER AND RESERVE AFFAIRS  
111 ARMY PENTAGON  
WASHINGTON DC 20310-0111

March 28, 2000

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Innovative Readiness Training (IRT)

I am forwarding for your implementation the Army's policy and procedures for IRT projects (Civil Military Programs), outlined at the enclosure, as described in the DoD Directive 1100.20, Support and Services for Eligible Organizations and Activities Outside the Department of Defense, dated January 30, 1997. Please ensure subordinate units or staff elements that plan, manage or execute IRT projects receive and adhere to this guidance.

The Army point of contact for this policy is Lieutenant Colonel John Sone, at (703) 692-4125, DSN 222-4125, or e-mail at John.Sone@HQDA.Army.mil.

Patrick T. Henry  
Assistant Secretary of the Army  
(Manpower and Reserve Affairs)

Enclosure

DISTRIBUTION:  
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OASD(RA)

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**HQDA POLICY FOR INNOVATIVE READINESS TRAINING**

**POLICY.** IRT projects can create excellent partnerships between the requesting community organizations and the military. This training mission alternative for meeting mobilization readiness requirements can enhance morale and contribute to military recruiting and retention.

However, the primary goal of IRT is to accomplish military readiness training. Benefits to the community must be incidental. Therefore, units of the Army may be used to assist eligible organizations and activities in addressing community and civic needs of the United States, its territories and possessions and the Commonwealth of Puerto Rico when such assistance is incidental to military training and is authorized by law. Commanders must ensure that IRT does not result in task over-training.

Support and services provided shall protect military readiness, avoid competition with the private sector, and be coordinated with other Services and Army components to avoid duplication. Assistance may be provided if requested by an official of an eligible organization as specified by Section 508, Title 32, United States Code, the assistance is not available from a commercial entity, the support accomplishes mission essential training requirements that prepare Army units for operations in support of the National Military Strategy, the support provided is related to an individual soldier's military occupational specialty (MOS), and the support does not result in an increase in the cost of training. IRT projects will be planned events that are incorporated into future unit training plans and budgets and should not increase the cost of unit training.

The requirement that unit assistance accomplish a mission essential training requirement does not apply where the assistance to be provided consists primarily of military manpower and the total amount of assistance does not exceed 100 man hours. In these instances, most manpower requests will be met by volunteers, and any assistance other than manpower will be extremely limited. Army vehicles may be used, but only to provide transportation of personnel to and from the work site. The use of Army aircraft is prohibited.

**GUIDANCE.** Commanders exercising approval authority must ensure that IRT requests comply with the guidance provided in Section 2012, Title 10, United States Code, DOD Directive 1100.20, and the following DOD implementing guidance memoranda: subject: Policy Memorandum for Department of Defense (DoD) Innovative Readiness Training (DoDD 1100.20), dated August 21, 1998 (Tab A); and subject: Support and Services for Eligible Organizations Outside the Department of Defense, dated July 13, 1999 (Tab B).

**IRT REQUESTS THAT REQUIRE APPROVAL BY OASD (RA).** IRT projects requests that: (1) seek additional funding from OSD; and/or (2) seek support or services for any non-governmental organization (Federal, regional, state or local) which are not youth/charitable organizations specified in 32 USC 508, or (3) seek to reallocate IRT funds to another IRT project require OASD (RA) approval. MACOMs will revalidate annually all ongoing IRT requests that require approval by OASD (RA) to ensure compliance with Office of the Assistant Secretary of Defense for Reserve Affairs (OASD/RA) policy and guidance. Major Army Commands (MACOMs) will do this by submitting the approved IRT request with any changes that may have occurred during the fiscal year, through this office to OASD (RA). Additionally, MACOMs will forward requests for Civil Military Programs received directly from requestors for proposals which lack a military unit sponsor.

**APPROVAL AUTHORITY OF ARMY FUNDED IRT PROJECTS NOT REQUIRING OASD (RA) APPROVAL.** The authority to approve IRT projects submitted by qualifying non-DOD entities under Section 2012, Title 10, United States Code, and DOD Directive 1100.20 (i.e., Federal, regional, state, or local governmental entities, or youth/charitable organizations specified in 32 USC 508), is delegated to commanders of Major Commands (MACOMs). To streamline the approval process, the Army National Guard and Office, Chief Army Reserve will be considered MACOMs for approval and reporting of Reserve Components IRT projects. Approval authority may be further delegated to commanders of major subordinate commands, but may not be delegated further.

**PROCESSING OF IRT PROJECT REQUESTS THAT ARE ARMY FUNDED AND DO NOT REQUIRE OASD (RA) APPROVAL.** All IRT projects must be requested in writing, reviewed for full compliance with appropriate guidance, and approved in advance of initiation by the approval authority. Tab A contains the forms required to request IRT project approval. IRT packages require review and endorsement by the Staff Judge Advocate/Legal Officer; U. S. Property and Fiscal Officer or Federal Budget Officer; and Plans, Operations and Training officials. Additional endorsements may be required, when applicable, from medical, nursing, or dental officials; adjutant general of the project state; or inter-governmental agencies. Each packet must also include a cost analysis of the proposed project identifying the total program cost for each project, including costs that are borne by the military departments from their own accounts and those costs borne by defense wide accounts. The requesting commander must certify that the project will not increase the cost of the training above the amount the event would cost if it were conducted independent of an IRT project. All IRT submission packets must be approved by a general officer.

OASD(RA) requires that all IRT projects be tracked. Therefore, MACOMs will maintain a tracking log for all IRT approved at the MACOM or lower level, by fiscal

year. MACOMs will provide a copy of this log to OASA(M&RA) electronically upon request.

**AFTER ACTION REPORTS/OTHER REQUIRED REPORTS.** An After Action Report (AAR) must be completed for every IRT project. Forward all AARs through the chain of command and this office to OASD (RA) within 60 days of the project's completion. Follow the format in paragraph G of the OASD (RA) guidelines (Tab A). The mailing address for this office is: The Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), ATTN: SAMR-RAMRT, 111 Army Pentagon, Washington, DC 20310-0111. Additionally, the Army National Guard and Office, Chief Army Reserve will provide IRT approvals and AARs to Forces Command (FORSCOM), U. S. Army Pacific (USARPAC), or U. S. Army Special Operations Command (USASOC) as appropriate. In keeping with their training readiness oversight responsibilities as force providers and to ensure the Army is meeting the intent of Congress and the Department of Defense, FORSCOM, USARPAC, and USASOC will report to this office by September 30th each year an evaluation of the value of the training received by Army units and individuals conducting IRT projects. This office will use those reports to provide feedback, guidance, and policy.

**ARMY FUNDED IRT PROJECTS CROSSING MULTIPLE YEARS THAT DO NOT REQUIRE OASD (RA) APPROVAL.** Multiple IRT project requests may be packaged as a single IRT project and receive one approval when the request is from single organization and the support that will be provided comes from a single approval authority.

**ARMY FUNDED MULTIPLE IRT PROJECTS THAT DO NOT REQUIRE OASD (RA) APPROVAL.** A single approval is required for multiple IRT projects from a requesting organization that uses the same unit of the same training requirement. The units will submit an AAR after completion of each project. The requesting authority will revalidate the project before the beginning of each new fiscal year, and specifically address any changes to (1) eligibility of the requesting organization, (2) environmental considerations, and (3) statements of non-competition.

**ARMY FUNDED LONG-TERM ASSOCIATION WITH QUALIFYING NON-DOD AGENCIES.** Units may execute a memorandum of understanding (MOU) with qualified non-DOD Agencies for an extend period of time provided that (1) the MOU includes as an enclosure the "Request for Approval to Conduct the Following Civil-Military FYXX Training," (2) the unit submits an AAR after the completion of each project, and (3) the requesting unit revalidates the project before the beginning of each new fiscal year addressing eligibility of requesting organizations, environmental considerations and statements of non-competition.

Enclosures



ASSISTANT SECRETARY OF DEFENSE  
1500 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1500

P 8 JUL 1999

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE NAVY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(MANPOWER, RESERVE AFFAIRS, INSTALLATIONS &  
ENVIRONMENT)

SUBJECT: Policy Memorandum for Department of Defense (DoD) Innovative Readiness  
Training (DoDD 1100.20, "Support and Services for Eligible Organizations Outside  
the Department of Defense.")

This policy memorandum supplements the August 21, 1998, policy memorandum (same  
subject) and specifically outlines several Department procedural guidelines for the Innovative  
Readiness Training (IRT) program (attached). Please ensure that this memorandum has the  
broadest possible dissemination prior to this year's August 31 deadline for the submission of  
project proposals for fiscal year 2000.

In addition, I would like to recognize the efforts of the Air Force team for the timely  
publication of AF Instruction 36-2250 (Civil-Military Innovative Readiness Training, March 1,  
1999) – a job well done! DoDD 1100.20 (January 10, 1997) requires the military departments to  
promulgate guidance consistent with this directive.

As you are aware, the Innovative Readiness Training program provides valuable training  
for your commands, and your support of the program ensures continued success. If you have any  
questions, please contact my program manager, Col Diana Fleek at (703) 693-8618 (DSN 223),  
Fax (703) 697-6072, or email: [dfleek@osd.pentagon.mil](mailto:dfleek@osd.pentagon.mil).

  
Charles L. Cragin  
Acting

Attachment:  
As stated

cc:  
Mr. Smyser, DoD General Counsel

Tab B



**DEPARTMENT OF DEFENSE INNOVATIVE READINESS TRAINING (IRT)  
POLICY MEMORANDUM**

**Eligible Entities (10 U.S.C. 2012(e)(3))**

- Before ASD/RA designates any organization eligible to receive support and services, a service or component must submit a complete IRT package and OSD General Counsel must find the proposal without legal objection.

-- Packages must include the organization's bylaws and evidence of the organization's non-profit tax status. Tax documents that are more than 10 years old must have a re-certification letter.

-- ASD/RA designation letters will specify the fiscal year for which the project is approved and project name(s).

- ASD/RA may request that the Inspector General designate the IRT program as "high risk", vulnerable to fraud, waste and abuse. Such a request may result in an investigation or audit of the program.

**IRT Operations & Maintenance (O&M) Funding Expenditures**

- IRT O&M funds are authorized for expendable readiness training items only. They may include, but are not limited to: fuel; equipment lease; travel; training supplies; and incidental costs to support the training not normally provided for a deployment.

-- IRT O&M funds are not authorized for the payment of civilian manpower contracts (i.e., contracting a civilian labor force to perform duties related to readiness training activities).

**IRT O&M Funded Equipment and Related Item Accountability**

- IRT project managers are solely responsible for establishing life-cycle equipment management, maintaining property books, and making the final disposition of all equipment and related items after completion of the project.

-- Project managers should establish procedures that allow surplus items to be recycled through other IRT program offices for continued use within the IRT program.

- Project managers will submit equipment listings to OASD/RA upon request.

**Submission of Packages Requesting IRT Funding**

- IRT program managers shall submit project packages that request IRT funds for the next fiscal year to arrive at OASD/RA no later than 31 February each year, beginning with FY01 submissions.

-- The service or component chief must endorse these packages annually, stating that there is no significant increase in training costs associated with the conduct of the projects.

-- Lead agents for multi-service projects (e.g., Task Force Grizzly, REEF-EX, Operation Alaskan Road) must ensure that participating units submit requests through their chain of command prior to authorizing those units to train.

--- All units participating in multi-service projects (see above examples) will follow these guidelines even if they are not requesting additional funding from OASD/RA.

**Submission of Packages Requesting Authorization Without Additional Funding**

- IRT program managers may submit projects that do not request additional funding beyond that already approved from OASD/RA through their chain of command anytime throughout the year.

-- These project submissions must have flag or general officer signature but do not require the service or component chief endorsement cover letter.

- All project submissions must include service or component contributions in O&M and P&A amounts until units submit specific after action reports.



## ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1500

21 AUG 1998

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE NAVY (MANPOWER &  
RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(MANPOWER, RESERVE AFFAIRS, INSTALLATIONS &  
ENVIRONMENT)

SUBJECT: Policy Memorandum for Department of Defense (DoD) Innovative Readiness Training (DoDD 1100.20, "Support and Services for Eligible Organizations Outside the Department of Defense.")

This policy memorandum outlines the Department Guidelines for the Innovative Readiness (IRT) Program for FY 99 and beyond. As you are well aware, this program offers invaluable opportunities for our military units and individuals to conduct readiness training that enhances relationships with local civilian communities and offers real-world training situations.


The March 12, 1998 Government Accounting Office (GAO) report titled, "Civil Military Programs: Stronger Oversight of the Innovative Readiness Training Program Needed for Better Compliance" (GAO Code 703219/OSD Case 1534) made the following recommendations to the Department IRT program: stronger adherence to oversight procedures already in place is needed; modifications to those procedures are necessary, and more specific guidance on determining training cost should be established.

In accordance with the implementing language for IRT (Title 10 U. S. Code, Section 2012, "Support and Services for Eligible Organizations and Activities Outside Department of Defense"), the provision of assistance will not result in a significant increase in the cost of the training. Therefore, each Service and Component will account for total project costs of every IRT project, in After Action Reports submitted through command channels to OASD/RA. In addition, each Service and Component is responsible for determining if participation in an IRT project will significantly increase the cost of that training.

The attached DoD Directive, guidelines, project submission form, and Service/Component Cover letter establish the policy for ensuring that your IRT program is in concert with the GAO recommendations.



The Innovative Readiness Training Program provides valuable training opportunities for your commands. Your continued support of the program will ensure its success. If you have any questions, please contact me or my program manager, Col Diana Fleek at (703) 693-8618 (DSN 223), Fax (703) 697-6072, or email: [dfleek@osd.pentagon.mil](mailto:dfleek@osd.pentagon.mil).

A handwritten signature in black ink, appearing to read "Chanc", with a long horizontal flourish extending to the right.

Charles L. Cragin  
Acting

Attachments:  
As stated

cc:  
Mr. Smyser, DoD General Counsel

**SUBJECT: Innovative Readiness Training (IRT) Program Guidelines from the Office of the Assistant Secretary of Defense for Reserve Affairs**

**General**

These guidelines apply to any IRT project conducted under the authority of Section 2012 of Title 10, U.S. Code and DoD Directive 1100.20, dated January 30, 1997. A General/Flag Officer level signature is required on all project submissions. Each State and Organization have unique and specific legal requirements, therefore a legal review must be accomplished for each project to ensure that these legal requirements are satisfied. DoD and military leadership must ensure that they afford only the best support and services to the civilians they serve.

**A. PROGRAM TITLE:** Civil-Military Innovative Readiness Training (IRT). This program is a partnership between requesting community organizations and the military, therefore resource support is a "shared" responsibility. Individual IRT Projects provide commanders another option to meet their mobilization readiness requirements, enhancing morale and contributing to military recruiting and retention. As in overseas deployments, these projects should be incorporated into future unit training plans and budgets.

**B. FUNCTIONAL AREAS:** Engineering, Medical/Healthcare/Human Services, Transportation

**C. AUTHORITY:** Department of Defense Directive 1100.20, "Support and Services for Eligible Organizations and Activities Outside the Department of Defense," January 30, 1997.

**D. TERM AND CONDITIONS:** Approval to execute these projects is based on the following terms:

**All IRT project submissions shall: [Note the following 9 factors cover both guidelines (1-4) and requirements (5-9)]**

1. Consist of activities **essential** to the accomplishment of military readiness training and offer **incidental** benefits to the community in which the training activities occur.
2. Provide support and services that: (a) in the case of assistance by a unit, will accomplish valid unit training requirements; and, (b) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member and fall within the member's scope of duties.
3. Be conducted in a Federally-funded training status under Title 10 or Title 32, U.S.C. **NOTE:** The Federal Tort Claims Act applies to personnel operating within the scope of his or her duty for approved IRT projects for members in Title 10 or Title 32 status.
4. Not endorse, or favor any non-governmental entity (whether profit or non-profit), commercial venture, religion, sect, religious or sectarian group, or quasi-religious or ideological movement.
5. Identify a military officer responsible for conducting each project who will be responsible for:
  - (a) Obtaining all required documents for package submission, and
  - (b) Coordinating with other Service/Component POCs participating in the project (to include gathering final project costs for After Action Reports).
6. Include certification of non-competition with other available public and private sector service organizations.
7. Include review and endorsement by the military:
  - (a) Staff Judge Advocate/Legal Officer

## APPENDIX 7: SPECIAL EVENTS

(b) United States Property and Fiscal Officer (USPFO) or Federal Budget Officer responsible for obligating and disbursing federal funding to verify that:

- [1] supplies and equipment items are on the GSA schedule or local purchase and that the prices are fair and reasonable
  - [2] estimated cost for each project is delineated by Operation and Maintenance (O&M) and Pay and Allowances (P&A) for each Service or Component participating
  - [3] fiscal accountability be in accordance with current comptroller directives
- (c) Plans, Operations and/or Training officials
- (d) Medical, Nursing, or Dental officials (if applicable) for regulation compliance
- (e) Adjutant General of the project state(s)
- (f) Inter-governmental agencies (if applicable)

8. Include (if applicable):

- (a) Appropriate Environmental Protection Documentation
- (b) Coordination with the Army Corps of Engineers
- (c) Land Use Agreements

9. Identify emergency evacuation of civilians (if applicable) by other than military vehicles, except in the event of a life threatening emergency or other exigent circumstance as authorized by Military Service Regulation.

**All Medical IRT project submissions shall:**

1. Identify the Federal, regional, state, or local governmental Civilian Health Organization (CHO) governing entity that agrees to all medical/healthcare procedures and activities performed by military personnel. The CHO shall conform to all applicable federal, state, and local laws that regulate healthcare delivery within the state or territory, and all state practice acts specific to the participating healthcare professionals. Military personnel shall follow the military regulations specific to the healthcare professionals participating, however, if there is a difference between the state practice acts and military regulations, the strictest application shall apply to the military healthcare personnel participating.

**The CHO Lead is to provide an on-site supervisor for each exercise.**

- (a) The CHO shall certify that these projects:
  - [1] Accommodate an identified **underserved healthcare need** that is not being met by current public or private sector assistance.
  - (The CHO shall provide a description of the criteria they use to identify the medically underserved community and the specific services they require.)
  - [2] Are provided in a manner that does not compete with private sector medical/dental/healthcare assistance in the underserved area.

(b) The CHO verifies and documents the responsible agent (whether military or civilian) ensuring compliance for each operational site for the following:

[1] Medical waste handling and disposal

[2] Clinical Laboratory Improvement Act (CLIA)

[3] Credentialing/Privileging of Military Health Care Providers to include Basic Life Support and, if applicable, Advance Trauma/Cardiac requirement - The strictest requirement applies [4] Emergency evacuation of a "real Life incident"

[5] Follow-up care of patients for continuity of care

[6] Handling of patients' records for continuity of care and privacy act issues

2. Be conducted when all participating military personnel:

(a) In direct contact with the patient population, use universal body substance isolation precautions as developed by the Center for Disease Control and Occupational Safety and Health.

(b) Have completed required immunizations (to include the Hepatitis B series) IAW their service regulations.

(c) Have a current negative Human Immunodeficiency Virus (HIV) test IAW their service regulations.

**E. PROGRAM MANAGEMENT:** The DoD program sponsor is the Office of the Assistant Secretary of Defense for Reserve Affairs, responsible for policy and guidance oversight.

1. OASD/RA will not approve incomplete package submissions.

2. Organizations may not conduct projects without OASD/RA approval.

3. OASD/RA will provide Memorandums of Agreement (MOAs) to organizations at the beginning of each FY after overall project approvals.

**F. FUNDING AND COST ACCOUNTING:**

1. OASD/RA may allocate supplemental funds to Service and Component Fiscal Points of Contact (POCs).

2. Project Lead Agents are responsible for identifying all funds and Fiscal POCs to receive the funding.

(NOTE: Services and Components cannot transfer the OASD/RA programmed MILPERS funding from one Service/Component to another, therefore OASD/RA must be able to program to the correct source at the start of the fiscal year)

3. Project Lead Agents are responsible for reporting total project cost to OASD/RA, using After Action Reports (AARs) as described, below.

4. Services and Components are responsible for identifying a procedure that determines whether conducting the IRT project causes a "significant increase in the cost of training " (DoDD1100.20, para D4b(3)).

**G. AFTER ACTION REPORTS FOR OASD/RA**

1. Forward to OASD/RA no later than 60 days after project completion.
2. Participating units shall forward their AAR information to project Lead Agents no later than 30 days after project completion.
3. Use the following format for mandatory information:

(a) Identify project name with location(s) and date(s).

(b) Identify the number of military participants in each grade category by Service/Component and Unit. For example:

Grade Category	Service/Component	Number of Participants	Unit(s)
Enlisted	AFRC	20	Red Horse
Officer	MARFORRES	2	4 <sup>th</sup> FSSG

(c) Identify the type of service(s) with numerical data. For example:

Type of Service	Numerical Data
Water Transportation, LCM-8	# of hours logged
Airlift by Aircraft	# of hours logged
Dental	# of patients

(d) Identify all fiscal obligations (O&M and P&A) used to support the entire project. Delineate OASD/RA funding obligations from Service/Component funding obligations.

(e) Include any media/public affairs activities and community, state, or congressional involvement.

(f) Include any other relevant information.

**H. DOWNLOAD FILES:**

- [FY99 Guidelines](#)
- [Sample Chief Cover Letter](#)
- [Service IRT Request Form](#)

**I. POINT OF CONTACT:**

The OASD/RA POC for IRT is Colonel Fleek at:  
 (703) 693-8618  
 DSN 223-8618

**APPENDIX 8  
MISCELLANEOUS SUPPORT OPERATIONS**

**Appendix 8-1: 32 U.S.C § 508 - Assistance for Certain Youth and Charitable Organizations**

**Sec. 508. - Assistance for certain youth and charitable organizations**

**(a) Authority To Provide Services. –**

Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which -

- (1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;
- (2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;
- (3) National Guard personnel will enhance their military skills as a result of providing such services; and
- (4) the provision of the services will not result in a significant increase in the cost of the training.

**(b) Authorized Services. –**

The services authorized to be provided under subsection (a) are as follows:

- (1) Ground transportation.
- (2) Air transportation in support of Special Olympics.
- (3) Administrative support services.
- (4) Technical training services.
- (5) Emergency medical assistance and services.
- (6) Communications services.

**(c) Other Authorized Assistance. –**

Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

### (d) Eligible Organizations. –

The organizations eligible to receive services under this section are as follows:

- (1) The Boy Scouts of America.
- (2) The Girl Scouts of America.
- (3) The Boys Clubs of America.
- (4) The Girls Clubs of America.
- (5) The Young Men's Christian Association.
- (6) The Young Women's Christian Association.
- (7) The Civil Air Patrol.
- (8) The United States Olympic Committee.
- (9) The Special Olympics.
- (10) The Campfire Boys.
- (11) The Campfire Girls.
- (12) The 4-H Club.
- (13) The Police Athletic League.
- (14) Any other youth or charitable organization designated by the Secretary of Defense

## Appendix 8-2: EO 12333 – United States Intelligence Activities

### Executive Order 12333--United States intelligence activities

**Source:** The provisions of Executive Order 12333 of Dec. 4, 1981, appear at 46 FR 59941, 3 CFR, 1981 Comp., p. 200, unless otherwise noted.

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United



## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

### **Part 1**

#### ***Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort***

1.1 **Goals.** The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

#### 1.2 ***The National Security Council.***

(a) **Purpose.** The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) **Committees.** The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

#### 1.3 ***National Foreign Intelligence Advisory Groups.***

(a) **Establishment and Duties.** The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

- (1) Production, review and coordination of national foreign intelligence;
- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments on intelligence matters;

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) **Membership.** Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 **The Intelligence Community.** The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

- (a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;
- (b) Production and dissemination of intelligence;
- (c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;
- (d) Special activities;
- (e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and
- (f) Such other intelligence activities as the President may direct from time to time.

1.5 **Director of Central Intelligence.** In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

- (a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;
- (b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;
- (c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;
- (d) Ensure implementation of special activities;
- (e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;
- (f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

- (g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;
- (h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;
- (i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;
- (j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;
- (k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;
- (l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;
- (m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;
- (n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;
- (o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;
- (p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;
- (q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;
- (r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and
- (s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

### ***1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.***

- (a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

**1.7 *Senior Officials of the Intelligence Community.*** The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

**1.8 *The Central Intelligence Agency.*** All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)<sup>1</sup>) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 ***The Department of State.*** The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 ***The Department of the Treasury.*** The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 ***The Department of Defense.*** The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

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- (b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;
- (c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;
- (d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;
- (e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;
- (f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;
- (g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;
- (h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;
- (i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;
- (j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and
- (k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

### 1.12 *Intelligence Components Utilized by the Secretary of Defense.*

In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

- (a) ***Defense Intelligence Agency***, whose responsibilities shall include:
  - (1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;
  - (2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;
  - (3) Coordination of all Department of Defense intelligence collection requirements;
  - (4) Management of the Defense Attache system; and
  - (5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.
- (b) ***National Security Agency***, whose responsibilities shall include:
  - (1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

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- (2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;
- (3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;
- (4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;
- (5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;
- (6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;
- (7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;
- (8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;
- (9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;
- (10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;
- (11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;
- (12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and
- (13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) ***Offices for the collection of specialized intelligence through reconnaissance programs***, whose responsibilities shall include:

- (1) Carrying out consolidated reconnaissance programs for specialized intelligence;
- (2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and
- (3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) ***The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps***, whose responsibilities shall include:

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(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) ***Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.*** If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 ***The Department of Energy.*** The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 ***The Federal Bureau of Investigation.*** Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

### Part 2



### *Conduct of Intelligence Activities*

2.1 **Need.** Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 **Purpose.** This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 **Collection of Information.** Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

- (a) Information that is publicly available or collected with the consent of the person concerned;
- (b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;
- (c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;
- (d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;
- (e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;
- (f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;
- (g) Information arising out of a lawful personnel, physical or communications security investigation;
- (h) Information acquired by overhead reconnaissance not directed at specific United States persons;
- (i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

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(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 **Collection Techniques.** Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 **Attorney General Approval.** The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

2.6 **Assistance to Law Enforcement Authorities.** Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

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(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 **Contracting.** Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 **Consistency With Other Laws.** Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 **Undisclosed Participation in Organizations Within the United States.** No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 **Human Experimentation.** No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 **Prohibition on Assassination.** No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 **Indirect Participation.** No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

### Part 3

#### *General Provisions*

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

3.1 ***Congressional Oversight.*** The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 ***Implementation.*** The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 ***Procedures.*** Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 ***Definitions.*** For the purposes of this Order, the following terms shall have these meanings:

(a) ***Counterintelligence*** means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) ***Electronic surveillance*** means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) ***Employee*** means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) ***Foreign intelligence*** means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) ***Intelligence activities*** means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) ***Intelligence Community and agencies within the Intelligence Community*** refer to the following agencies or organizations:

- (1) The Central Intelligence Agency (CIA);

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- (2) The National Security Agency (NSA);
- (3) The Defense Intelligence Agency (DIA);
- (4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) The Bureau of Intelligence and Research of the Department of State;
- (6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and
- (7) The staff elements of the Director of Central Intelligence.

(g) ***The National Foreign Intelligence Program*** includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

- (1) The programs of the CIA;
- (2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;
- (3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;
- (4) Activities of the staff elements of the Director of Central Intelligence;
- (5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) ***Special activities*** means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) ***United States person*** means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

**3.5 Purpose and Effect.** This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

**3.6 Revocation.** Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

**Appendix 8-3: DODD 3020.26 - Continuity of Operations (COOP) Policy and Planning**

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense  
**DIRECTIVE**

NUMBER 3020.26  
January 9, 2009

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USD(P)

SUBJECT: Department of Defense Continuity Programs

- References:
- (a) DoD Directive 3020.26, "Defense Continuity Program (DCP)," September 8, 2004 (hereby canceled)
  - (b) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
  - (c) National Security Presidential Directive-51/Homeland Security Presidential Directive-20, "National Continuity Policy," May 9, 2007
  - (d) "National Continuity Policy Implementation Plan," August 2007
  - (e) Section 2674 of title 10, United States Code
  - (f) National Communications System Directive 3-10, "Telecommunications Operations," July 25, 2007

1. PURPOSE. This Directive:

- a. Reissues Reference (a) and changes its title.
- b. Revises continuity policies and assigns responsibilities for developing and maintaining Defense Continuity Programs to enhance the DoD readiness posture.

2. APPLICABILITY. This Directive applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

3. DEFINITIONS. These terms and their definitions are for the purpose of this Directive.

- a. continuity of government (COG). A coordinated effort within each branch of Government ensuring the capability to continue branch-minimum essential responsibilities in a catastrophic crisis. COG is dependent on effective continuity of operations plans and capabilities.

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b. continuity of operations (COOP). An internal effort within individual DoD Components to ensure uninterrupted, essential DoD Component functions across a wide range of potential emergencies, including localized acts of nature, accidents, and technological and/or attack-related emergencies.

c. enduring constitutional Government (ECG). A cooperative effort among the Executive, Legislative, and Judicial Branches of the Federal Government, coordinated by the President, to preserve the capability to execute constitutional responsibilities in a catastrophic crisis. ECG is the overarching goal; its objective is the preservation of the constitutional framework under which the Nation is governed. ECG is dependent on effective COOP and COG capabilities.

d. mission essential functions (MEFs). The specified or implied tasks required to be performed by, or derived from, statute, Executive order, or other appropriate guidance, and those organizational activities that must be performed under all circumstances to achieve DoD Component missions or responsibilities in a continuity threat or event. Failure to perform or sustain these functions would significantly affect the Department of Defense's ability to provide vital services or exercise authority, direction, and control.

4. POLICY. It is DoD policy that:

a. All Defense continuity-related activities, programs, and requirements of the DoD Components, including those related to COOP, COG, and ECG, shall ensure the continuation of current approved DoD and DoD Component MEFs under all circumstances across the spectrum of threats.

b. All DoD continuity planning and programming shall:

(1) Be based on the assumption that no warning of attack or event will be received.

(2) Ensure the performance of MEFs during any emergency for a period of up to 30 days or until normal operations can be resumed. The capability to perform MEFs at alternate sites must be fully operational as soon as possible, but no later than 12 hours after COOP activation.

(3) Be based on risk-management assessments to ensure that appropriate operational readiness decisions consider the probability of an attack or incident and its consequences.

(4) Emphasize the permanent and routine geographic distribution of leadership, staff, and infrastructure in order to increase survivability and maintain uninterrupted capability to accomplish DoD MEFs.

(5) Maximize the use of technological solutions to provide information to leaders and other users, facilitate decision making, maintain situational awareness, and issue orders and direction. Technology, information systems and networks must be interoperable, robust, reliable, and resilient.



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(6) Integrate critical infrastructure protection, information assurance, operations security, and defense crisis management requirements, as appropriate.

c. Continuity requirements shall be incorporated into the daily and routine operations of all DoD Components.

d. The continuity program supporting the Secretary of Defense shall include dedicated access to communications capabilities at the Pentagon and alternate operating facilities. This will include availability and redundancy of critical communications capabilities to support alternate facilities and distributed operations. It also shall include dedicated access to mobile communications capabilities during transit between operating locations to ensure the execution of DoD MEFs under all circumstances.

5. RESPONSIBILITIES. See Enclosure.

6. INFORMATION REQUIREMENTS

a. The Annual Report to the National Continuity Coordinator has been assigned report Control Symbol (RCS) DD-POL-(A)2331 in accordance with DoD 8910.1-M (Reference (b)).

b. The continuity readiness reports and other operational continuity reports are exempt from licensing in accordance with paragraph C4.4.2. of Reference (b).

7. RELEASABILITY. UNLIMITED. This Directive is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Directive is effective immediately.

  
Gordon England  
Deputy Secretary of Defense

Enclosure  
Responsibilities

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### ENCLOSURE

### RESPONSIBILITIES

1. USD(P). The USD(P) shall:

a. As the DoD senior accountable official, serve as the DoD Continuity Coordinator per National Security Presidential Directive-51/Homeland Security Presidential Directive-20 (Reference (c)), and as such shall:

(1) Serve as the DoD single point of contact to the Federal interagency for continuity matters.

(2) Coordinate DoD continuity planning, capabilities, and activities with national continuity and homeland security efforts.

b. Provide strategic guidance and policy direction for, and oversee, planning, programming, budgeting, and execution of DoD continuity programs.

c. Provide guidance and oversight for selection of relocation sites for the Secretary and Deputy Secretary of Defense, supporting OSD Staff, and the DoD Components, in coordination with the Chairman of the Joint Chiefs of Staff and the Director, Administration and Management (DA&M).

d. Develop and maintain a comprehensive continuity plan to support the Secretary and Deputy Secretary of Defense, and their senior and supporting staffs, that addresses the requirements delineated in this Directive, Reference (c), and the National Continuity Policy Implementation Plan (Reference (d)); ensure that the focus of all DoD continuity planning, preparation, and execution is on ensuring the ability to continue performing the DoD MEFs.

e. Provide oversight with the Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer (ASD(NII)/DoD CIO), and in coordination with the DA&M, of information systems and networks that are critical to the performance of DoD MEFs under all circumstances across the spectrum of threats.

f. Develop, specify, and promulgate, in coordination with ASD(NII)/DoD CIO, the Chairman of the Joint Chiefs of Staff, and the DA&M, continuity requirements for the secure and integrated COG and COOP communications supporting National and departmental missions.

g. Develop, in coordination with the Chairman of the Joint Chiefs of Staff, a comprehensive, multi-year continuity test and exercise program to evaluate and validate the readiness of DoD continuity capabilities, plans, procedures, facilities, communications, and execution. The program shall:

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- (1) Require at least an annual test and exercise of the continuity plans that support the Secretary of Defense and the DoD Components.
- (2) Be conducted consistent with the Department of Homeland Security-led National Exercise program.
- (3) Ensure areas needing improvement are prioritized for corrective action and tracked through resolution.
  - h. Develop, coordinate, and publish prioritized and validated requirements for the use of DoD transportation assets in support of emergency evacuation and crisis-related operations in the National Capital Region (NCR), as defined in section 2674 of title 10, United States Code (Reference (e)).
  - i. Develop and maintain continuity security classification guidance in accordance with governing Executive orders and DoD issuances.
  - j. Annually, submit a report to the National Continuity Coordinator per Reference (d) certifying that DoD continuity plans include the requirements delineated in Reference (c), and provide guidance to the DoD Components regarding requirements for their supporting annual reports.
  - k. Develop and provide annual training to Heads of DoD Components that provides familiarization with the DoD MEFs and the requirements of the comprehensive continuity plan identified in paragraph 1.d. of this enclosure.
  - l. Submit continuity readiness reports in accordance with the Continuity of Government Conditions System per Reference (c), and other reports as requested per Reference (d), as required, and provide guidance to the DoD Components regarding requirements for their supporting reporting requirements.
  - m. Develop supporting DoD issuances that delineate and/or prescribe the essential elements of a viable continuity program.
  - n. Notify the Director, Secretary of Defense Communications, when outside the NCR for any reason in order to support tracking of personnel in the order of succession to the Secretary of Defense.
  - o. Develop and oversee a governance structure and coordinating office that oversees and integrates the activities of the various DoD Components and organizations that provide or support Defense continuity programs and activities, and report to the respective DoD governing body.

2. UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS (USD(AT&L)). The USD(AT&L) shall:

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a. Develop policy and provide guidance to the DoD Components on the integration of continuity requirements in the research, development, acquisition, and logistical support of equipment, systems, and facilities.

b. Notify the Director, Secretary of Defense Communications, when outside the NCR for any reason in order to support tracking of personnel in the order of succession to the Secretary of Defense.

3. UNDER SECRETARY OF DEFENSE (COMPTROLLER)/CHIEF FINANCIAL OFFICER (USD(C)/CFO). The USD(C)/CFO shall:

a. Aggregate information on DoD Component funding programmed and budgeted to support Defense continuity programs.

b. Notify the Director, Secretary of Defense Communications, when outside the NCR for any reason in order to support tracking of personnel in the order of succession to the Secretary of Defense.

4. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R) shall:

a. Provide oversight, in coordination with the Chairman of the Joint Chiefs of Staff, to ensure the DoD health, training, personnel, and readiness policies and practices support Defense continuity programs.

b. Notify the Director, Secretary of Defense Communications, when outside the NCR for any reason in order to support tracking of personnel in the order of succession to the Secretary of Defense.

5. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)). The USD(I) shall:

a. Establish, in coordination with the Chairman of the Joint Chiefs of Staff, continuity requirements and tasking for intelligence and counterintelligence collection and analysis programs to support Defense continuity programs.

b. Provide oversight and guidance and ensure the continuity planning and readiness of the Defense Intelligence Enterprise.

c. Notify the Director, Secretary of Defense Communications, when outside the NCR for any reason in order to support tracking of personnel in the order of succession to the Secretary of Defense.

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6. ASD(NII)/DoD CIO. The ASD(NII)/DoD CIO shall:

- a. Provide, in coordination with USD(P), the Chairman of the Joint Chiefs of Staff, and the DA&M, secure and integrated COG communications support required by Reference (c).
- b. Through the Director, Defense Information Systems Agency, and in coordination with the USD(P), the Chairman of the Joint Chiefs of Staff, and the DA&M, design, develop, implement, and maintain the secure and integrated COG communications required by Reference (c).
- c. Provide, in coordination with USD(P), the Chairman of the Joint Chiefs of Staff, and the DA&M, secure and integrated COOP communications support to the Department of Defense.
- d. Ensure that continuity requirements developed, specified, and promulgated by the USD(P) are incorporated and implemented into the secure and integrated COG and COOP communications capabilities required in paragraphs 6.a. and 6.b. of this enclosure.
- e. Oversee and implement DoD participation in and support to Department of Homeland Security-led quarterly assessments of continuity communications capabilities per Reference (c).
- f. In coordination with the USD(P), the Chairman of the Joint Chiefs of Staff, and the DA&M, and pursuant to National Communications System Directive 3-10 (Reference (f)):
  - (1) Provide oversight and guidance for the information systems and networks necessary to support the continuation of DoD MEFs under all circumstances.
  - (2) Report quarterly on the status of those information systems and networks capabilities.
  - (3) Provide direction and guidance to the DoD Components regarding information systems and networks necessary to support the continuation of DoD and DoD Component MEFs under all circumstances.
- g. Incorporate DoD continuity capabilities into the integrated command and control enterprise and oversee information systems and networks that are critical to the performance of DoD and DoD Component MEFs under all circumstances.
- h. Determine requirements and cost estimates for additional commercial and Federal communication services and facilities to support the execution of MEFs during a crisis.
- i. Validate, in coordination with USD(P) and DA&M, Defense Continuity Integrated Network/Pentagon Continuity Information System (DCIN/PCIS) requirements.

7. DA&M. The DA&M shall:

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- a. Manage the OSD Continuity of Operations Information Technology Program for OSD relocation sites in the NCR that support the Secretary and Deputy Secretary of Defense.
  - b. Serve as the program manager for the DCIN/PCIS.
  - c. Exercise overall management responsibility for the Raven Rock Mountain Complex (RRMC) through the RRMC Installation Commander. This includes responsibility for operation, management, renovation, construction, information technology, information management, security, and force protection.
  - d. Exercise overall management for Secretary and Deputy Secretary of Defense relocation sites in the NCR. This includes management of all facility infrastructure operations, renovation, capital improvements, and common information technology infrastructure and services.
  - e. Conduct an analysis and develop a plan for the partial and full reconstitution of the OSD and provide support to the reconstitution efforts of DoD Components who are tenants of Pentagon facilities in the NCR.
  - f. Through the Director, Secretary of Defense Communications:
    - (1) Maintain, on a daily basis, the information provided by the Under Secretaries of Defense and Secretaries of the Military Departments concerning absences from the NCR and provide that information to the Chairman of the Joint Chiefs of Staff through the National Military Command Center.
    - (2) Provide the Secretary and Deputy Secretary of Defense dedicated access communications capabilities at the Pentagon, alternate operating facilities, and access to mobile communications capabilities during transit between operating locations to ensure the execution of DoD MEFs under all circumstances.
8. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components shall:
- a. Incorporate continuity requirements into Component daily activities and operations. Integrate continuity-related functions and activities into operations and exercises to ensure that MEFs can be performed under all circumstances across the spectrum of threats.
  - b. Designate to USD(P), in writing, a senior accountable official as the Component Continuity Coordinator who is directly responsible to the Head of the DoD Component for management oversight of the Component continuity program and is the single point of contact for coordination within the Component for continuity matters.
  - c. Develop, coordinate, and maintain continuity plans, and validate, update, and reissue plans every 2 years, or more frequently, as changes warrant. Plans shall:

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- (1) Identify and prioritize organizational MEFs, particularly those that must be performed under all circumstances to support or implement the performance of DoD MEFs.
- (2) Establish pre-planned and emergency delegations of authority, orders of succession, and devolutions of authority for essential functions and key positions; identify and provide for alert and/or notification, movement, and training of continuity staffs; provide orientation and awareness training to non-continuity staff members; and address information technology and communications support to continuity operations.
- (3) Identify relocation sites or platforms for Component use during continuity threats or events. Site selection shall consider information systems and networks, geographical dispersion, physical security, and maximize co-location and dual-use facilities with a focus on risk mitigation.
- (4) Provide for the identification, storage, protection, and availability for use at relocation sites of the vital records, materiel, and databases required to execute MEFs. Pre-positioning and storage procedures should be enduring, survivable, and redundant.
- (5) Define the decision process within the Component, including individual positional authority, for executing the Component's continuity plans.
- (6) Provide for reconstitution capabilities that allow for recovery from an emergency and resumption of normal operations.
  - d. Develop and implement coordinated, multi-year strategic management plans for assets and resources in support of Defense and Component continuity plans, as appropriate.
  - e. Ensure that continuity programs are adequately planned, programmed, and budgeted to meet the continuity requirements set forth in this Directive, and that defense-continuity-unique requirements are specifically identified in their budgets. This shall include multi-year strategic planning for all assets and resources, and the development, operation, and maintenance of facilities, interoperable communications, and transportation capabilities.
  - f. Test and exercise continuity plans at least annually, or as otherwise directed, to evaluate and validate program readiness.
  - g. Annually, submit a report to the USD(P) certifying that the Component continuity plan includes the requirements delineated in this Directive.
  - h. Submit continuity readiness reports to the USD(P), as required, to support DoD continuity readiness reporting requirements in accordance with paragraph 1.k. of this enclosure.
  - i. Provide oversight and guidance, and ensure the continuity planning and readiness of subordinate organizations.

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j. Integrate personnel, physical, operations, and information security strategy(ies) to protect plans, personnel, facilities, and capabilities to prevent adversaries from interdicting continuity plans and operations.

9. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments shall:

a. Support emergency evacuation and crisis-related operations in the NCR in accordance with the Commander, U.S. Northern Command (CDRUSNORTHCOM) NCR emergency relocation and crisis-related operations plan.

b. Notify the Director, Secretary of Defense Communications, when outside the NCR for any reason in order to support tracking of personnel in the order of succession to the Secretary of Defense.

10. CHAIRMAN OF THE JOINT CHIEFS OF STAFF. The Chairman of the Joint Chiefs of Staff shall:

a. Provide, to the DoD Components with designated combat or combat support roles, planning guidance on defense continuity matters pertaining to those roles.

b. Assure the survivability, reliability, and availability of command and control systems comprising the National Military Command System at relocation sites under all circumstances across the spectrum of threats.

c. Maintain, on a daily basis, the information provided by the DA&M concerning absences from the NCR of the Under Secretaries of Defense and Secretaries of the Military Departments, and provide that information to the Combatant Commanders.

d. Ensure the orderly succession to the position of Chairman of the Joint Chiefs of Staff.

11. CDRUSNORTHCOM. The CDRUSNORTHCOM shall, in coordination with the USD(P), the Chairman of the Joint Chiefs of Staff, and the Commander, U.S. Transportation Command, develop, maintain, and execute on order an overarching operations plan for use of DoD transportation assets in support of emergency relocation and crisis-related operations in the NCR, and provide guidance and direction to the DoD Components providing assets on plan implementation and execution.



## Appendix 8-4: DODD 3020.36 - Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DOD Components

### Department of Defense DIRECTIVE

NUMBER 3020.36  
November 2, 1988

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Incorporating Change 1, March 12, 1993  
USD(P)

SUBJECT: Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components

References: (a) DoD Directive S-3020.36, "Assignment of Emergency Preparedness Responsibilities to Department of Defense Components (U)," August 28, 1973 (hereby canceled)  
(b) [DoD Directive 5100.1](#), "Functions of the Department of Defense and Its Major Components," September 25, 1987  
(c) Executive Order 11490, "Assigning Emergency Preparedness Functions to Federal Departments and Agencies," October 28, 1969, as amended  
(d) National Security Decision Directive (NSDD) 47, "Emergency Mobilization Preparedness," July 22, 1982  
(e) through (jj), see enclosure 1

#### 1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a).

1.2. Updates policies and assigns responsibilities for developing emergency preparedness measures to enhance DoD readiness posture.

#### 2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense (OSD), the Military Departments and their field activities (including their National Guard and Reserve components), the Coast Guard (by agreement with the Department of Transportation (DoT)), the Joint Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as the "DoD Components"). Guidance to the Unified and Specified Commands shall be provided by the Joint Staff.

2.2. The national security and domestic emergency preparedness functions of the various DoD Components, including those under reference (b), that complement the civil readiness planning responsibilities of the civil Departments and Agencies. Together, these measures provide the basic foundation for an overall national preparedness posture and are fundamental to the ability of a viable Government to survive. The Department of Defense, along with the other Departments and Agencies of the Federal Government, is charged by references (c) and (d), and NSDD 188 (reference (e)) with the duty of ensuring that the United States has an emergency

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preparedness capability to respond decisively and effectively to any major national emergency, with defense of the United States as first priority.

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

4.1. Mobilization plans shall be designed for timely implementation in response to a full range of warning indications from early and ambiguous to short and tactical warnings.

4.2. Each DoD Component shall share the general responsibilities for emergency preparedness, mobilization planning, and crisis management in ensuring the continuity of Government in any national security or domestic emergency situation, as directed in DoD Directive 3020.26 (reference (f)). Each DoD Component shall plan for survival, recovery, and reconstitution of its essential functions, including the timely relocation and protection of successors, each of whom should be supported by an austere emergency staff and essential communications. Each DoD Component should identify alternate headquarters, emergency relocation sites, or other permanent facilities to use during emergency preparedness situations. In an evolving crisis, each DoD Component should be capable of the following:

4.2.1. Surviving and reconstituting the control organization for the DoD Component.

4.2.2. Reorganizing and redirecting resources.

4.2.3. Coordinating with appropriate Agencies.

4.2.4. Implementing decisions and Directives.

4.2.5. Reestablishing command and control.

4.2.6. Ensuring the performance of essential functions.

4.3. Additionally, each DoD Component with essential functions, whether specified in this Directive or not, shall develop appropriate plans and shall take such actions as may be needed to ensure that it shall be able to perform essential functions and to continue as a viable part of the Department of Defense during emergencies. Each DoD Component shall prepare for all national security and domestic emergencies in coordination with appropriate Federal, State, and local governments; other DoD Components; and elements of the private sector, particularly in the emergency preparedness for mobilization. Specific responsibilities for emergency preparedness are in section 5., below.

### 5. RESPONSIBILITIES

5.1. The Department of Defense Components shall:

5.1.1. Develop and execute national defense plans and shall:

5.1.1.1. Plan for transitioning from peacetime to wartime activities.

5.1.1.2. Include in plans all graduations of mobilization.

5.2. The DoD Components shall be prepared to implement their emergency preparedness plans. These plans may be implemented only if the authority for implementation is provided by law enacted by the Congress, an order or Directive issued by the President, or an order or Directive issued by the Secretary of Defense.

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5.3. The Head of each DoD Component is hereby authorized to redelegate the functions assigned by this Directive and to authorize successive redelegations, as considered appropriate. Nothing in this Directive shall alter any existing assignment of functions to any DoD Component made by statute, Executive order, Presidential Directive, DoD Directive, or other orders or directives.

5.4. The Under Secretary of Defense (Policy) (USD(P)), in addition to implementing the responsibilities assigned by DoD Directive 5111.1 (reference (g)), shall:

5.4.1. Provide oversight and policy direction on NSEP and crisis management programs within the Department of Defense, including reviewing and integrating plans, policies, and programs regarding:

5.4.1.1. Threat assessment.

5.4.1.2. Mobilization.

5.4.1.3. Determination of the political and military implications of a crisis.

5.4.1.4. Recommended military objectives.

5.4.1.5. Continuity of operations and continuity of Government.

5.4.1.6. Use of military resources in support of civil authorities.

5.4.1.7. Succession to the OSD.

5.4.2. Provide policy guidance on key asset protection, land defense of the Continental United States (CONUS), and military support to civil defense (MSCD). (See DoD Directives 3025.10, 3025.12, 5030.45, and 5160.54 (references (h) through (k)).)

5.4.3. Prepare appropriate departmental documents to support national emergency plans, including continuity of operations plans, graduated mobilization response (GMR), and DoD portions of other Federal Agency plans.

5.4.4. Support the Secretary of Defense in his oversight role of the U.S. Civil Defense Program.

5.4.5. Represent the Department of Defense in mobilization matters involving the National Security Council (NSC) and Federal Emergency Management Agency (FEMA). Act as the lead office for other interdepartmental coordination of this matter.

5.4.6. Coordinate the development and updating of the DoD Emergency Authorities Retrieval and Analysis System (DEARAS).

5.4.7. Provide policy guidance on national preparedness, security, GMR actions, civil defense, and other DoD programs of FEMA and State and local governments.

5.4.8. Act as the central point of interagency coordination on emergency preparedness functions and actions for the Department of Defense.

5.4.9. Direct activities of the Crisis Management System (CMS), established by this Directive, to expedite coordination within the Department of Defense and between the Department of Defense and other Federal Departments and Agencies, and to provide a single OSD focus for crisis information during national security or domestic emergencies or crises. (See enclosure 3.)

5.4.10. Advise and assist the FEMA in developing and reviewing plans and programs for:

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5.4.10.1. Physical security of industries, services, and other activities.

5.4.10.2. Use of industry and natural resources.

5.4.10.3. Stabilization of the economy.

5.4.10.4. Conversion of the economy to crisis requirements essential to national security.

5.4.11. Provide emergency preparedness planning guidance and direction to ensure a high state of readiness is maintained by each DoD Component. This responsibility includes the scheduling of appropriate levels of training and testing of emergency plans.

5.4.12. Provide direction for conducting national security exercises, including JCS-sponsored, interagency, and other exercises, games, and simulations, including management of remedial action projects within the OSD.

5.4.13. Approve for the Secretary of Defense the transfer of emergency preparedness functions between DoD Components with the consent of the Heads of the respective DoD Components, or recommend that functions be transferred between DoD Components or between Federal Departments and Agencies.

5.4.14. Represent the Secretary of Defense as the DoD member of the Senior Interagency Group for NSEP under NSDD 188 (reference (e)).

5.4.15. Chair the Mobilization Steering Group established by DoD Directive 5111.2 (reference (l)), and coordinate the development of an OSD mobilization, development, and sustainment decision-support sub-system, including information requirements determination and sources of information to ensure that the Department of Defense can respond decisively and effectively to any major U.S. emergency.

5.4.16. Provide policy direction for DoD security assistance matters, monitor Military Assistance Advisory Groups (MAAGs) and other entities involved in security assistance, and negotiate and monitor security agreements with foreign governments.

5.4.17. Provide counterintelligence, foreign disclosure, and security policy guidance and support.

5.4.18. In consultation with the Under Secretary of Defense (Acquisition) (USD(A)), assist FEMA and other concerned Departments and Agencies in developing emergency preparedness measures involving international trade, domestic production, and foreign exchange issues.

5.4.19. Through the OSD- and JCS-sponsored exercise programs, test and verify the effectiveness of mobilization and crisis management plans, programs, and procedures.

5.4.20. Develop and coordinate with the Department of State (DoS), as necessary, policies and initiative with foreign countries relating to basing rights; overflight and landing rights; ports, port facilities, and transportation usage; host-nation support agreement; and other commitments required to allow rapid mobilization and deployment.

5.5. The Under Secretary of Defense (Acquisition) (USD(A)), in addition to implementing the responsibilities assigned by the Secretary of Defense Memorandum (reference (m)), shall:

5.5.1. Provide general oversight and policy direction on all aspects of industrial surge and mobilization and preparations for augmenting the Department of Defense's telecommunications and logistical support capabilities in mobilization situations with resources from other Federal Departments and Agencies, the domestic civil sector, and allied and/or friendly foreign nations.

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5.5.2. Provide policy guidance for the development of acquisition strategies to support surge and graduated mobilization of industry, analysis of production base capabilities to support operations plans, correlation of military procurement and domestic production, review of military material requirements, and augmentation of telecommunications and logistic support capabilities.

5.5.3. Represent the Secretary of Defense on appropriate international and interagency groups and advisory bodies on matters of U.S. concern related to its assigned functions.

5.6. The Director of Defense Research and Engineering (DDR&E) shall:

5.6.1. Supervise or conduct research in areas directly concerned with implementing emergency preparedness responsibilities.

5.6.2. Designate representatives for necessary ad hoc or task force groups to advise on technical matters on emergency preparedness to include review, consolidation, and prioritization of research and development programs in crises.

5.6.3. Provide advice and assistance to other DoD Components in planning for research involving each DoD Component's specific area of interest.

5.6.4. Represent the Department of Defense on interagency groups or advisory bodies to advise on scientific and technological considerations involved in areas of national concern. This excludes telecommunications bodies and groups for which the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD(C3I)) is responsible, and technology for special operations forces.

5.6.5. Provide guidance for augmenting DoD scientific and technical capabilities in a crisis.

5.7. The Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)), in addition to carrying out the responsibilities assigned by DoD Directive 5128.1 (reference (n)), shall:

5.7.1. Develop policies, procedures, and systems for the emergency application of priorities and allocations of materials, services, and resources. Administer priorities and allocation authorities delegated to the Department of Defense.

5.7.2. Prepare plans to claim or acquire supporting materials, equipment, supplies, and services needed to carry out essential DoD functions.

5.7.3. Ensure that the Military Departments and the Defense Agencies develop plans for salvage, decontamination, rehabilitation, and construction of facilities, as well as the continuing operation of essential facilities.

5.7.4. Act as the National Defense Stockpile Manager for stockpiling of strategic and critical materials and developing a national system of durable goods production priorities.

5.7.5. In coordination with the USD(P) and the Department of Energy (DoE), advise and assist FEMA in developing a system for the international allocation of petroleum materials and petroleum products among the United States, allies, and favored nations in a crisis.

5.7.6. Advise and assist the DoE and other concerned Agencies in developing production and distribution control plans for use in energy crises and emergencies.

5.7.7. In coordination with industry, develop plans and programs for procuring and producing selected military equipment and supplies needed to increase readiness and sustainability of existing and expanded forces.

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5.7.8. Recommend measures for overcoming potential deficiencies in production capacity to produce selected military supplies and equipment.

5.7.9. Develop candidate projects to expand domestic production capacities.

5.7.10. Provide policy guidance and oversight on the use of strategic and critical materials in production of military weapon system and associated industrial processes.

5.7.11. Provide policy guidance to DoD Components and other Federal Departments and Agencies for emergency preparedness measures associated with maintenance of an adequate mobilization production base for military supplies and equipment.

5.7.12. In consultation with the U.S. Attorney General, the Federal Trade Commission (FTC), industry, labor, finance, and other interests, develop plans and programs for voluntary agreements with industry as outlined in Pub. L. 81-774 (reference (o)).

5.7.13. Provide the Department of Commerce (DoC) with the Department of Defense's machine tool trigger order (MTTO) requirements to support surge and mobilize requirements.

5.7.14. In coordination with the Office of the USD(P) and other appropriate DoD Components, identify facilities important to the national defense for protection under the Key Assets Protection Program (KAPP).

5.7.15. Furnish military transportation requirements to the DoT and arrange for orderly transfer or use of Federal and civil transportation resources by the Department of Defense during mobilization and national emergencies.

5.7.16. Ensure that the Military Departments and Defense Agencies develop standby legislation to exempt the DoD defense industries from environmental statutes during emergencies, and develop plans and emergency funding procedures to meet additional pollution reduction and/or abatement facility requirements.

5.7.17. In coordination with the USD(P), develop guidelines for support to allied and friendly forces.

5.7.18. In coordination with the USD(P) staff, the DoD Components, and the DoS, develop policies and procedures for wartime host-nation support of U.S. Forces.

5.7.19. In coordination with the Department of Justice (DoJ), ensure that Military Departments and DoD Agencies have plans for DoD and DoJ presentation of eminent domain proceedings if requisition and condemnation actions should be denied.

5.8. The Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) (ASD(C3I)), in addition to implementing the functions assigned by DoD Directive 5137.1 (reference (p)) and DoD Directive 5100.41 (reference (q)), shall:

5.8.1. Assist the Director, Office of Science and Technology Policy (OSTP), in the exercise of war powers of the President under Section 706 of the Communication Act of 1934 (reference (r)).

5.8.2. As a member of the Joint Telecommunication Resources Board (JTRB), assist the Director, OSTP, in the exercise of his or her non-wartime emergency functions on the provision, management, or allocation of Federal telecommunications resources.

5.8.3. Assist the Secretary of Defense, when acting as the Executive Agent for the National Communication System (NCS), and provide staff oversight of the activities of the Manager, NCS, that are outlined in E.O. 12472 (reference (s)).

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5.8.4. Develop plans for use of existing communications facilities and determine military requirements for additional commercial services and facilities that might be needed during a crisis.

5.8.5. In coordination with the Federal Communication Commission (FCC) and the OSTP, develop plans and programs for the emergency control of all devices capable of emitting electromagnetic radiation.

5.8.6. In coordination with the DoT and the FCC, develop plans for the emergency control of civil and military air traffic and of associated navigation, position fixing, and identification systems.

5.8.7. Provide policy guidance and support for intelligence activities within the Department of Defense, including guidance for intelligence preparedness planning and programming for survivability of intelligence capabilities.

5.8.8. Represent the Secretary of Defense in staff supervision of national intelligence collection assets of the Department of Defense.

5.8.9. Develop the means for assessing the capabilities of surviving intelligence collection, processing, analysis, and dissemination capabilities for the Secretary of Defense.

5.8.10. Provide policy guidance on acquisition of intelligence information by non-intelligence elements of the Department of Defense.

5.8.11. Represent the Secretary of Defense on interagency groups or advisory boards dealing with intelligence preparedness problems.

5.8.12. Delegate representatives, as necessary, to support ad hoc or task force groups handling intelligence matters for emergency preparedness.

5.8.13. Represent the Secretary of Defense as the DoD member on interagency groups or advisory bodies to advise on scientific and technological considerations involved in low-intensity conflicts and for special operations forces.

5.9. The Assistant Secretary of Defense (Comptroller) (ASD(C)), in addition to implementing the functions assigned by DoD Directive 5118.3 (reference (t)), shall:

5.9.1. In coordination with the Assistant Secretary of Defense, Program Analysis and Evaluation (ASD(PA&E)), establish procedures for developing crisis budgets.

5.9.2. Develop plans and procedures for providing financial and credit assistance to the private sector that may be called on to provide emergency assistance to the Department of Defense.

5.9.3. Develop, as appropriate, pre-cleared wartime fiscal and property procedures for expeditious release during a crisis or wartime.

5.10. The Assistant Secretary of Defense (International Security Affairs) (ASD(ISA)), in addition to carrying out other assigned functions, including those in DoD Directive 5111.1 (reference (g)), shall:

5.10.1. Provide advice, recommend policies, formulate programs, develop plans, and issue guidance to the DoD Components on political-military activities related to international affairs, excluding the North Atlantic Treaty Organization (NATO), other European nations, and the Union of Soviet Socialist Republics (U.S.S.R.).

5.10.2. Oversee DoD activities related to laws of the sea.

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5.10.3. Formulate policies and provide guidance on plans for general purpose forces, non-European and non-NATO regional security requirements, and related budget considerations.

5.11. The Assistant Secretary of Defense (International Security Policy) (ASD(ISP)), in addition to implementing other assigned functions, including those in DoD Directive 5111.1 (reference (g)), shall:

5.11.1. Provide advice and counsel on nuclear matters.

5.11.2. Provide advice, recommend policies, formulate programs, develop plans, and issue guidance to the DoD Components on political-military activities related to international affairs or crises involving NATO, other European nations, and the U.S.S.R.

5.11.3. Oversee arms control activities in the Department of Defense.

5.11.4. Formulate policies and provide guidance on plans for nuclear forces, general purpose forces, NATO, European security requirements, and related budget considerations.

5.12. The Assistant Secretary of Defense (Reserve Affairs) (ASD(RA)), in addition to implementing the functions assigned by DoD Directive 5125.1 (reference (u)), shall:

5.12.1. Support Reserve component mobilization and shall assist in implementing policy on management and use of Selected Reserves and policies on individual manpower, including military retirees.

5.12.2. Monitor organization and DoD Agency programs requiring Reserve component support for national emergency preparedness and other essential functions.

5.12.3. Assist in reconstituting Reserve component forces, as required.

5.13. The Assistant Secretary of Defense (Legislative Affairs) (ASD(LA)), in addition to implementing the functions assigned by DoD Directive 5142.1 (reference (v)), shall:

5.13.1. Assist the DoD Components in preparing and justifying standby and emergency legislation.

5.13.2. Plan for increased peacetime and crisis coordination with Congress to assist with the GMR program, incremental budget packages, and legislative initiatives to support graduated mobilization in response to an emerging crisis.

5.13.3. Assist in developing plans for informing Congress of the identification and designation of Ready Reserve units and individual Reservists selected for mobilization.

5.14. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), in addition to implementing the functions assigned by DoD Directive 5124.2 (reference (w)), shall:

5.14.1. In coordination with the ASD(PA) and the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), develop policies and programs for use by the National Defense Executive Reserve (NDER) within the Department of Defense.

5.14.2. In coordination with the Military Departments, the ASD(P&L), the Selective Service System (SSS), the National Science Foundation (NSF), the DoC, the Department of Labor (DoL), the Department of Education, and the Department of Health and Human Services (DEDHHS) maintain a continuing surveillance over the U.S. manpower and educational needs. This is necessary in order to identify particular occupations, skills, or graduate study that in the national interest would qualify a Reservist, inductee, or applicant for deferment from military duty.



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5.14.3. Advise and assist FEMA in developing overall manpower policies to be used during an emergency, including providing information on the planned size and composition of the Armed Forces.

5.14.4. Develop systems, including the National Accession Planning and Execution System, and plans that shall ensure that sufficient military, DoD civilian, and contractor manpower is available to guarantee the nation's ability to mobilize, deploy, and sustain military operations consistent with national defense priorities, industrial capabilities, and legal guidelines.

5.14.5. Prepare and update the DoD Master Mobilization *Guide* that provides graduated mobilization policies and responsibilities, as well as a description of the mobilization process.

5.14.6. Develop systems and plans to ensure that DoD human resources are available in the requisite numbers and skills to support and sustain the Armed Forces in a national emergency or crisis.

5.14.7. Advise and assist the DoS and the DHHS in planning for the protection and evacuation of dependents, civilian employees, other U.S. citizens, and designated aliens abroad.

5.15. The Assistant Secretary of Defense (Health Affairs) (ASD(HA)), in addition to implementing the functions assigned by DoD Directive 5136.1 (reference (x)), shall:

5.15.1. Develop systems and plans to ensure that sufficient medical personnel, supplies, equipment, and facilities shall be available and shall be ready to deploy for meeting essential military healthcare needs in an emergency.

5.15.2. Activate and ensure coordination, as appropriate, the two primary medical backup systems for the Department of Defense:

5.15.2.1. The Veterans' Administration and/or the Department of Defense Contingency System.

5.15.2.2. The National Disaster Medical System.

5.16. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)), in addition to implementing those functions assigned by DoD Directive 5122.5 (reference (y)), shall provide for public dissemination of essential information and shall plan for pre-recordings to provide continuity of program service over the Emergency Broadcast System during crises.

5.17. The General Counsel, Department of Defense (GC, DoD), in addition to executing the functions assigned by DoD Directive 5145.1 (reference (z)) and in response to requests from the DoD Components seeking specific measures of legal relief considered essential to the performance of the DoD Components' responsibilities under this Directive, shall do the following:

5.17.1. Review the adequacy of legal authorities.

5.17.2. Draft packages for current legislative initiatives.

5.17.3. Draft standby packages for legislative initiatives that could be taken by the DoD Components in response to a future emerging national emergency.

5.18. The Assistant Secretary of Defense (Program Analysis and Evaluation) (ASD(PA&E)), in accordance with responsibilities assigned by DoD Directive 5141.1 (reference (aa)), shall:

5.18.1. Develop procedures to assess mobilization requirements, plans, and programs as part of the overall Planning, Programming, and Budgeting System (PPBS).

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

5.18.2. Develop procedures to review changes to the DoD program during mobilization and crisis in his or her capacity as Executive Secretary to the Defense Resources Board (DRB) (Programming Phase) under DRB Memo 84-16 (reference (bb)).

5.19. The Assistant to the Secretary of Defense (Atomic Energy) (ATSD(AE)), in addition to carrying out the responsibilities assigned by DoD Directive 5148.2 (reference (cc)), shall:

5.19.1. Formulate policy and provide planning advice and assistance on nuclear and chemical development and operational program matters including:

5.19.1.1. Strategies for weapon development, fabrication, and deployment.

5.19.1.2. Safety, security, and survivability consideration.

5.19.1.3. In coordination with the USD(P) and the Military Departments, physical security of DoD nuclear and chemical facilities.

5.19.2. Interact with the DoE and the FEMA to obtain advice and support on these matters.

5.19.3. Assist Federal, State, and local officials in protecting the public health and safety from nuclear and chemical hazards.

5.19.4. Coordinate with the ASD(PA) on the release of public information in this area.

5.20. The Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict) (ASD(SO/LIC)), in addition to carrying out the responsibilities assigned by DoD Directive 5138.3 (reference (dd)), shall oversee special operations activities within the Department of Defense.

5.21. The Inspector General, Department of Defense (IG, DoD), in addition to the responsibilities assigned by DoD Directive 5106.1 (reference (ee)), shall:

5.21.1. Review OSD staff and Defense Agency compliance with assigned emergency preparedness responsibilities and functions, as a feature of ongoing inspections.

5.21.2. Review OSD staff and Defense Agency planned emergency actions to isolate initiatives having significant potential for fraud, waste, and mismanagement and recommend safeguards consistent with constraints imposed by emergency conditions.

5.21.3. Monitor mobilization and logistics exercises, and implementation of post-exercise corrective measures.

5.21.4. Establish and maintain crisis management planning and coordination liaison with the DoD Components.

5.21.5. Review, in conjunction with the OSD staff and the Defense Agencies, accomplishment of objectives in various areas such as:

5.21.5.1. Major base development and programs.

5.21.5.2. Manpower acquisition and distribution.

5.21.5.3. Critical supply issues and replenishment programs.

5.21.5.4. Industrial base expansion incentives programs.

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5.21.5.5. Expanded contract administration surge.

5.21.5.6. Fiscal management and audit support for host-nation agreements.

5.22. The Joint Chiefs of Staff (JCS), in addition to carrying out the missions and functions assigned by DoD Directive 5100.1 (reference (b)) and DoD Directive 5158.1 (reference (ff)), shall:

5.22.1. Provide time-phased materiel requirements for scenarios identified for GMR option development.

5.22.2. Participate in evaluating and resolving resource clemency and allocation through the Joint Materiel Priorities and Allocation Board and the Joint Transportation Board.

5.22.3. Develop and operate joint damage assessment and recovery systems for military forces and installations, as well as key civilian industrial facilities supporting the Department of Defense.

5.22.4. Maintain a capability, both at national and field levels, to estimate the effects of an enemy attack on military and civilian support resources, and assist FEMA and other Agencies in verifying and updating estimates of remaining resources.

5.22.5. Plan and conduct a comprehensive national security exercise program on behalf of the Secretary of Defense. This program should include field training and command post exercises in a coordinated schedule of JCS-sponsored, -directed, and -coordinated exercises responsive to USD(P) guidance, including the Defense Guidance.

5.22.6. Manage the Joint Deployment System (JDS), the Joint Operation Planning System (JOPS), and the follow-on Joint Operation Planning and Execution System (JOPES) for the Department of Defense.

5.23. The Military Departments, in addition to carrying out the functions assigned by DoD Directive 5100.1 (reference (b)), shall:

5.23.1. Support and participate in the emergency preparedness activities.

5.23.2. Support Joint Staff deliberate and time-sensitive military requirements for selected end-items and supporting personnel, materiel, services, and facilities needed to respond to crises, and develop graduated mobilization programs.

5.23.3. Develop and furnish the OASD(P&L) industrial base capability assessments and investment strategies to support GMR options.

5.24. The Secretary of the Army, in addition to carrying out the emergency preparedness missions assigned in reference (b), shall:

5.24.1. Prepare to relinquish peacetime missions associated with military support to the civil sector to the Commander in Chief, Forces Command (CINCFOR), as directed by the JCS upon decision of the National Command Authorities (NCA) in crisis, mobilization, or war.

5.24.2. Develop overall plans for the management, control, allocation, and use of the water and water resources of the nation consistent with the planning efforts of those Federal Departments and Agencies having specific statutory or delegated water responsibilities. Coordinate emergency water resource planning at the regional, State, and local levels through the Federal Departments and Agencies concerned with each area of planning. Under this section, "water" means all usable waters from all sources within U.S. jurisdiction that can be managed, controlled, and allocated to meet emergency requirements.

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5.24.3. Develop plans and maintain river control operations for the prevention or control of floods caused by natural phenomena or overt or covert attack affecting those bodies of water and water resources under the jurisdiction of the Secretary of the Army.

5.24.4. Develop plans for emergency assistance to public water supply utilities working through Agencies having primary responsibility and with State and local governments.

5.24.5. With respect to all inland waterways, canals, harbors, and navigation channels within the United States and its possessions and territories, develop emergency plans and procedures for:

5.24.5.1. Improving, restoring, rehabilitating, operating, and maintaining components of federally authorized river and harbor projects.

5.24.5.2. Locating and removing obstructions to navigation.

5.24.5.3. Dredging to clear and straighten navigation channels. This is accomplished in consultation with the DoJ, the Coast Guard, the Department of Interior (DoI), and other affected Federal Agencies. In matters affecting the Tennessee River and its tributaries, emergency plans and procedures are developed in cooperation with the Tennessee Valley Authority (TVA).

5.24.6. As Executive Agent for the Department of Defense and in coordination with the DoS, DHHS, and appropriate DoD Components, develop plans for noncombatant evacuation operations, repatriation, CONUS reception, and onward movement.

5.25. The Director, Defense Mapping Agency (DMA), in addition to carrying out the functions assigned by DoD Directive 5105.40 (reference (gg)), shall:

5.25.1. Advise and assist the FEMA and other Federal Departments and Agencies in determining and fulfilling mapping, charting, and geodesy requirements related to emergency preparedness.

5.25.2. Advise and assist the DoC, the DoI, and other Federal Departments and Agencies in the development of mapping, charting, and geodesy production plans for use in crises and domestic emergencies.

5.26. The Director, Defense Communications Agency (DCA), in addition to carrying out the functions assigned by E.O. 12472 and DoD Directive 5105.19 (references (s) and (hh)), shall:

5.26.1. Act as Manager of the NCS and carry out the functions assigned to the Manager, NCS, by reference (s).

5.26.2. Advise and assist the FEMA and other Federal Departments and Agencies in the development of information system architectures, telecommunications requirements, and communications support plans necessary to satisfy requirements for all peacetime circumstances including domestic emergencies.

5.26.3. Advise and assist the ASD(C3I) in the functioning of the NCS in his or her role as the NCS Manager in accordance with reference (s). 5.26.4. Provide those personnel and equipment required by reference (s) and NSDD 47 (reference (d)) and internal requirements to Federal services, Agencies, and Departments.

5.26.5. Provide operational direction and management control of the current Defense Communications System (DCS), which includes the planning, system engineering, and project management of the evolving DCS.

5.26.6. Ensure the ability of the DCS to be responsive at all levels of conflict, exercising operational direction and management control through the National Communications System and/or Defense Communication Agency Operations Center (NCS/DCAOC), DCA Europe, and DCA Pacific.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

5.27. The Director, Defense Logistics Agency (DLA), in addition to carrying out the functions assigned by DoD Directive 5105.22 (reference (jj)), shall:

5.27.1. Support and participate in emergency preparedness activities.

5.27.2. Develop and furnish to the OASD(P&L) industrial base capability assessments and investment strategies to support GMR options.

5.27.3. Incorporate GMR into the Program Objectives Memorandum (POM) development cycle.

5.27.4. Stockpile and manage strategic and critical materials in the national defense stockpile.

### 6. EFFECTIVE DATE

This Directive is effective immediately.

/S/  
William H. Taft, IV  
Deputy Secretary of Defense

Enclosures - 3

- E1. References, continued
- E2. Definitions
- E3. The OSD CMS

#### E1. ENCLOSURE 1 REFERENCES, continued

- (e) National Security Decision Directive (NSDD) 188, "Government Coordination for National Security Emergency Preparedness," September 16, 1985
- (f) [DoD Directive 3020.26](#), "Continuity of Operations Policies and Planning," October 24, 1985
- (g) [DoD Directive 5111.1](#), "Under Secretary of Defense for Policy," September 27, 1985
- (h) DoD Directive 3025.10, "Military Support of Civil Defense," July 22, 1981
- (i) [DoD Directive 3025.12](#), "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (j) DoD Directive 5030.45, "DoD Representation on Federal Emergency Management Agency (FEMA) Regional Preparedness Committees and Regional Field Boards," November 29, 1983
- (k) [DoD Directive 5160.54](#), "DoD Key Assets Protection Program (KAPP)," December 5, 1986
- (l) DoD Directive 5111.2, "Department of Defense Mobilization and Deployment Study Group," April 2, 1979
- (m) Secretary of Defense Memorandum on the Responsibilities for the Under Secretary of Defense (Acquisition), September 30, 1986
- (n) DoD Directive 5128.1, "Assistant Secretary of Defense (Acquisition and Logistics)," November 19, 1985
- (o) Public Law 81-774, "Defense Production Act of 1950," September 8, 1950
- (p) [DoD Directive 5137.1](#), "Assistant Secretary of Defense (Command, Control, Communications, and Intelligence)," April 2, 1985
- (q) [DoD Directive 5100.41](#), "Executive Agent Responsibilities for the National Communications System (NCS)," July 23, 1979
- (r) "Communication Act of 1934," June 19, 1934, as amended
- (s) Executive Order 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984
- (t) [DoD Directive 5118.3](#), "Assistant Secretary of Defense (Comptroller)," July 11, 1972
- (u) [DoD Directive 5125.1](#), "Assistant Secretary of Defense (Reserve Affairs)," January 12, 1984
- (v) [DoD Directive 5142.1](#), "Assistant Secretary of Defense (Legislative Affairs)," July 2, 1982
- (w) [DoD Directive 5124.2](#), "Assistant Secretary of Defense (Force Management and Personnel)," July 5, 1985

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- (x) DoD Directive 5136.1, "Assistant Secretary of Defense (Health Affairs)," October 5, 1984
- (y) DoD Directive 5122.5, "Assistant Secretary of Defense (Public Affairs)," June 15, 1982
- (z) DoD Directive 5145.1, "General Counsel of the Department of Defense," January 7, 1959
- (aa) DoD Directive 5141.1, "Assistant Secretary of Defense (Program Analysis and Evaluation)," September 22, 1982
- (bb) DRB Memorandum 84-16, "Memorandum for Members of the Defense Resources Board (DRB), May 25, 1984
- (cc) DoD Directive 5148.2, "Assistant to the Secretary of Defense (Atomic Energy)," February 4, 1986
- (dd) DoD Directive 5138.3, "Assistant Secretary of Defense (Special Operations and Low-Intensity Conflict)," January 4, 1988
- (ee) DoD Directive 5106.1, "Inspector General of the Department of Defense," March 14, 1983
- (ff) DoD Directive 5158.1, "Organization of the Joint Chiefs of Staff and Relationships with the Office of the Secretary of Defense," May 1, 1985
- (gg) DoD Directive 5105.40, "Defense Mapping Agency," April 23, 1986
- (hh) DoD Directive 5105.19, "Director, Defense Communications (DCA)," August 10, 1978
- (ii) Joint Chiefs of Staff Pub. 1, "Department of Defense Dictionary of Military and Associated Terms," June 1, 1987
- (jj) DoD Directive 5105.22, "Defense Logistics Agency," August 15, 1986

### E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Alternate Headquarters. An existing facility currently manned and capable of assigning essential emergency functions if the primary headquarters cannot operate or relocate.

E2.1.2. Civil Defense. All those activities and measures designed or undertaken to:

E2.1.2.1. Minimize the effects upon the civilian population caused, or that would be caused, by an attack upon the United States.

E2.1.2.2. Deal with the immediate emergency conditions that an attack would create.

E2.1.2.3. Make emergency repairs or restore vital utilities and facilities destroyed or damaged by an attack.

E2.1.3. Control Organization. An organizational entity that is formed to continue operations and determine what portions of the total organization must be reconstituted first.

E2.1.4. Crippling. The degree of destruction, disruption, and loss of life which, while not decisive, would raise serious questions as to the ability of the United States to recover and regain its former status.

E2.1.5. Crisis Coordination Group (CCG). The CCG, which is a part of the CMS, consists of DoD Component members and civil Departments and Agencies who gather in the Crisis Coordination Center during a crisis for disseminating and coordinating timely information on key issues.

E2.1.6. Crisis Management System (CMS). The CMS is a standby system that is activated by the USD(P), or authorized representative, during a crisis. The CMS facilitates the staffing process, and ensures that OSD senior staff officials are provided the mechanisms and procedures essential to enable them to perform their emergency management responsibilities. (See enclosure 3.)

E2.1.7. Essential Emergency Functions. Those functions of the Federal Government that are necessary for performing the operations of the Government in wartime and that are indispensable to the conduct of assigned missions.

E2.1.8. Executive Document. Any document requiring Presidential approval.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

E2.1.9. Graduated Mobilization Response (GMR). (See definition E2.1.11., below.) The process by which the United States responds to early ambiguous or explicit warning of an emerging national security emergency, including preplanned incremental steps to react flexibly to a wide range of national security threats, and provide timely preparedness measures in the areas of force readiness, industrial base preparedness, operational requirements, and combat sustainability.

E2.1.10. Legislative Document. Any document requiring congressional enactment or adoption.

E2.1.11. Mobilization

E2.1.11.1. The act of assembling and organizing national resources to support national objectives in time of war or other emergencies.

E2.1.11.2. The process by which the Armed Forces, or part of them, are brought to a state of readiness for war or other national emergency. This includes activating all or part of the Reserve components as well as assembling and organizing personnel, supplies, and materiel. (See JCS Pub. 1 and DoD Directive 3020.26 (references (ii) and (f)).)

E2.1.12. National Emergency. A condition declared by the President or Congress by powers previously vested in them that authorize certain emergency actions to be undertaken in the national interest.

### E3. ENCLOSURE 3 THE OSD CMS

E3.1. GENERAL

E3.1.1. The OSD CMS is a standby system to be activated at the call of the USD(P). The CMS enables the OSD to accomplish its essential emergency functions effectively in times of major national security crises, focusing primarily on those crisis management activities in which OSD principals below the level of the Secretary and the Deputy Secretary of Defense play the major roles. The CMS permits:

E3.1.1.1. The rapid coordination of multiple actions.

E3.1.1.2. The dissemination to OSD principals of all information essential to informed decision making.

E3.1.1.3. The resolution of issues at the lowest appropriate levels.

E3.1.1.4. The surfacing of coordinated recommendations to the Secretary of Defense for a decision or recommendation to higher authority. Additionally, the CMS provides a central focus for the Secretary of Defense and other OSD and DoD principals to determine the status of crisis-related activities for which the OSD is responsible.

E3.1.2. Activation of the CMS does not alter existing lines of authority or responsibility within the Department of Defense. Senior OSD executives, the JCS, the Joint Staff, the Unified and Specified Commanders, and the Military Departments retain authority for their area of responsibility (to implement decisions and actions). The CMS facilitates the staffing process and ensures that the OSD senior staff officials are provided the information, mechanisms, and procedures essential to the discharge of their emergency management responsibilities.

E3.2. ORGANIZATION.

The basic CMS elements are as follows:

E3.2.1. A Crisis Management Council chaired by the Secretary of Defense.

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E3.2.2. Several functionally oriented boards and committees chaired at the USD or the ASD, and the DUSD or the DASD levels, respectively.

E3.2.3. A Program Review Group (PRG) to support deliberations on planning, program, and budget issues.

E3.2.4. A CCG to provide a central point of contact, information, and coordination within the OSD for crisis matters.

### E3.3. FUNCTIONING

E3.3.1. The CMS boards and committees and the PRG meet at the call of their chairpersons to exchange information; deliberate on major crisis issues; and provide advice, coordination, and recommendations to their chairpersons. At meetings of the Crisis Management Council, OSD principals shall ensure that any dissenting views they may hold are presented to the Secretary of Defense. Similarly, the Secretary of Defense shall ask the Secretaries of the Military Departments to attend when Service interests are involved in the issues to be considered. The Secretaries of the Military Departments, the Service Chiefs, and the OSD principals shall continue to have direct and full access to the Secretary of Defense. The JCS shall advise the Secretary on matters within their statutory responsibilities, as they do now.

E3.3.2. The CMS boards and committees have no intrinsic authority. They are designed to assist their chairpersons in the discharge of the responsibilities of those chairpersons. It is expected that the chairpersons and the executive secretaries shall convene only those members required to address the specific issues at hand. This may be less than, or more than, the nominal membership established for the board or committee. Although there may be a logical flow of functional issues from committees to boards, committees do not report to, nor are they supervised by, specific boards. The normal staff relationships among the OSD principals who chair the boards and committees continue to function in the crisis.

E3.3.3. The PRG is the same group that supports the DRB during non-crisis activities. When functioning as part of the CMS, the PRG shall work directly for the Crisis Management Council.

E3.3.4. After activation of the CMS, crisis-related staff activities requiring broad OSD attention shall be monitored by the CMS CCG. The CCG is comprised of representatives from the OSD Components and liaison officers from the Joint Staff, the Military Departments, appropriate DoD Agencies, and other Federal Departments and Agencies, depending on the nature of the crisis. The CCG provides timely dissemination of crisis information to appropriate offices; facilitates coordination within the OSD and between the OSD and other DoD Components and the civil sector of the Government; and maintains and briefs the status of crisis-related activities within the OSD. The CCG convenes in the OSD Crisis Coordination Center, Pentagon, Room 3C912.

E3.3.5. The CCG representatives function essentially in coordination and information exchanging roles. There shall be issues arising that are within the authority of a CCG representative to resolve. The CCG staff representatives shall draw on their parent offices for support, guidance, and information, as required.

E3.3.6. The OSD CMS is a dynamic system. The principal OSD CMS test and evaluation vehicle is the national security exercise program. Enhancements and adjustments are made both during and following each major exercise. In an actual national security emergency, the CMS equally shall be flexible in adjusting to the specifics of the crisis at hand. Recommendations for adjustments, improvements, or changes should be addressed to the Director, OSD Crisis Coordination Center, Office of the Deputy Under Secretary of Defense (Policy), Room 3C912, Pentagon, Washington, DC 20301-2000.



**Appendix 8-5: DoDD 3025.13, Employment of DoD Resources in Support of  
the United States Secret Service**

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense

**DIRECTIVE**

NUMBER 3025.13  
September 13, 1985

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ExSec, DoD

SUBJECT: Employment of Department of Defense Resources in Support of the United States Secret Service

- References: (a) DoD Directive, 3025.13, subject as above, August 10, 1978 (hereby canceled)
- (b) Sections 1385 and 3056 of title 18, United States Code, and Public Law 90-331, "To Authorize the United States Secret Service to Furnish Protection to Major Presidential or Vice Presidential Candidates," June 6, 1968
  - (c) Public Law 94-524, "Presidential Protection Assistance Act of 1976," October 17, 1976 (18 U.S.C. 3056)
  - (d) through (k), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

- 1.1. Reissues reference (a) to include additional responsibilities regarding the production, issue, use, and disposition of Explosive Ordnance Disposal (EOD) technician credentials.
- 1.2. Implements enclosure 2 by establishing DoD policy governing the use of DoD resources to support the U.S. Secret Service, Department of the Treasury, in performing its protective duties under references (b) and (c).
- 1.3. Assigns responsibilities to staff officials for carrying out this Directive (see section 4.).

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

DODD 3025.13, September 13, 1985

### 2. APPLICABILITY

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 Defense Agencies, and the Unified and Specified Commands (hereafter referred to collectively as the "DoD Components"). The term "Military Services," as used herein refers to the Army, the Navy, the Air Force, and the Marine Corps.

### 3. POLICY

3.1. Logistics and other support, as defined in enclosure 2, will be provided only upon request of the Director, U.S. Secret Service or an authorized representative. Such support is an express exception to 18 U.S.C. 1385 (reference (b)) and is authorized by 18 U.S.C. 3056 and P. L. 94-524 (references (b) and (c)). When requested by the Director of the U.S. Secret Service, Federal Departments and Agencies are directed to assist the Secret Service in performing its statutory protective duties (DoD Instruction 5030.34, reference (d)).

3.2. Public Law 94-524 (reference (c)) provides that the support provided to the Secret Service shall be made on a reimbursable basis, except when the Department of Defense provides temporary assistance directly related to protecting the President, Vice President, or other officer immediately in order of succession to the Office of the President.

3.2.1. Permanent support may only be provided upon advance written request of the Director or Deputy Director of the Secret Service.

3.2.2. Moreover, every Department and Agency making expenditures (i.e., incurring costs) to support Secret Service protective duties shall transmit a detailed report of such expenditures to Washington Headquarters Services (WHS) in accordance with enclosure 3, attachments E3.A1. and E3.A2.

3.2.3. These reporting procedures shall reinforce the principle that fiscal accountability for public expenditures should reside in the agency having the authority to obligate those expenditures.

3.3. All DoD personnel assigned to assist the Secret Service shall be subject to overall supervision of the Director, U.S. Secret Service, or a designee, during the duration of the assignment, in accordance with enclosure 2.

3.4. All requests by the Secret Service for DoD support (except EOD and Protective Services Support Personnel) for the President and Vice President shall be submitted to the Office of the Director, White House Military Office, for approval.

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3.4.1. Except for aircraft support, the White House Military Office will route such requests through the Office of the Executive Secretary of the Department of Defense to the Secretary and Deputy Secretary of Defense.

3.4.2. Requests for aircraft approved by the White House Military Office will be submitted to the Office of the Vice Chief of Staff of the Air Force.

3.5. All requests by the Secret Service for support other than in paragraph 3.4., above, must be approved by the Executive Secretary, or a designee before such support is provided, except that:

3.5.1. Military commanders may approve and respond to urgent requests as circumstances justify; however, all such cases will be reported to the Executive Secretary.

3.5.2. DoD communications support for the Secret Service will be provided by the Director, Defense Communications Agency (DCA), in direct coordination with the Secret Service. The Director, DCA, need not inform the Executive Secretary of such support, unless:

3.5.2.1. Secret Service communications requirements cannot be met within DCA resources.

3.5.2.2. This support is provided according to the Secret Service's responsibilities for protecting major Presidential candidates.

3.6. Within the Continental United States (CONUS), including Alaska, DoD support will be provided by the Military Departments. The commanders of the Unified Commands will provide support in those areas under their geographical jurisdiction. In other areas of the world, support requirements will be tasked to a Military Department or a Unified Command, based on proximity of available resources.

#### 4. RESPONSIBILITIES

4.1. The Executive Secretary of the Department of Defense or an authorized representative (see exception under paragraph 3.4., above):

4.1.1. Shall approve or disapprove Secret Service requests for DoD support in accordance with enclosure 2.

4.1.2. Shall forward approved requests for DoD support to the Deputy Director for Operations, National Military Command Center (NMCC). (See exception under subparagraph 3.4.1., above.)

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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4.1.3. Shall act as the point of contact for the Department of Defense in all matters pertaining to DoD support of the Secret Service.

4.1.4. May designate a person(s) recommended by the Secretary of the Military Department concerned, in consultation with the Joint Chiefs of Staff (JCS), with authority for approving Secret Service requests for support by the Military Department. The designated person shall:

4.1.4.1. Direct his or her Department to provide the support.

4.1.4.2. Notify the Executive Secretary of the action that has been taken.

4.1.5. Has departmental supervision over and establishes policies for the production, issue, use, and disposition of EOD credentials.

4.2. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)), in response to specific inquiries, may acknowledge that the Department of Defense is providing support to the Secret Service but will let the Secret Service provide specific information on inquiries. News queries directed to DoD subordinate elements will be referred to the Office of the Assistant Secretary of Defense (Public Affairs).

4.3. The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall provide guidance to the DoD Components concerning accounting, reporting, and determining reimbursements for protective assistance support.

4.4. The Secretaries of the Military Departments and Directors of Defense Agencies shall:

4.4.1. Provide Military Service resources in accordance with approved instructions (see subparagraph 4.5.1., below).

4.4.2. Coordinate the use of resources under the operational control of the Unified Commands with cognizant commanders in instances when DoD support to the Secret Service is of such magnitude as to limit the mission capability of the Unified Commands.

4.4.3. Accumulate and report the full costs of resources used in providing support services in accordance with the guidance provided in enclosure 3.

4.4.4. Submit claims for reimbursement for assistance provided in accordance with Sections 6 and 8 of Pub. L. 94-524 (reference (c)) to the Director, U.S. Secret Service, U.S. Treasury Department, 1800 G Street, N.W., Washington, DC 20223.

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4.4.5. Submit reports of all costs incurred to support the U.S. Secret Service covering semiannual periods ending September 30 and March 31 to the Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. These reports will be due on the 45th calendar day or next business day after the last day of the reporting period. These reports are assigned Report Control Symbol DD-Comp(SA)1466. Supporting schedules to the report will include:

4.4.5.1. The person or officer receiving the support.

4.4.5.2. The dates the support was provided.

4.4.5.3. A description of the services provided (enclosure 3, section E3.4.).

4.4.6. Request blank EOD credentials, DD Form 2335, "Explosive Ordnance Disposal Technician" from the Executive Secretary, Department of Defense, Washington, DC 20301-1000.

4.4.7. Ensure that only qualified EOD personnel are issued EOD credentials to identify the bearer as an EOD technician assigned and authorized to support the U.S. Secret Service.

4.4.8. Ensure that EOD credentials are controlled by a continuous receipt and accounting system.

4.4.8.1. Because of the access given to a person with EOD credentials, credentials will not be used or carried by a person except when on a Secret Service support detail.

4.4.8.2. When not in use, credentials and blank credential forms will be protected and stored in the same manner as confidential material.

4.4.9. Report lost EOD credentials or blank credential forms to:

4.4.9.1. The Executive Secretary, Department of Defense, Washington, DC 20301-1000.

4.4.9.2. U.S. Secret Service, Technical Security Division, Washington, DC 20223.

4.4.9.3. Military law enforcement and intelligence officials.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

DODD 3025.13, September 13, 1985

4.5. The National Military Command Center (NMCC), under the direction and supervision of the JCS, shall:

4.5.1. Designate the appropriate Military Department/Unified Command(s) to provide DoD support and dispatch Directives for compliance by the Department/Command concerned, unless the Department has already been designated under subparagraph 4.1.4., above.

4.5.2. Ensure that Secret Service requests for DoD support received outside of normal duty hours are promptly given to the Executive Secretary or a designee and that the Department/Command(s) concerned are alerted of the impending request(s).

4.5.3. Provide the Executive Secretary with information on the action taken on each Secret Service request for DoD support.

4.6. The Commanders of Unified Commands under the supervision of the JCS, shall provide DoD support for the Secret Service in accordance with approved requests and instructions (subparagraph 4.4.1., above).

### 5. PROCEDURES

5.1. For requests in support of the President and Vice President, see paragraph 3.4., above.

5.2. Other requests will normally be addressed through channels to the Executive Secretary.

5.3. Outside of normal duty hours, requests may be received by the NMCC for action and forwarding to the Executive Secretary.

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6. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of the implementing documents to the Executive Secretariat of Defense within 120 days.

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William H. Taft, IV  
Deputy Secretary of Defense

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Enclosures - 3

- E1. References, continued
- E2. Inter-departmental Agreement Between the Department of Defense and the Department of the Treasury Concerning Secret Service Protective Responsibilities
- E3. Guidance on Accounting, Reporting, and Determining Reimbursements for Protective Assistance Support



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E1. ENCLOSURE 1

REFERENCES, continued

- (d) DoD Instruction 5030.34, "Agreement Between the United States Secret Service and the Department of Defense Concerning Protection of the President and Other Officials," October 27, 1981
- (e) DoD 7220.9-M, "Department of Defense Accounting Manual," October 1983
- (f) DoD 1338.10-M, "Manual for the Department of Defense Food Service Program, November 22, 1978
- (g) Joint Travel Regulations, Volumes 1 and 2, July 1, 1965
- (h) DoD Instruction 7230.7, "User Charges," January 29, 1985
- (i) DoD 4500.36-R, "Management, Acquisition, and Use of Motor Vehicles," July 1981
- (j) OMB Circular No. A-94, "Discount Rates to be Used in Evaluating Time-Distributed Costs and Benefits"
- (k) AFR 76-11, "U.S. Government Rate Tariffs," September 9, 1974

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E2. ENCLOSURE 2

INTERDEPARTMENTAL AGREEMENT BETWEEN THE DEPARTMENT OF  
DEFENSE AND THE DEPARTMENT OF THE TREASURY  
CONCERNING SECRET SERVICE PROTECTIVE RESPONSIBILITIES

I. Purpose of Agreement

For many years the Department of Defense has rendered valuable support to the Secret Service, Department of the Treasury, to aid in discharging that Agency's statutory protective responsibilities. The purpose of this agreement is to provide procedures for and delineate in more specific terms the logistical assistance and other support the Department of Defense will provide to the Secret Service.

II. Support to be Provided by the Department of Defense to the United States Secret Service

A. The Department of Defense shall, upon request, provide the Secret Service with medical service, motor vehicle, communications, and such other support as may be necessary to assist the Secret Service in the performance of its protective functions.

B. The Department of Defense shall, upon request, make available appropriate aircraft to transport Secret Service agents to destinations where persons entitled to Secret Service protection intend to travel or do travel either within or outside the United States, in the event commercial transportation is not available, readily obtainable, or satisfactorily capable of meeting the requirement.

C. The Department of Defense shall, upon request, make available when appropriate aircraft to transport Secret Service automobiles required by persons entitled to Secret Service protection when such persons travel either within or outside the United States.

D. The Department of Defense shall, upon request, make available when appropriate helicopters and other aircraft and crews to provide transportation to persons entitled to Secret Service protection when such persons travel either within or outside the United States and the Secret Service personnel accompanying such persons.

(Page 1 of 2 pages)  
(Revision June 27, 1968)

E. The Department of Defense shall, upon request, make available when appropriate a sufficient number of helicopters and crews to accompany motorcades when persons entitled to Secret Service protection travel within or outside the United States to

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aid in the security of the motorcades by overhead surveillance and to assist in the event motor vehicles containing protected persons should become immobilized.

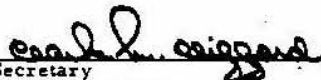
III. Procedure for Requesting Assistance and Supervision of Department of Defense Personnel Furnishing Support to the Secret Service

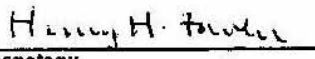
A. The Secretary of Defense will designate an official within the office of the Secretary of Defense who shall have the responsibility for providing the support required by the Secret Service in accordance with the provisions of this agreement. Logistic and other support will be provided only upon request by the Director of the Secret Service or his authorized representative.

B. Requests for logistical support and other assistance shall be communicated to the official designated by the Secretary of Defense as soon as possible after the need for such assistance is ascertained.

C. All Department of Defense personnel assigned to assist the Secret Service in accordance with the provisions of this agreement shall, during the duration of their assignment, be subject to overall supervision and direction of the Director, U.S. Secret Service or his authorized representative.

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Secretary  
Department of Defense

  
Secretary  
Department of the Treasury

Date: June 10, 1968

Date: JUN 11 1968

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## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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### E3. ENCLOSURE 3

#### GUIDANCE ON ACCOUNTING, REPORTING, AND DETERMINING REIMBURSEMENTS FOR PROTECTIVE ASSISTANCE SUPPORT

##### E3.1. GENERAL

This guidance specifies the criteria for accounting and reporting the use of resources by the Department of Defense to support the Secret Service's protective functions and for determining and billing the reimbursable portion of such support. Each DoD Component providing support to the Secret Service will provide criteria for implementing the accounting, reporting, and billing requirements. Questions and recommended solutions or changes to the guidance herein shall be referred to the Assistant Secretary of Defense (Comptroller) (ASD(C)), or a designee, for consideration.

##### E3.2. ACCOUNTING

E3.2.1. General. When resources (e.g., services, equipment, facilities) are used to support the Secret Service's protective functions, the full cost incurred by the Department of Defense will be accumulated and recorded in the accounting books and records. Each request for support by the Secret Service should be treated as a separate task and will be separately costed. The cost of the support rendered or made available pursuant to a Secret Service request is to be determined and accumulated regardless of whether the support is on a permanent, temporary, reimbursable, or non reimbursable basis.

E3.2.2. Documentation. As a part of the normal administrative control procedures, a copy of the Secret Service request or a statement of the requested support and the official approval should be retained by the organization providing the support. In addition, the task request approval document or file shall be annotated to identify the protectee(s) (i.e., person(s) designated by the Secret Service for protection) as well as the date(s), location(s) of the support, and the DoD resources employed in providing such support.

E3.2.3. Accounting System. The system used to account for the cost of support to the Secret Service need be no different than the system management officials consider adequate for the normal administration and control of resources. When the accounting system used by management has the capability to accumulate and distribute the indirect costs incurred in providing the support, including the indirect costs for the overall management of the activity (e.g., an industrial fund activity), this system should be used to accumulate the indirect costs.

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E3.2.3.1. When the existing accounting system can be modified efficiently and in a timely manner to provide for a systematic and rational indirect costing process that would be beneficial in the day-to-day operations of the activity, this action should be taken.

E3.2.3.2. If management has no other recurring or significant use for an accounting system that separately can identify direct and indirect costs, the Comptroller of the DoD Component concerned will establish a memorandum costing or cost finding system for activities providing support to the Secret Service.

E3.2.3.3. The system will include, as a minimum:

E3.2.3.3.1. Adequate internal controls and criteria by which to distinguish direct from indirect costs.

E3.2.3.3.2. Specific guidance for classifying by expense pool(s), local indirect costs and developing an annual local overhead rate(s).

E3.2.3.3.3. Criteria for developing and disseminating an annual rate for general and administrative expenses and any other allocable non-locally incurred expenses.

E3.2.4. Costing. Costs shall be assigned to each task as outlined in subparagraphs E3.2.4.1. through E3.2.4.11., below. These are minimum requirements. Equivalent practices or methods that are more accurate and include all of the same cost elements may be substituted:

E3.2.4.1. Military personnel costs will be based on hours worked times the officer or enlisted man-hour rate (calculated on the annual composite standard rates as determined by the Military Departments) accelerated to cover leave, holiday, and certain other personnel costs. The acceleration factors prescribed in Part II, Chapter 26, Addendum 3, DoD 7220.9-M (reference (e)) will be used.

E3.2.4.2. Civilian personnel costs will be based on hours worked times the employee's basic hourly rate accelerated to cover leave and Government contributions. Where the accounting system for civilian personnel costs does not determine acceleration factors, the factors prescribed in Part II, Chapter 26, Addendum 3 of reference (e) will be used.

E3.2.4.3. Subsistence provided by appropriated fund dining facilities will be costed at the meal rates in accordance with DoD 1338.10-M (reference (f)). The surcharge will be applied to all meals to ensure full costing for food preparation and service as well as the raw food costs.

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E3.2.4.4. Quarters provided will be costed by the furnishing activity (civil engineer or public works department and housing office records will be used to make an estimate of cost). Costs will be based on the net payments made by the quartered DoD personnel such as visiting officer quarters (VOQ) payments.

E3.2.4.5. Personnel travel, transportation, per diem, and other authorized personnel expenses, other than accumulated under subparagraphs E3.2.4.3. and E3.2.4.4., above, will be costed at the entitlement amounts authorized by the Joint Travel Regulation, volumes 1 and 2 (reference (g)). Actual payment vouchers will be used whenever available.

E3.2.4.6. Transportation of supplies, materials, and equipment will be costed at amounts payable or paid or estimates if payable amounts are unavailable. Transportation rates should be requested from the Military Traffic Management Command in order to make reasonable estimates.

E3.2.4.7. Consumable materials and supplies will be costed at the standard catalog price.

E3.2.4.8. Loaned plant and equipment (investment items other than aircraft) will be costed based on computing an annual rent, which will be the sum of the annual depreciation plus interest on the investment. The amount of interest on the investment is determined by applying the interest rate to the net book value, which is acquisition cost plus cost of additions less depreciation. The interest rate published in OMB Circular A-94 (reference (j)) (currently at a 10 percent annual rate) will be used. (See DoD Instruction 7230.7 (reference (h)).)

E3.2.4.9. Contractual services will be costed at the acquisition price for the goods or services provided, plus the cost of any related contract administration.

E3.2.4.10. DoD fixed-wing aircraft usage will be costed at the Government rates published by the Air Force in AFR 76-11 (reference (k)). Helicopter usage will be costed at the Government rate published annually by the ASD(C) (i.e., ASD(C) memorandum, September 29, 1984). Rates for any aircraft not listed in these documents will be furnished by HQ USAF/ACMCA, Room 4D184, The Pentagon, Washington, DC 20330-5018, upon request.

E3.2.4.11. Motor vehicle usage will be costed at the average rate per mile, obtainable from the latest motor vehicle report of the DoD Component, which is prepared in accordance with DoD 4500.36-R (reference (i)).

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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### E3.3. REIMBURSEMENTS

#### E3.3.1. General

E3.3.1.1. All support requested by the Secret Service for carrying out its protective mission is reimbursable unless otherwise stated in Pub. L. 94-524 (reference (c)) (i.e., certain temporary support). Reimbursement under this Directive will also be based on incremental costs incurred as stated in Pub. L. 94-524. This differs from normal interagency reimbursement practices that call for reimbursement for all costs incurred in providing services that are beyond an Agency's mission.

E3.3.1.2. A bill will be prepared and submitted for all reimbursable support furnished to the Secret Service and an account receivable record will be prepared in accordance with Part II, Chapter 26 of the DoD 7220.9-M (reference (e)). Bills should be computed by task on a monthly basis and rendered within 30 days after the end of the month during which the support was provided. When the accumulated amount of the reimbursement during a fiscal quarter is under \$100, the "waiver of reimbursement" procedure in Part II, Chapter 26, paragraph C of the Manual may be applied.

E3.3.2. Criteria. The following criteria will be used to determine which support to the Secret Service is reimbursable.

E3.3.2.1. An authorized Secret Service official must have requested the support for their protective mission either orally or in writing. Requests for permanent support must be in writing.

E3.3.2.2. An authorized DoD representative must have approved the request.

E3.3.2.3. Permanent support tasks are reimbursable.

E3.3.2.4. Temporary support tasks are reimbursable, except for:

E3.3.2.4.1. Support to the Secret Service in its duties directly related to protecting the President or the Vice President or other officials in succession to the Office of the President.

E3.3.2.4.2. Support of general purpose non-protective services ordinarily supplied to the President or Vice President (i.e., the existing un-reimbursed services such as normal communications and transportation that are outside of the protective assignment of the Secret Service). This support would not be requested by the Secret Service.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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E3.3.3. Documentation. Documentation of Secret Service requests or the DoD authorization of reimbursements for services shall comply with the criteria in subparagraphs E3.3.2.1. and E3.3.2.2., above. Either the request or approval should classify support as permanent or temporary and, if the latter, whether covered by the exceptions in subparagraph E3.3.2.4., above. Any support provided to the Secret Service in carrying out its protective mission at its request that is not exempted is reimbursable.

### E3.3.4. Computation

E3.3.4.1. The intent of Pub. L. 94-524 (reference (c)) is to make the Secret Service accountable for the funds it has available to carry out its protective services by requiring reimbursement for support provided to it. In computing the cost of reimbursable support to be billed, the amount included in the DoD cost accumulation process will be used, except as limited by the following paragraph. Each DoD Component shall ensure that its reimbursement computation practices adhere to the fiscal responsibilities specified in reference (c).

E3.3.4.2. For support provided in all situations, other than that described in subparagraph E3.3.2.4., above, the amounts to be reimbursed for services, equipment, and facilities shall include identifiable costs that are above the costs to the DoD Component (subparagraph E3.3.4.2.1., below).

E3.3.4.2.1. For example, the reimbursement computation would include salaries of DoD personnel who are providing permanent support to the Secret Service, such as a permanent guard detail. This would not include the salaries of DoD personnel who are providing temporary support but remain under the overall control of their parent Service or agency (see enclosure 2, III.C.), such as an Army bomb disposal squad assigned to protect a Presidential candidate for a short period of time.

E3.3.4.2.2. In addition, the reimbursable cost would include aircraft operation and maintenance costs, rental cars, and travel costs incurred by a DoD Component as a direct result of providing temporary support to Secret Service protective functions. Also, the costs of acquiring and installing authorized facilities and equipment, such as fences and electronic devices, which will be used for protective purposes on a permanent basis, are reimbursable.



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### E3.4. REPORTING

Costs of DoD resources expended to support the U.S. Secret Service's protective functions will be accumulated by task. All costs incurred will be reported in accordance with the formats prescribed in attachments E3.A1. and E3.A2. of this enclosure and submitted as required by subparagraph 4.4.5. of this Directive.

Attachments - 2

E3.A1. Summary Format for Reporting DoD Costs in Support of Secret Service for Protective Assistance

E3.A2. Detailed Information and Cost of DoD Resources Used to Support Secret Service Protective Assistance Operations

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SUPPORT OPERATIONS

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E3.A1. ATTACHMENT 1 TO ENCLOSURE 3

SUMMARY FORMAT FOR REPORTING DoD COSTS IN SUPPORT OF SECRET  
SERVICE FOR PROTECTIVE ASSISTANCE

FOR OFFICIAL USE ONLY  
(When Filled In)

SUMMARY FORMAT FOR REPORTING DOD COSTS IN SUPPORT OF  
SECRET SERVICE FOR PROTECTIVE ASSISTANCE

RCS: DD-Comp(SA)1466

Department or agency \_\_\_\_\_

Report date \_\_\_\_\_

	Total Cost Incurred 1/ Temporary support to President and Vice President (not reim- bursable)	All other support	Costs subject to reimbursement 2/
<b>Cost categories</b>			
<b>Personnel Services &amp; Benefits</b>			
Military			
Civilian			
<b>Subsistence &amp; Quarters</b>			
Military			
Civilian			
<b>Travel &amp; Transportation of Persons</b>			
Military			
Civilian			
<b>Transportation of Things</b>			
<b>Rent, Communication, &amp; Utilities</b>			
<b>Other Services, Supplies, &amp; Materials</b>			
<b>Capital Assets</b>			
<b>Other (Specify)</b>			
<b>Total</b>			

Submit reports to:

Washington Headquarters Services  
Directorate for Information Operations and Reports  
1215 Jefferson Davis Highway, Suite 1204  
Arlington, VA 22202-4302

1/ All costs incurred for DoD support to Secret Service for protective assistance pursuant to P.L. 94-524 computed in accordance with costing guidelines.

2/ Costs computed in accordance with reimbursement guidelines.

FOR OFFICIAL USE ONLY  
(When Filled In)

17      ENCLOSURE 3, ATTACHMENT 1

# APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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## E3.A2. ATTACHMENT 2 TO ENCLOSURE 3

### DETAILED INFORMATION AND COST OF DoD RESOURCES USED TO SUPPORT SECRET SERVICE PROTECTIVE ASSISTANCE OPERATIONS

DoD COMPONENT											
Detailed Information and Cost of DoD Resources Used to Support Secret Service Protective Assistance Operations for _____											
TRAVEL DATES	TRIP LOCATION	PERSONNEL SERVICES & BENEFITS 1/	SUBSISTENCE & QUARTERS 1/	TRANSPORTATION OF PERSONS	TRANSPORTATION OF THINGS	RENT & UTILITIES	COMMUNICATION & UTILITIES	OTHER SERVICES & MATERIALS	CAPITAL ASSETS	OTHER SPECIFY	TOTAL
		Includes total com- pensation and bene- fits  See B.4.s. and b.	See B.4.c. and d.	See B.4.a., e., and k.	See B.4.f.	See B.4.g., h., i., and j.	See B.4. g., i., and j.	See B.4. j.			
<b>TOTALS</b>		_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

1/ Cost must be accumulated and reported separately for military and civilian personnel.

**Appendix 8-6: DoDD 3025.15, Military Assistance to Civil Authorities**

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense

DIRECTIVE

NUMBER 3025.15  
February 18, 1997

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ASD(SOLIC)

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:

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

DODD 3025.15, February 18, 1997

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).

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

DODD 3025.15, February 18, 1997

4.2.2. Lethality (potential use of lethal force by or against DoD Forces).

4.2.3. Risk (safety of DoD Forces).

4.2.4. Cost (who pays, impact on DoD budget).

4.2.5. Appropriateness (whether the requested mission is in the interest of the Department to conduct).

4.2.6. Readiness (impact on the Department of Defense's ability to perform its primary mission).

4.3. The Secretary of the Army is approval authority for emergency support in response to natural or man-made disasters, as specified by this Directive.

4.4. The Secretary of Defense retains approval authority for support to civil authorities involving: use of Commander in Chief (CINC)-assigned forces (personnel, units, and equipment) when required under paragraph 4.5., below; DoD support to civil disturbances; DoD responses to acts of terrorism; and DoD support that will result in a planned event with the potential for confrontation with specifically identified individuals and/or groups or will result in the use of lethal force. Nothing in this Directive prevents a commander from exercising his or her immediate emergency response authority as outlined in DoD Directive 3025.1 (reference (g)).

4.5. With the exception of immediate responses under imminently serious conditions, as provided in subparagraph 4.7.1., below, any support that requires the deployment of forces or equipment assigned to a Combatant Command by Secretary of Defense Memorandum (reference (j)), must be coordinated with the Chairman of the Joint Chiefs of Staff. The Chairman shall evaluate each request to use Combatant Command forces or equipment to determine if there is a significant issue requiring Secretary of Defense approval. Orders providing assistance to civil authorities that are approved by the Secretary of Defense involving the use of Combatant Command forces or equipment shall be issued through the Chairman of the Joint Chiefs of Staff. Upon Secretary of Defense approval, the Secretary of the Army, when designated "the DoD Executive Agent," shall implement and oversee DoD support in accordance with such approved orders.

4.6. This Directive does not address non-Federalized National Guard assets in support of local and/or State civil agencies approved by the Governor. However, there exists potential for such deployments to result in confrontation, use of lethal force, or national media attention. Therefore, the Director of Military Support (DOMS) shall keep the Chairman of the Joint Chiefs of Staff and the Secretary of Defense informed of such support.

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DODD 3025.15, February 18, 1997

4.7. Requests for military assistance should be made and approved in the following ways:

4.7.1. Immediate Response. Requests for an immediate response (i.e., any form of immediate action taken by a DoD Component or military commander to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions) may be made to any Component or Command. The DoD Components that receive verbal requests from civil authorities for support in an exigent emergency may initiate informal planning and, if required, immediately respond as authorized in DoD Directive 3025.1 (reference (g)). Civil authorities shall be informed that verbal requests for support in an emergency must be followed by a written request. As soon as practical, the DoD Component or Command rendering assistance shall report the fact of the request, the nature of the response, and any other pertinent information through the chain of command to the DoD Executive Secretary, who shall notify the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and any other appropriate officials. If the report does not include a copy of the civil authorities' written request, that request shall be forwarded to the DoD Executive Secretary as soon as it is available.

4.7.2. Loans of Equipment, Facilities, or Personnel to Law Enforcement. Requests for loans of equipment, facilities, or personnel made by law enforcement agencies, including the Coast Guard when not acting as part of the Navy, other than requests made under subparagraph 4.7.1., above, shall be made and approved in accordance with DoD Directive 5525.5 (reference (i)), but at a level no lower than a flag or general officer, or equivalent civilian, with the following exceptions:

4.7.2.1. The Secretary of Defense is the approval authority for any requests for potentially lethal support (i.e., lethal to the public, a member of law enforcement, or a Service member) made by law enforcement agencies. Lethal support includes: loans of arms; combat and tactical vehicles, vessels or aircraft; or ammunition. It also includes: all requests for support under 10 U.S.C. 382 and 18 U.S.C. 831 (references (k) and (l)); all support to counter-terrorism operations; and all support to law enforcement when there is a potential for confrontation between law enforcement and specifically identified civilian individuals or groups.

4.7.2.2. The Secretary of Defense is the approval authority for all assistance with the potential for confrontation between Department personnel and civilian individuals or groups.

4.7.2.3. If a DoD Component has a question on the appropriateness or legality of providing requested support, such requests shall be forwarded to the Secretary of Defense for review and approval.

4.7.2.4. Orders approved by the Secretary of Defense under this paragraph shall be processed, as prescribed in subparagraph 4.7.3.5., below.



## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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### 4.7.3. Support for Civil Disasters

4.7.3.1. When the Department of Defense is called upon to respond to civil emergencies (i.e., natural or man-made disasters) other than terrorism, and subject to paragraph 4.5., above, the Secretary of the Army, as the DoD Executive Agent for the Secretary of Defense, is the approval authority for emergency support, as provided in DoD Directive 3025.1 (reference (g)).

4.7.3.2. A request for civil disaster support shall be made to the DOMS.

4.7.3.3. The DOMS, in coordination with the Director of Operations of the Joint Staff, shall review a support request to determine recommended courses of action that may be taken in response to the request. If approval of the Secretary of Defense is not required under paragraph 4.5. or subparagraph 4.7.2., above, or because support can be met by the Military Services or Defense Agency assets, DOMS shall submit the request for assistance, with recommended execute orders, to the Secretary of the Army for approval and subsequent tasking of the appropriate DoD Components, in accordance with DoD Directive 3025.1 (reference (g)). If based on initial coordination with the Director of Operations, Joint Staff, Secretary of Defense approval is required (as provided in paragraph 4.5., above), DOMS shall develop and staff recommended execute orders and obtain concurrences or comments from appropriate DoD offices and the Secretary of the Army before forwarding the request, through the Chairman of the Joint Chiefs of Staff, to the Secretary of Defense for approval.

4.7.3.4. Requests for loans of equipment, facilities, or personnel by law enforcement agencies shall be processed under subparagraph 4.7.2., above.

4.7.3.5. All orders approved by the Secretary of Defense shall be issued by DOMS upon the Chairman of the Joint Chiefs of Staff verification of such approval, and all orders approved by the Secretary of the Army acting as Executive Agent for the Secretary of Defense shall be issued through the DOMS to the appropriate DoD Component for execution, in accordance with DoD Directive 3025.1 (reference (g)). Such orders shall provide for post-deployment management of the Department's response by the Secretary of the Army, as the DoD Executive Agent for the Secretary of Defense.

4.7.4. Support for Domestic Civil Disturbances. The employment of active duty military forces in domestic civil disturbances may be requested only by the President or Attorney General and authorized only by the President. When requested by the Attorney General and approved by the Secretary of Defense or when authorized by the President, the Secretary of Defense shall employ active Federal military forces under rules of engagement approved by General Counsel of the Department of Defense (GC, DoD) and the Attorney General. The Secretary of the Army, as Executive Agent for the Secretary of Defense, and with the advice and assistance of the Chairman of the Joint Chiefs of Staff, and the DOMS, shall direct the required DoD assistance, in accordance with DoD Directive 3025.12 (reference (e)), DoD Directive 5160.54 (reference (f)), and

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DoD Directive 3025.1 (reference (g)), unless otherwise directed by the Secretary of Defense. The Secretary of the Army, in coordination with the Chairman of the Joint Chiefs of Staff, shall at all times maintain contingency plans, with rules of engagement approved by the Department of Justice, for use in civil disturbance situations.

4.7.5. Support for Domestic Counter-terrorism Operations. The employment of U.S. military forces in response to acts or threats of domestic terrorism may be requested only by the President (or in accordance with Presidential Decision Directives) and must be authorized by the President. All requests for assistance in responding to acts or threats of domestic terrorism must also be approved by the Secretary of Defense.

4.7.5.1. Informal action on counter-terrorist support requests shall normally be requested by contacting the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD(SO/LIC)), who shall review such requests or actions from a policy perspective. Following the policy review, the informal request will be passed to the Joint Staff for operational analysis. Any requests requiring consequence management preparation shall be coordinated between the Joint Staff and DOMS staff.

4.7.5.2. When a formal or informal request for support is made, or the ASD(SO/LIC) determines that such a request is imminent, the ASD(SO/LIC) shall establish a Crisis Coordination Group (consisting of, at a minimum, representatives from the Office of the ASD(SO/LIC), Office of the Under Secretary of Defense (Comptroller) (USD(C)), Department of the Army, Joint Staff, and the office of the GC, DoD, to coordinate and integrate all aspects of the DoD response actions. Before submission of a request to the Secretary of Defense for approval, all crisis management requests shall be coordinated by the ASD(SO/LIC) with the GC, DoD and the USD(C), and shall be submitted to the Under Secretary of Defense for Policy (USD(P)) for a policy review.

4.7.5.3. The Secretary of Defense shall manage the Department of Defense's response to any acts or threats of terrorism.

4.7.5.4. The Chairman of the Joint Chiefs of Staff shall assist the Secretary of Defense when he or she is implementing the DoD operational response to acts or threats of terrorism. The Chairman of the Joint Chiefs of Staff shall at all times maintain contingency plans for use in counter-terrorism situations.

4.7.5.5. The Secretary of the Army, as the DoD Executive Agent of the Secretary of Defense for civil emergencies, shall direct and execute DoD consequence management assistance, in accordance with DoD Directive 3025.1 (reference (g)) and applicable Presidential Decision Directives, unless otherwise directed by the Secretary of Defense. The Secretary of the Army shall be assisted by the DOMS.

4.7.6. Sensitive Support Operations. Requests for sensitive support to civil authorities shall be governed by DoD Directive S-5210.36 (reference (d)).

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4.7.7. Counter-drug Operational Support. Counter-drug operational support is not covered by this Directive.

4.8. Requests for any support that may require the approval of the Secretary of Defense shall be made in writing to the DoD Executive Secretary. Exceptions to this general rule are, as follows:

4.8.1. Requests made by the Federal Emergency Management Agency for disaster support (other than support required by a response to a terrorist event) shall be made to the DOMS, who shall promptly notify the Executive Secretary.

4.8.2. Requests for sensitive support shall be made in accordance with DoD Directive S-5210.36 (reference (d)).

4.8.3. Requests for immediate support under imminently serious conditions made under subparagraph 4.7.1., above may be made to the nearest DoD Component or military commander. Verbal requests shall be reduced to writing, and the DoD Component or military commander who approved the support shall forward that request to the DoD Executive Secretary of the Department of Defense as soon as possible after receipt.

4.9. Requests for support that are received by a DoD Component, other than the approval authority specified in section 4., above, shall be promptly forwarded by the receiving DoD Component to the approval authority or, if the approval authority cannot be determined, to the DoD Executive Secretary of the Department of Defense.

4.10. All requests for support from other Federal Agencies must be in writing. Each request for non-reimbursable support must provide a legal and factual justification for a waiver of reimbursement. All other requests must be accompanied by a fund citation pursuant to the "Economy Act" (reference (m)) or other reimbursement mechanism.

4.11. All requests for non-reimbursable support made by another Federal Agency must be approved by the Secretary of Defense. Upon receipt of such a request, the DoD Executive Secretary shall notify the Secretary of Defense and shall also forward copies to the USD(P), the USD(C), and the GC, DoD.

4.12. All requests for support from State and local agencies must be in writing. Each request for non-reimbursable support must provide a legal and factual justification for a waiver of reimbursement. All other requests must be accompanied by a statement that reimbursement will be made. Requests for non-reimbursable support made by State or local civil authorities shall be approved as provided in DoD Directive 5525.5 (reference (i)).

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### 5. RESPONSIBILITIES

#### 5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Develop, coordinate, and oversee the implementation of policy for DoD assistance to civil authorities; and, in coordination with the GC, DoD, shall ensure that such assistance is in compliance with applicable law, Presidential Directives, Executive orders, and DoD Directives and CONPLANS and/or functional plans.

#### 5.1.2. Ensure that the Deputy to the USD(P) for Policy Support shall:

5.1.2.1. Provide policy oversight for DoD responses to civil disturbances and civil emergencies pursuant to DoD Directive 5160.54 (reference (f)) and DoD Directive 3025.1 (reference (g)), respectively.

5.1.2.2. Coordinate with the ASD(SO/LIC) on matters covered by subparagraph 5.1.3.1., below, as appropriate.

#### 5.1.3. Ensure that the ASD(SO/LIC) shall:

5.1.3.1. Exercise policy oversight for and make recommendations on the use of U.S. counter-terrorism special mission units, pursuant to DoD Directive 3025.12 (reference (e)).

5.1.3.2. Serve as the primary informal DoD entry point and coordination and policy review office for all actions dealing with counter-terrorism crisis management, to include DoD responses to terrorism incidents, including weapons of mass destruction (WMD).

5.1.3.3. Serve as the DoD coordination and policy review office for all actions dealing with domestic civil authorities on matters that involve combating terrorism.

#### 5.2. The Under Secretary of Defense for Personnel and Readiness shall:

5.2.1. In coordination with the GC, DoD, develop, coordinate, and oversee the implementation of policy for all DoD non-counter-drug support to civil law enforcement authorities in accordance with DoD Directive 5525.5 (reference (i)) and as prescribed herein.

5.2.2. Coordinate long-range policies and procedures that govern the provision of non-emergency, non-counter-drug support to civilian law enforcement agencies or

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authorities in order to further DoD cooperation with public safety agencies under reference (i).

5.3. The Under Secretary of Defense (Comptroller) shall issue guidance for the funding of all DoD training and exercises involving DoD support to civil authorities, and shall designate the appropriate DoD office and/or command to consolidate DoD costs associated with DoD responses under the provisions of this and supporting DoD Directives.

5.4. The General Counsel of the Department of Defense shall coordinate with and advise the USD(P), the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), the Chairman of the Joint Chiefs of Staff, and other DoD officials, as appropriate, to ensure DoD military assistance to civil authorities is consistent with applicable law, Presidential Directives, Executive orders, and DoD Directives.

5.5. The Under Secretary of Defense for Acquisition and Technology shall ensure that the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall:

5.5.1. Serve as the technological advisor to the Secretary of Defense, the OSD Principal Staff Assistants, and the Secretary of the Army when designated as the DoD Executive Agent, on radiological accidents and WMD incidents, and terrorist incidents involving chemical and biological agents; system characteristics, composition, and safety features; inter-departmental technical responsibilities and the Federal radiological emergency response system; and technical capabilities of the various Federal response elements.

5.5.2. Ensure that all technological support provided under the Joint Chemical and/or Biological Defense Program and by the Defense Special Weapons Agency is coordinated with responsible Federal consequence and crisis management agencies and the GC, DoD, and is in compliance with applicable law, Presidential Directives, Executive orders, and DoD Directives and CONPLANS and/or functional plans.

5.6. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, shall exercise policy oversight and provide coordination or recommendations concerning the use of DoD intelligence, information systems, and telecommunications assets in response to requests for assistance from civil authorities.

5.7. The DoD Executive Secretary shall be the principal OSD official responsible for keeping the Secretary of Defense and cognizant senior OSD officials informed of emergency and routine DoD military assistance requests from civil authorities, and shall be the DoD office of record for all such assistance, to include all relevant memoranda of understanding or agreement negotiated between the DoD Components and any external agency under DoD Instruction 4000.19 (reference (n)). The DoD Executive Secretary shall establish specific procedures to carry out those responsibilities.

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### 5.8. The Secretary of the Army shall:

5.8.1. Serve as the DoD Executive Agent and act for the Secretary of Defense for the development of planning guidance, implementation, and procedures as delineated in DoD Directives 3025.12, 3025.1 (references (e) and (g)), and this Directive. In the event Combatant Command-assigned forces or equipment are not required, the Secretary of the Army, as the DoD Executive Agent, may task the DoD Components directly to provide support. For requests of forces assigned to the Combatant Commands, the DOMS, as directed by the DoD Executive Agent, shall develop an execute order for submission through the Joint Staff to the Chairman of the Joint Chiefs of Staff to the Secretary of Defense, if required under paragraph 4.5. or subparagraph 4.7.2., above, for approval. Upon such approval, the Secretary of the Army shall direct and implement DoD support, in accordance with such approved orders.

5.8.2. Maintain a dedicated staff, established under the DOMS, to assist in carrying out assigned DoD Executive Agent responsibilities for responding to any of the following: civil disturbances, and civil emergencies, including disasters resulting from terrorism incidents involving WMD. Identify, in coordination with the Chairman of the Joint Chiefs of Staff, full-time positions in the DOMS staff that are designated joint critical and necessary augmentation from the Joint Staff to reinforce the DOMS staff in the event such is needed during a crisis.

5.8.3. When forces assigned to the Combatant Commands are required for responses to civil disturbances and civil emergencies (natural or man-made disasters), provide, through the DOMS, to the Chairman of the Joint Chiefs of Staff all initial orders and subsequent orders modifying the forces required or rules of engagement to determine if Secretary of Defense approval is required under paragraph 4.5. or subparagraph 4.7.2., above. After approval by either the Secretary of Defense or the Secretary of the Army, direct and implement such orders. Nothing in this Directive shall prevent a commander from exercising his or her immediate emergency response authority, as outlined in reference (g).

5.8.4. Approve the deployment and employment of Military Department, Defense Agency, and DoD Field Activity resources, and transmit appropriate orders directing such deployment and employment in DoD responses to natural or man-made disasters that do not include forces assigned to the Combatant Commands.

5.8.5. Assist the Secretary of Defense as the DoD Executive Agent for civil emergencies (disaster consequence management) during the consequence management phase of terrorist incidents.

### 5.9. The Secretaries of the Military Departments shall:

5.9.1. Provide military support to civil authorities, in accordance with this Directive.

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5.9.2. Ensure internal compliance with the approval authorities and execution procedures contained in this Directive when providing military assistance to civil law enforcement authorities.

5.9.3. Inform the Chairman of the Joint Chiefs of Staff and the USD(P&R) of any military support provided to civil authorities that affects readiness of military forces.

5.9.4. Ensure that all technological support provided to civil authorities is coordinated with responsible DoD offices of primary responsibility within the OSD.

5.10. The Chairman of the Joint Chiefs of Staff shall:

5.10.1. Advise the Secretary of Defense on operational policies, responsibilities, and programs on the provision of military assistance to civil authorities.

5.10.2. Review all requests or proposals for DoD military assistance to civil authorities that involve the operational deployment and employment of forces (personnel and equipment), assigned to the Combatant Commands, as defined in Secretary of Defense Memorandum (reference (j)).

5.10.3. Forward, if required under paragraph 4.5. or subparagraph 4.7.2., above, for Secretary of Defense approval, all requests for support, operational deployment and execution orders for the deployment and employment of forces assigned to the Combatant Commands to assist civil authorities.

5.10.4. Assist the Secretary of Defense when he or she is implementing DoD operational responses to threats or acts of terrorism.

5.10.5. Coordinate with the GC, DoD, and the USD(P) to ensure that DoD operational procedures for responding to threats or acts of terrorism comply with applicable law, Presidential Directives, Executive orders, this Directive and other DoD guidance.

5.10.6. Assist the Secretary of the Army, in his or her DoD Executive Agent responsibilities for civil disturbance and disaster support and management, in developing planning guidance for providing military assistance to civil authorities under all conditions of war or attacks on the United States or its territories. Facilitate communications on such matters with the Commanders of the Combatant Commands, as appropriate; such communications will normally be transmitted through the DOMS, unless the Secretary of Defense directs otherwise.

5.10.7. To the extent feasible, ensure that the plans and operations for military support to civil authorities are compatible with other military plans. Inform the Secretary of Defense when such compatibility cannot be achieved or when plans and operations for

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military support to civil authorities will adversely affect military readiness. Adverse 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.




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7. EFFECTIVE DATE

This Directive is effective immediately.



John P. White  
Deputy Secretary of Defense

Enclosures - 2  
E1. References, continued  
E2. Definitions

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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

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### E2. ENCLOSURE 2

#### DEFINITIONS

E2.1.1. Civil Authorities. Nonmilitary Federal, State, or local government agencies.

E2.1.2. Civil Disturbances. Group acts of violence and disorders prejudicial to public law and order in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. possessions and territories, or any political subdivision thereof.

E2.1.3. Civil Emergency. Any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure, as defined in DoD Directive 3025.1 (reference (g)).

E2.1.4. CINC-Assigned Forces. Any and all personnel and equipment of units assigned to the Combatant Commands by the Secretary of Defense Memorandum (reference (j)), or assets determined by the Chairman of the Joint Chiefs of Staff to have an impact on operational requirements or readiness. A list of assets not covered in reference (j) that have an impact on operations or readiness shall be provided by the Chairman of the Joint Chiefs of Staff to the DoD Components and updated on a periodic basis.

E2.1.5. Consequence Management. Comprises those essential services and activities required to manage and mitigate problems resulting from disasters and catastrophes. Such services and activities may include transportation, communications, public works and engineering, fire fighting, information planning, mass care, resources support, health and medical services, urban search and rescue, hazardous materials, food, and energy.

E2.1.6. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in DoD Directive 3025.1 (reference (g)).

E2.1.7. Immediate Response. Any form of immediate action taken by a DoD Component or military commander, under the authorities outlined in DoD Directive 3025.12 (reference (e)), to assist civil authorities or the public to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions occurring where there has not been any declaration of major disaster or emergency by the President or attack.

E2.1.8. Military Assistance to Civil Authorities. Those DoD activities and measures covered under MSCA (natural and manmade disasters, see definition E2.1.9.)

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plus DoD assistance for civil disturbances, counter-drug, sensitive support, counter-terrorism, and law enforcement.

E2.1.9. Military Support to Civil Authorities (MSCA). Those activities and measures taken by the DoD Components to foster mutual assistance and support between the Department of Defense and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attacks, including national security emergencies.

E2.1.10. Terrorism. The calculated use of violence or threat of violence to inculcate fear; intended to coerce; or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.

**Appendix 8-7: DoDD 3150.8, DoD Response to Radiological Accidents**

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Department of Defense

**DIRECTIVE**

NUMBER 3150.8

June 13, 1996

Certified Current as of March 8, 2003

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USD(A&T)

SUBJECT: DoD Response to Radiological Accidents

- References: (a) DoD Directive 5100.52, "DoD Response to an Accident or Significant Incident Involving Radioactive Materials," December 21, 1989 (hereby canceled)
- (b) Federal Emergency Management Agency, "Federal Radiological Emergency Response Plan (FRERP)," April, 1996<sup>1</sup>
- (c) DoD 5025.1-M, "DoD Directives System Procedures," August 1994
- (d) DoD 5100.52-M, "Nuclear Weapon Accident Response Procedures (NARP)," September 1990
- (e) through (s), see enclosure 1

1. PURPOSE

This Directive:

- 1.1. Replaces reference (a) and updates policy and responsibilities for responding to a radiological accident.
- 1.2. Promulgates DoD policy and planning guidance to implement reference (b).
- 1.3. Authorizes publication of DoD 3150.8-M, "Radiological Response Procedures," in accordance with reference (c).
- 1.4. Continues to authorize publication of reference (d) in accordance with reference (c).

<sup>1</sup> Available from HQ, FEMA, 500 C Street SW, Washington, DC 20472.

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*DODD 3150.8, June 23, 1996*

1.5. Authorizes publication of DoD 3150.8-G, "Radiological Remediation Guide," in accordance with reference (c).

### 2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, 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, and the Marine Corps.

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

It is DoD policy to:

4.1. Respond to and resolve radiological accidents resulting from radioactive material in DoD custody.

4.2. Provide DoD resources, consistent with operational availability, to assist Federal, State, and local responses to radiological emergencies as outlined in the Federal Radiological Emergency Response Plan (reference (b)), the Federal Response Plan (reference (e)), DoD Directive 3025.1 (reference (f)), and DoD Directive 3150.5 (reference (g)).

4.3. Assist foreign governments under DoD Directive 5100.46 (reference (h)) and as directed under 10 U.S.C. 404 (reference (i)) and E.O. 12966 (reference (j)).

4.4. Conduct recurring radiological emergency training and exercises, using credible scenarios, at DoD facilities where the potential exists for a radiological accident. Training and exercises should incorporate activities that address assistance to civilian authorities in maintaining public safety, health, and well-being. National-level exercises shall incorporate DoD responsibilities and objectives under reference (b) or as required by applicable host-nation agreements.

4.5. Neither confirm nor deny the presence or absence of nuclear weapons, except as authorized under DoD Directive 5230.16 (reference (k)).

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*DODD 3150.8, June 23, 1996*

### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Acquisition and Technology shall ensure that:

5.1.1. The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs (ATSD(NCB)) shall:

5.1.1.1. Establish policy and procedures and exercise staff coordination for DoD radiological response and assistance in accordance with responsibilities assigned by DoD Directive 5134.8 (reference (k)).

5.1.1.2. Conduct oversight of the Department of Defense's response capabilities by managing the Department of Defense's national-level exercise program.

5.1.1.3. Serve as technical advisor to the Secretary of Defense and OSD Principal Staff Assistants on radiological accidents, weapons composition, characteristics, and safety features; interdepartmental responsibilities and the Federal radiological emergency response system; and technical capabilities of the various Federal response elements.

5.1.2. The Director, Defense Nuclear Agency, under the ATSD(NCB), shall maintain a deployable advisory team to assist Commander in Chief (CINC) response forces and shall serve as the DoD-lead (excluding naval reactors) for coordinating DoD radiological accident response planning, training, and national-level exercises, with other Federal and international agencies and activities, in accordance with DoD Directive 5105.31 (reference (m)).

5.2. The Under Secretary of Defense for Policy shall serve as the principal advisor to the Secretary of Defense and OSD Principal Staff Assistants on the consequences management aspects of emergency planning to respond to radiological accidents.

5.3. The Under Secretary of Defense for Personnel and Readiness shall ensure that the Defense for Health Affairs, shall develop and maintain, in coordination with the Defense Nuclear Agency (DNA), a deployable advisory team to deal with medical radiobiological aspects of an accident and serve as the DoD lead on medical radiobiological matters on radiological accident response and training.

5.4. The Secretaries of the Military Departments shall:

5.4.1. Develop, maintain, and provide initial emergency response forces, based on installation-specific capabilities, missions, and Service requirements, to deal with the effects of a radiological accident on-site and assist civil authorities in determining measures to protect life, property, and the environment until the arrival of the Unified Combatant Commander's Response Task Force (RTF).



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*DODD 3150.8, June 23, 1996*

5.4.2. Provide and equip specialized forces and capabilities, to include medical, as required by the supported Unified Combatant Commander.

5.4.3. Provide adequate funding for initial response forces and specialized forces supporting RTFs to ensure their operational capabilities and allow participation in exercises.

5.5. The Commanders of the Unified Combatant Commands, having potential for radiological accidents, and primary responsibility for the DoD response, shall:

5.5.1. Direct and coordinate the DoD response actions. If applicable, response actions shall be coordinated with the U.S. Chief(s) of Mission in affected country(ies). The CINC, U.S. Atlantic Command shall also direct the response for accidents occurring within the Continental United States.

5.5.2. Plan for, establish, maintain, and exercise RTFs to manage actions required to respond to a radiological accident. RTFs shall be commanded by flag rank officers.

5.5.2.1. The flag rank RTF commander should be selected from the Service with nuclear weapon or radiological material custody responsibility at the time of the accident and from the installation or force in whose area of responsibility the accident occurred.

5.5.2.2. Each responsible Unified Combatant Commander having potential for a radiological accident shall conduct an RTF exercise at least once each year. The scope and duration of the exercise will be determined by the sponsoring command. Flag-rank participation in RTF exercises is mandatory.

5.5.3. Provide available administrative, medical, logistical, communications, and other radiological response resources to the Department of Energy (DoE) and other Federal response organizations supporting a non-DoD radiological accident, in accordance with the FRERP (reference (b)) or DoD Directive 4000.19 (reference (n)), as applicable.

5.5.4. Coordinate military support requirements to civilian authorities in accordance with DoD Directive 3025.1 (reference (f)) for domestic accidents, or in accordance with DoD Directive 5100.46 (reference (h)) for accidents occurring outside the United States, its territories, or possessions.

5.6. The Secretary of the Army shall provide for military support to civil authorities in accordance with DoD Directive 3025.1 (reference (f)). This responsibility shall not supersede other responsibilities of the Unified Commanders for executing the Department of Defense's response to a radiological accident.

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5.7. The Secretary of the Navy shall ensure that the Director, Naval Nuclear Propulsion Program, shall:

5.7.1. Be responsible, in accordance with E.O. 12344 (reference (o)), for the safety of reactors and associated naval nuclear propulsion plants and control of radiation and radioactivity associated with naval nuclear propulsion activities.

5.7.2. Develop, in coordination with other DoD Components, planning guidance, response elements and structure, and exercise programs for dealing with accidents involving DoD mobile reactors and associated radioactivity.

5.7.3. Coordinate the response to a naval nuclear reactor accident with the Unified Combatant Commander in whose area of responsibility the accident occurred.

5.8. The Chairman of the Joint Chiefs of Staff shall:

5.8.1. Advise the Secretary of Defense on the DoD response to a radiological accident.

5.8.2. Initiate and manage the national-level DoD response to the radiological accident, through the National Military Command Center (NMCC), for the Secretary of Defense, until control can be transferred to the responsible Unified Combatant Commander.

5.8.3. Maintain a Joint Nuclear Accident Incident Response Team (JNAIRT) to assist in carrying out the Chairman's responsibilities. To expedite the DoD response, the NMCC and the JNAIRT shall have authority to dispatch required specialized crisis response teams and logistic support to the scene of the accident.

5.9. The Commander in Chief, United States Transportation Command, shall provide Special Assignment Airlift Mission support for deployment of DoD and inter-departmental response organizations.

5.10. The Heads of the DoD Components shall:

5.10.1. Establish, maintain, and exercise capabilities to respond to radiological accidents and participate in joint and DoD committees supporting the DoD radiological programs, based on DoD Component-specific needs and mission requirements.

5.10.2. Upon request, reimburse the other DoD Components for costs incurred for requested radiological assistance that are not included in their normal operating expenses and that are directly chargeable to, and caused by, the assistance provided.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DODD 3150.8, June 23, 1996*

### 6. INFORMATION REQUIREMENTS

6.1. Radiological accidents shall be immediately reported directly to the NMCC using the most expeditious means available in accordance with CJCSI 3150.03 (reference (p)).

6.2. Events involving accidental or unauthorized launch by U.S. Forces or U.S.-supported allied forces of a nuclear-capable weapon system or any other event that could create a risk of war shall be reported directly to the National Command Authorities by the on-duty Deputy Director for Operations, NMCC. This report shall be consistent with U.S. obligations under the Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics (reference (q)).

6.3. Any accident that may have caused a release of radioactive material that may result in international trans-boundary consequences of radiological safety significance shall be reported directly to the National Command Authorities by the on-duty Deputy Director for Operations, NMCC. This report shall be consistent with U.S. obligations under the Convention on Early Notification of a Nuclear Accident (which applies, for example, to any nuclear reactor wherever located, but that does not apply to nuclear weapons and related activities) and with the related U.S. statement that "the United States will also voluntarily provide notification with respect to any other nuclear accident that has or may have trans-boundary effects of radiological safety significance" (which does apply to nuclear weapons and related activities) (reference (r)).

6.4. The responsible Unified Combatant Commander shall prepare and forward a final written report to the Chairman of the Joint Chiefs of Staff after completing an investigation of the accident and provide information copies to the Military Services, other Unified Combatant Commanders, and the DNA.


6.5. The information requirements identified in this Directive have been assigned Report Control Symbol DD-A&T(AR)1168 in accordance with DoD 8910.1-M (reference (s)).

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS

*DODD 3150.8, June 23, 1996*

7. EFFECTIVE DATE

This Directive is effective immediately.



John P. White  
Deputy Secretary of Defense

Enclosures - 2  
E1. References, continued  
E2. Definitions

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS

*DODD 3150.8, June 23, 1996*

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Federal Emergency Management Agency, "Federal Response Plan (FRP)," April 1992 <sup>2</sup>
- (f) DoD Directive 3025.1, "Military Support to Civil Authorities (MSCA)," January 15, 1993
- (g) DoD Directive 3150.5, "DoD Response to Improvised Nuclear Device (IND) Incidents," March 24, 1987
- (h) DoD Directive 5100.46, "Foreign Disaster Relief," December 4, 1975
- (i) Section 404 of title 10, United States Code
- (j) Executive Order 12966, "Foreign Disaster Assistance," July 14, 1995
- (k) DoD Directive 5230.16, "Nuclear Accident and Incident Public Affairs (PA) Guidance," December 20, 1993
- (l) DoD Directive 5134.8, "Assistant to the Secretary of Defense for Atomic Energy (ATSD(AE))," June 8, 1994
- (m) DoD Directive 5105.31, "Defense Nuclear Agency," June 14, 1995
- (n) DoD Directive 4000.19, "Interservice, Interdepartmental, and Interagency Support," April 15, 1992
- (o) Executive Order 12344, "Naval Nuclear Propulsion Program," February 1, 1982
- (p) Chairman, Joint Chiefs of Staff Instruction 3150.03, "Joint Reporting Structure, Event/Incident Reports," December 1, 1993
- (q) "Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics," September 30, 1971, 22 United States Treaties (U.S.T.) 1590
- (r) "Conventions on Early Notification of a Nuclear Accident," September 26, 1986, 25 International Legal Materials (I.L.M.)
- (s) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 1986

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<sup>2</sup> Available from HQ, FEMA, 500 C Street, SW, Washington, DC 20472.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DODD 3150.8, June 23, 1996*

### E2. ENCLOSURE 2

#### DEFINITIONS

E2.1.1. Consequences Management. Those planning actions and preparations taken to identify, organize, equip, and train emergency response forces and to develop the executable plans implemented in response to an accident; and, the actions taken following an accident to mitigate and recover from the effects of an accident.

E2.1.2. Nuclear Component. Weapon components composed of fissionable or fusionable materials that contribute substantially to nuclear energy released during detonation. Nuclear components include radioactive boosting materials.

E2.1.3. Nuclear Weapon Accident. An unexpected event involving nuclear weapons that results in any of the following:

E2.1.3.1. Accidental or unauthorized launching, firing, or use by U.S. Forces or U.S.-supported allied forces of a nuclear-capable weapons system.

E2.1.3.2. An accidental, unauthorized, or unexplained nuclear detonation.

E2.1.3.3. Non-nuclear detonation or burning of a nuclear weapon.

E2.1.3.4. Radioactive contamination.

E2.1.3.5. Jettisoning of a nuclear weapon.

E2.1.3.6. Public hazard, actual or perceived.

E2.1.4. Nuclear Weapon Significant Incident. An unexpected event involving nuclear weapons, nuclear components, or a nuclear weapon transport or launch vehicle when a nuclear weapon is mated, loaded, or on board, that does not fall into the nuclear weapon accident category but that:

E2.1.4.1. Results in evident damage to a nuclear weapon or nuclear component to the extent that major rework, complete replacement, or examination or recertification by the DoE is required.

E2.1.4.2. Requires immediate action in the interest of safety or nuclear weapons security.

E2.1.4.3. May result in adverse public reaction (national or international).

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DODD 3150.8, June 23, 1996*

E2.1.4.4. Could lead to a nuclear weapon accident and warrants that senior national officials or agencies be informed or take action.

E2.1.5. Radiological Accident. A loss of control over radiation or radioactive material that presents a hazard to life, health, or property or that may result in any member of the general population exceeding exposure limits for ionizing radiation.

E2.1.6. Response Task Force (RTF). A DoD response force appropriately manned, equipped, trained and able to perform and coordinate all actions necessary to control and recover from a radiological accident or significant incident. RTFs are organized and maintained by those Unified Combatant Commanders having potential for a radiological accident and primary responsibility for managing the DoD response.

**Appendix 8-8: DoDD 4500.9E, Transportation and Traffic Management**





Department of Defense  
**DIRECTIVE**

**NUMBER** 4500.09E  
September 11, 2007

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USD(AT&L)

SUBJECT: Transportation and Traffic Management

- References: (a) DoD Directive 4500.9E, subject as above, February 12, 2005 (hereby canceled)
- (b) Section 40125 of title 49, United States Code
  - (c) DoD 4500.9-R, "Defense Transportation Regulation" current edition (hereby renamed as DTR 4500.9-R, "Defense Transportation Regulation")
  - (d) DoD Directive 5101.1, "DoD Executive Agent," September 3, 2002
  - (e) through (y), see Enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

- 1.1. Reissues and updates Reference (a) in all areas except those relating to the provision of transportation services to Federal Agencies other than the Department of Defense. Those authorities remain unchanged and, to comply with Reference (b), retain their effective date of January 26, 1989.
- 1.2. Renames Reference (c) and directs the Commander, U.S. Transportation Command (USTRANSCOM), as the single-manager for common user transportation, to develop, publish, and maintain Reference (c). All users of the Defense Transportation System shall comply with Reference (c).
- 1.3. Designates USTRANSCOM as the DoD Executive Agent for the DoD Customs and Border Clearance Program in accordance with Reference (d) and cancels DoD Directive 5030.49 (Reference (e)).
- 1.4. Designates the Secretary of the Army as the DoD Executive Agent for the Military Assistance to Safety and Traffic (MAST) program, in accordance with Reference (d).
- 1.5. Continues to authorize DoD 4515.13-R (Reference (f)) in accordance with DoD 5025.1-M (Reference (g)).

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

### 2. APPLICABILITY AND SCOPE

2.1. This Directive applies to the Office of 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 Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. Specific policies for operational support airlift are in DoD Directive 4500.43 (Reference (h)). Policies on the use of Government aircraft and air travel are in DoD Directive 4500.56 (Reference (i)). Policies on administrative use of motor vehicles are in DoD Directive 4500.36 (Reference (j)). Policies on air passenger management and safety and quality control of civil air carriers are in DoD Directive 4500.53 (Reference (k)). Policy on eligibility to travel on-board aircraft operated by or for the Department of Defense is prescribed in Reference (f). In the event of a conflict between the above references and this Directive, this Directive governs.

### 3. DEFINITIONS

Terms used in this Directive are defined in the Joint Publication 1-02 (Reference (l)) and Enclosure 2.

### 4. POLICY

It is DoD policy that:

4.1. The national defense strategy of the United States requires a strong Defense Transportation System (DTS), operating within a national transportation system that is fully responsive and globally capable of meeting personnel and materiel movement requirements of the Department of Defense across the range of military operations. This strategy requires that an optimum mix be achieved that matches defense requirements with the various modes and methods of transportation, both military and commercial.

4.2. DoD shippers shall utilize commercial resources from the DTS to the maximum extent practicable unless there is a documented negative critical mission impact. An integral part of this policy is providing transportation service that is streamlined, flexible, cost effective, and responsive to customer needs.

4.2.1. Threat to Airlift Travelers. Members of the Uniformed Services and DoD civilian employees are authorized to use foreign-flag airlines (if U.S.-flag carriers are not available) and/or indirect routings to avoid high-threat areas and/or airports identified by the Defense Intelligence Agency. DoD personnel using foreign aircraft to avoid specific airports or routings must disembark at the nearest practical interchange point and continue the journey on U.S.-flag carrier service.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

4.2.2. Use of Foreign-Flag Shipping. DoD cargo shall be transported by sea only in vessels of the United States, or belonging to the United States, except in accordance with the terms of an applicable treaty or when U.S.-flag ships are not available to meet the cargo requirements, or when the Secretary of the Navy, in accordance with the Presidential Memorandum and the Secretary of Defense Memorandum (References (m) and (n)), determines that rates charged by such vessels are excessive or otherwise unreasonable pursuant to Subpart 247.5 of the Federal Acquisition Regulation (Reference (o)). All Defense Security Cooperation Agency (DSCA) materiel that is U.S.-financed shall be transported by U.S.-flag carriers, unless a non-availability waiver has been granted by the DSCA and the Maritime Administration.

4.3. Transportation resources shall be used for official purposes only.

4.4. DoD transportation and traffic management programs shall foster an environment that promotes competition, industrial preparedness, quality service, and overall readiness.

4.5. DoD transportation requirements shall be met by using the most cost effective commercial transportation resources to the maximum extent practicable unless there is a documented negative critical mission impact. In peacetime, the Department of Defense generally shall maintain and operate only those owned or controlled transportation resources needed to meet approved DoD emergency and wartime requirements and anticipated exercise or other peacetime forecast requirements that may not reasonably be met with commercial transportation resources. DoD-owned or -controlled transportation resources shall be used during peacetime as efficiently as practicable, to provide essential training for operational personnel, and to ensure the capability to meet approved requirements for military capacity in wartime, contingencies, and emergencies.

4.6. Timely In-Transit Visibility (ITV) data on all cargo and passenger movements is provided, across the range of military operations, from the use of automated information systems to the DoD ITV system of record. Shippers shall use the DoD-approved suite of Automatic Identification Technology devices to enable the creation, capture, and processing of accurate shipment data in a timely manner to support ITV and to facilitate timely and efficient cargo and passenger movement.

4.7. Unless urgent circumstances prohibit, cargo, passengers, and personal property shall be manifested on-board all DoD-owned, -controlled, or -chartered conveyances supporting the Department of Defense. Detailed procedures for manifesting passengers, cargo, and personal property are contained in Reference (c).

4.8. Intermodal forms of transportation shall be utilized, to include the use of American National Standards Institute and/or International Standards Organization compatible containers to the maximum extent practicable, consistent with military needs (Reference (c)).

4.9. The Joint Federal Travel Regulation and the Joint Travel Regulation (References (p) and (q)) state that civilian employees and military members and their dependents must use coach-

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

class accommodations for official travel. Exceptions to this policy for the use of other than coach-class accommodations must comply with References (p) and (q), as appropriate. (See Enclosure 3.)

4.10. The acquisition of common-user transportation and related services to meet DoD transportation requirements shall be accomplished primarily through USTRANSCOM in accordance with DoD Directive 5158.04 (Reference (r)). The Department of Defense may join with other Federal Government Agencies to use transportation services procurement instruments negotiated by those Agencies when it is beneficial. DoD procurement instruments also may be drafted to include similar transportation requirements of other Federal Agencies. DoD shippers shall use existing procurement instruments for transportation services, unless there is a documented negative critical mission impact.

### 5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), in accordance with DoD Directive 5134.01 (Reference (s)), shall identify policy consistent with United States Code (U.S.C.), and provide guidance to the DoD Components concerning the efficient and effective acquisition and use of DoD and commercial transportation resources and services.

5.2. The Heads of the DoD Components shall ensure that regulations and implementing procedures are revised to ensure full compliance with this Directive.

5.3. The Secretary of the Navy shall act for the Secretary of Defense and exercise the powers of the Secretary of Defense pursuant to Public Law 81-891 (Reference (t)) only on matters pertaining to waiver of cabotage law pursuant to the "Merchant Marine Act of 1920," section 55102 of title 46, U.S.C. (also called the "Jones Act") (Reference (u)) for the carriage of DoD cargo in the DTS. The authority may be redelegated to the Commander, Military Sealift Command, and no further. All other requests for waiver of cabotage laws shall be referred to the USD(AT&L) for further coordination with the Secretary of Homeland Security.

5.4. The Secretary of the Army shall serve as the DoD Executive Agent for the MAST program, in accordance with Reference (d) and, as such, shall implement DoD policy; provide direction on plans, procedures, and requirements; and task the DoD Components having cognizance over military resources that may be employed in support of the MAST program. Forces that are under the operational control of the Commanders of the Combatant Commands shall not be tasked to support the establishment of MAST sites without the approval of that Combatant Commander.

5.5. The Chairman of the Joint Chiefs of Staff shall establish means for identifying requirements to USTRANSCOM, the Distribution Process Owner, and maintain cognizance over those requirements, prescribe a transportation movement priority system, and institute a Joint Transportation Board to analyze courses of actions and provide recommendations when requirements exceed transportation system capability.

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5.6. The Commander, USTRANSCOM, shall:

5.6.1. Serve as the single-manager for common user transportation, and as such USTRANSCOM:

5.6.1.1. Shall develop, publish, and maintain Reference (c).

5.6.1.2. Is hereby designated as the DoD Executive Agent for the Customs and Border Clearance program with delegated authority to enter into binding agreements on behalf of the Department of Defense in accordance with Reference (d).

5.6.1.3. Is also designated the Distribution Process Owner in accordance with Reference (r).

5.6.1.4. Shall be responsible for determining requirements for overland movement of DoD Privately Owned Vehicles in the continental United States and serving as the DoD point of contact for the establishment, amendment, or clarification of rules of the regulatory bodies governing safe transportation.

5.6.2. Be the primary commander responsible for the transportation-oriented elements of strategic mobility planning and operations, and maintaining the Joint Deployment System. USTRANSCOM shall be responsible for worldwide strategic mobility planning (deliberate and execution), deployment-related automated data processing systems integration, and centralized traffic management.

5.6.3. Coordinate changes and updates to Reference (c) with the Assistant Deputy Under Secretary of Defense for Transportation Policy, and as appropriate with the Joint Staff, Military Departments, and Defense Logistics Agency representatives.

### 6. EFFECTIVE DATE

This Directive is effective immediately.



Gordon England

Enclosures – 4

- E1. References, continued
- E2. Definitions
- E3. First/premium-Class Travel Accommodations Approval Authority
- E4. Retained Authorities

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

### E1. ENCLOSURE 1

#### REFERENCES, continued

- (e) DoD Directive 5030.49, "DoD Customs and Border Clearance Program," May 4, 2004 (hereby canceled)
- (f) DoD 4515.13-R, "Air Transportation Eligibility," November 1994
- (g) DoD 5025.1-M, "DoD Directives System Procedures," March 5, 2003
- (h) DoD Directive 4500.43, "Operational Support Airlift (OSA)," October 28, 1996
- (i) DoD Directive 4500.56, "DoD Policy on the Use of Government Aircraft and Air Travel," March 2, 1997
- (j) DoD Directive 4500.36, "Management, Acquisition, and Use of Motor Vehicles," August 3, 2004
- (k) DoD Directive 4500.53, "DoD Commercial Air Transportation Quality and Safety Review Program," December 12, 2000
- (l) Joint Publication 1-02, "DoD Dictionary of Military and Associated Terms," as amended
- (m) Presidential Memorandum, "Delegation of Authority Under the Cargo Preference Act," August 7, 1985<sup>1</sup>
- (n) Secretary of Defense Memorandum, "Ocean Transportation of Department of Defense Supplies," August 8, 1985<sup>2</sup>
- (o) Parts 47.3 and Subpart 247.5 of the Federal Acquisition Regulation, current edition
- (p) Joint Federal Travel Regulation [electronic version], November 12, 2004
- (q) Joint Travel Regulation [electronic version], November 12, 2004
- (r) DoD Directive 5158.04, "United States Transportation Command," July 27, 2007
- (s) DoD Directive 5134.01, "Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)),," December 9, 2005
- (t) Public Law 81-891, "Act of December 27, 1950"
- (u) Section 55102 of title 46, United States Code, "Merchant Marine Act of 1920" ("Jones Act")
- (v) Deputy Secretary of Defense Memorandum, "Premium-Class Travel Program," March 19, 2004<sup>3</sup>
- (w) Sections 1535 and 1536 of title 31, United States Code
- (x) DoD 7000.14-R, "Department of Defense Financial Management Regulations (FMRs)," Volumes 11A, 11B, and 15, current version
- (y) DoD Instruction 6000.11, "Patient Movement," September 9, 1998

<sup>1</sup> Request this reference by sending an email to [atl.lmr@osd.mil](mailto:atl.lmr@osd.mil)

<sup>2</sup> Request this reference by sending an email to [atl.lmr@osd.mil](mailto:atl.lmr@osd.mil)

<sup>3</sup> Request this reference by sending an email to [atl.lmr@osd.mil](mailto:atl.lmr@osd.mil)

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

### E2. ENCLOSURE 2

#### DEFINITIONS

E2.1. Automatic Identification Technology (AIT). A suite of tools for facilitating total asset visibility (TAV) source data capture and transfer. AIT includes a variety of devices, such as bar codes, magnetic strips, optical memory cards, and radio frequency tags for marking or tagging individual items, multi-packs, equipment, air pallets, or containers, along with the hardware and software required to create the devices, read the information on them, and integrate that information with other logistic information. AIT integration with logistic information systems is essential to the DoD TAV efforts.

E2.2. Defense Transportation System (DTS). For the purpose of this Directive, DTS is that portion of the worldwide transportation infrastructure that supports DoD transportation needs in peace and war. The DTS consists of two major elements: military (organic) and commercial resources. These resources include aircraft, assets, services, and systems organic to, contracted for, or controlled by the Department of Defense. The DTS infrastructure, including ports, airlift, sealift, railway, highway, ITV, information management systems, customs, and traffic management that the Department of Defense maintains and exercises in peacetime, is a vital element of the DoD capability to project power worldwide. It provides for responsive force projection and a seamless transition between peacetime and wartime operations.

E2.3. DoD-Controlled. For the purposes of this Directive, DoD-controlled transportation resources are defined as sealift transportation assets leased, or chartered exclusively for DoD use for periods greater than 90 days. For airlift, only those aircraft leased and operated using military crews or wet leased for exclusive use under long-term contracts shall be considered DoD-controlled assets.

E2.4. In-Transit Visibility (ITV). See Reference (l) for definition.

E2.5. Shipper. A Service or agency activity (including the contract administration or purchasing office for vendors) or vendor that originates shipments. The functions performed include planning, assembling, consolidating, documenting, and arranging materiel movement.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

### E3. ENCLOSURE 3

#### FIRST/PREMIUM-CLASS TRAVEL ACCOMMODATIONS APPROVAL AUTHORITY

Approval authorities for first/premium-class accommodations are as follows:

E3.1. The Office of the Secretary of Defense and the Defense Agencies. Director, Administration and Management, or as delegated by the Deputy Secretary of Defense Memorandum (Reference (v)).

E3.2. The Secretaries of the Military Departments. The Secretaries of the Military Departments may redelegate approval authority to the Under Secretaries, the Service Chiefs or their Vice and/or the Deputy Chiefs of Staff, and four-star Major Commanders or their three-star Vice and/or Deputy Commander and no further.

E3.3. The Chairman of the Joint Chiefs of Staff and the Combatant Commands. The Director, Joint Staff, or as delegated. The Combatant Commanders may redelegate approval authority to the Vice and/or Deputy Commanders, and four-star Component Commanders or their three-star Vice and/or Deputy Commanders only.

E3.4. Prohibition on Approving Own Premium-Class Travel. Premium-class approving officials may not approve their own premium-class travel. They must obtain approval from their reporting senior flag officer or civilian equivalent. Approval must be granted by someone senior to the traveler.

E3.5. Other. Approval authorization for premium-class other than first-class accommodations and the limitations on use of any premium-class accommodations are set-forth in References (p) and (q), as appropriate.



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*DoDD 4500.09E, September 11, 2007*

### E4. ENCLOSURE 4

#### RETAINED AUTHORITIES (Effective date January 26, 1989)

E4.1. Support for Non-DoD Units. Arrange and provide administrative, logistics, and medical support to the United States Department of Agriculture or to the United States Public Health Service advisors and/or inspectors at specific foreign embarkation points. Retrograde DoD cargo shall not be embarked without official clearance certification or free pratique authorization by a certified quarantine inspector. Retrograde of foreign equipment for repair and return shall be arranged on a space available, reimbursable basis.

#### E4.2. Employment of Military Resources for MAST

E4.2.1. Military units shall assist civilian communities in providing medical emergency helicopter services beyond the capability of that community. Military units shall not compete for emergency medical evacuation missions in areas where support may be provided by civilian contractors.

E4.2.2. Military support shall only be accomplished as a by-product of, and within, the Military Department's annual training program and without adverse impact to the unit's primary military mission. MAST support may be discontinued with little or no advance notice due to DoD priorities.

E4.2.3. Support may only be provided subject to the following specific limitations:

E4.2.3.1. Assistance may be provided only in areas where military units able to provide such assistance are regularly assigned.

E4.2.3.2. Military units shall not be transferred from one area to another for providing such assistance.

E4.2.3.3. Assistance may be provided only to the extent that it does not interfere with the performance of the military mission.

E4.2.3.4. The provisions of assistance shall not cause any increase in funds required for DoD operation.

E4.2.3.5. The Secretary of Defense, or his or her designee, shall be the final decision authority for commitment of DoD resources to the MAST program.

E4.2.3.6. DoD costs incurred in the program shall be funded by the Military Departments within their annual training program.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*DoDD 4500.09E, September 11, 2007*

### E4.3. Non-DoD Use of DoD Transportation

E4.3.1. DoD transportation resources may be used to move non-DoD traffic only when the DoD mission shall not be impaired and movement of such traffic is of an emergency, lifesaving nature, specifically authorized by statute, in direct support of the DoD mission, or requested by the head of an Agency of the Government pursuant to sections 1535 and 1536 of 31 U.S.C. (Reference (w)). The requesting Agency must provide a determination that the request is in the best interest of the Government and that commercial transportation is not available or, for reasons that must be specified, is not capable of satisfying the movement requirement.

E4.3.2. Reimbursement for transportation provided by the Department of Defense to other U.S. Government agencies and non-U.S. Government agencies or private individuals is required and shall be in accordance with DoD 7000.14-R, Volumes 11A and 11B (Reference (x)). Rates shall be constructed in accordance with DoD Instruction 6000.11 (Reference (y)) to recover specific costs based on the type of agency supported. Non-DoD U.S. Government rates shall recover costs that shall offset expenses from appropriated funds such as military and civilian pay or funded fringe benefit costs, and recover other significant costs such as the cost of fuel, landing fees, etc. Non-U.S. Government rates shall recover the full cost of operation to include those costs charged to other U.S. Government Agencies, plus miscellaneous costs, as provided in Reference (x). Specific rates or surcharges may be provided by the transportation operating agencies. Reimbursement for transportation of foreign military sales materials shall be in accordance with Reference (x).

E4.3.3. Requests for the use of DoD transportation to move non-DoD traffic shall be handled, as follows:

E4.3.3.1. Medical evacuation transportation is governed pursuant to the terms of Reference (y). Requests for medical evacuation transportation shall be referred to the Global Patient Movement Requirements Center for disposition in accordance with that Instruction.

E4.3.3.2. Other requests shall be referred for decision to the Assistant Deputy Under Secretary of Defense (Transportation Policy) unless they fall within a category for which the decision authority is exercised by another DoD element pursuant to Reference (d).

E4.3.3.3. When DoD transportation has been authorized to move non-DoD traffic, the documents associated with customs, immigration, export, or other international travel and transportation requirements must be accomplished by the person or organization requesting the transportation.

**Appendix 8-9: DoDD 5030.50, Employment of Department of Defense  
Resources in Support of the United States Postal Service**

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense

DIRECTIVE

NUMBER 5030.50  
April 13, 1972

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ASD(C)

SUBJECT: Employment of Department of Defense Resources in Support of the United States Postal Service

- References: (a) DoD Directive 4500.25, "Coordination of Department of Defense Military Mail Transportation and Services Policy," March 2, 1956  
(b) DoD Directive 5030.11, "Postal Agreement Between the Post Office Department and the Department of Defense," March 5, 1959  
(c) DoD Directive 1235.10, "Mobilization of the Ready Reserve," October 27, 1970

1. PURPOSE

This Directive establishes uniform DoD policies, assigns responsibilities, and furnishes general guidance on the use of DoD resources to assist the United States Postal Service (USPS) to safeguard, process, and deliver the mail when ordered by the President. It provides the basis for the Secretary of the Army, as the Executive Agent, to assign joint planning responsibilities for rendering assistance to the USPS and, when ordered, to direct the provision of that assistance.

2. APPLICABILITY

2.1. The provisions of this Directive apply to the Military Departments, the Joint Chiefs of Staff, the Unified and Specified Commands, and all Defense Agencies (hereinafter referred to collectively as "DoD Components") having cognizance over resources that may be used under the provisions of this Directive.

2.2. The provisions of this Directive do not abrogate the policies, guidance or responsibilities established by DoD Directives 4500.25 and 5030.11 (references (a) and (b)).

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### 3. DEFINITION

As used in this Directive, resources include military and civilian personnel, facilities, equipment, and supplies under the control of the DoD Components.

### 4. POLICY AND RESPONSIBILITIES

4.1. Authority. Legal authority for the employment of military resources at the direction of the President to reestablish and maintain essential postal service may be found in section 686 of title 31, U.S. Code, and section 411 of title 39, U.S. Code.

4.2. Executive Agent. The Secretary of the Army is designated the Executive Agent for the Department of Defense in all matters relating to the planning for, and when directed, the deployment and employment of DoD resources to assist the USPS in restoring and maintaining essential mail service in the Continental United States (CONUS).

4.3. Funding. The incremental costs related to DoD resources provided to the USPS under the provisions of this Directive will be provided on a reimbursable basis. The DoD Components will forward requests for reimbursement to the Department of the Army in accordance with procedures established under 4.4.1., below. The Department of the Army will consolidate cost reports and forward them to the Assistant Secretary of Defense (Comptroller).

4.4. Responsibilities. In carrying out the provisions of this Directive, responsibilities and functions are delineated as follows:

4.4.1. The Secretary of the Army or his designee is responsible for:

4.4.1.1. Providing policy and direction governing plans, procedures, and requirements to all DoD Components having cognizance over DoD resources that may be employed under the provisions of this Directive.

4.4.1.2. Establishing procedures for consolidating and forwarding to the USPS requests for reimbursement for assistance provided under the provisions of this Directive.

4.4.1.3. Consistent with the provisions of DoD Directive 1235.10 (reference (c)), establishing policies and procedures for:

4.4.1.3.1. Calling the National Guard to active Federal service and ordering the National Guard and other Reserve components to active duty; and

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4.4.1.3.2. The employment of such forces that may be required to carry out the purposes of this Directive.

4.4.1.4. Calling or ordering to active Federal service:

4.4.1.4.1. The Army Reserve component units or members required to carry out the provisions of the Presidential directive, Secretary of Defense instruction, or other appropriate authority.

4.4.1.4.2. Through the appropriate Military Department Secretaries, units or individuals of the Reserve components of the Navy, the Marine Corps, and the Air Force required to carry out the provisions of the Presidential directive, Secretary of Defense instruction, or other appropriate authority, subject to the provisions of 4.4.3. and 4.4.4., below.

4.4.1.5. Providing resources of the U.S. Army, consistent with DoD policies and priorities, to include:

4.4.1.5.1. The resources of the Army National Guard called to active Federal service under the provisions of 4.4.1.4., above.

4.4.1.5.2. The resources of the Army Reserve and the Army National Guard ordered to active duty to carry out the purposes of this Directive.

4.4.1.6. Exercising through designated military commanders the direction of resources committed or assigned to assist the USPS.

4.4.1.7. Devising command, control, and communications arrangements to insure effective coordination and responsiveness among the DoD Components under conditions of pre-positioning, deployment, or employment of military resources. Maximum utilization will be made of existing reports of the Joint Reporting Structure (JRS), as prescribed in JCS Pub. 6.<sup>1</sup> Arrangements and reports affecting commanders of Unified and Specified Commands will be coordinated with the JCS.

4.4.1.8. Keeping the Secretary of Defense informed of unusual DoD resource requirements (actual or potential) and other significant developments in connection with postal assistance planning and operations.

<sup>1</sup> Copies available from the Office of the Secretary, Joint Chiefs of Staff (Documents Division), Washington, DC 20301.

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4.4.2. The Joint Chiefs of Staff (JCS) are responsible for establishing procedures that will promptly transfer active resources that are assigned to Unified and Specified Commands to the Military Departments for postal augmentation operations in the CONUS, as required by the DoD Executive Agent and consistent with DoD priorities.

4.4.3. The Secretary of the Air Force is responsible for:

4.4.3.1. Providing resources of the U.S. Air Force, as required by the DoD Executive Agent and consistent with DoD policies and priorities, to include:

4.4.3.1.1. Designating and providing the specific units or members of the Air National Guard to be called to active Federal service under the provisions 4.4.1.4.2., above.

4.4.3.1.2. Designating and providing the resources of the Air National Guard and the Air Force Reserve ordered to active duty to carry out the purposes of this Directive.

4.4.3.2. Exercising, for the DoD Executive Agent through designated military commanders, coordinating authority over and direction of DoD-provided military and commercial obligated airlift resources, excluding Army, Navy and Marine Corps helicopter resources/operations, used to fulfill postal augmentation airlift requirements.

4.4.3.3. Providing airlift to deploy and redeploy postal augmentation forces and for supply, resupply, and aeromedical evacuation.

4.4.4. The Secretary of the Navy is responsible for:

4.4.4.1. Designating and providing resources of the U.S. Navy and the U.S. Marine Corps, as required by the DoD Executive Agent and consistent with DoD policies and priorities, including the resources of the Naval Reserve and the Marine Corps Reserve ordered to active duty to carry out the purposes of this Directive.

4.4.4.2. Making airlift resources available to the Secretary of the Air Force, consistent with DoD priorities, as requested by him in the accomplishment of his airlift responsibilities set forth in 4.4.3.3., above.

4.4.5. The Defense Agencies are responsible for providing resources as required, and advice and assistance on matters within their spheres of responsibility, consistent with DoD priorities, to the DoD Executive Agent and to the Secretaries of the Military Departments and to the Joint Chiefs of Staff in the discharge of their responsibilities.

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4.4.6. The Assistant Secretary of Defense (Public Affairs) is responsible for all DoD public affairs matters related to DoD assistance to the USPS in restoring and maintaining essential postal service. To ensure efficiency and responsiveness in keeping the public fully informed, he will provide direction and guidance to the DoD Executive Agent on all aspects of public release of information relating to assistance given.

4.4.7. The Assistant to the Secretary of Defense (Legislative Affairs) is responsible for all DoD legislative liaison matters related to DoD assistance to the USPS in restoring and maintaining essential postal service. To ensure efficiency and responsiveness in keeping the Congress fully informed, he will in coordination with the Assistant Secretary of Defense (Public Affairs) provide direction and guidance to the DoD Executive Agent in all aspects of the release of information to the Congress relating to assistance given.

### 5. COMMAND RELATIONSHIPS

In the event of postal augmentation operations:

5.1. Resources of the Unified or Specified Commands will be transferred by the JCS to their respective Military Departments, when requested by the DoD Executive Agent. (Such resources will revert to the Unified or Specified Commands when directed by the DoD Executive Agent.)

5.2. The DoD Executive Agent is delegated the authority to exercise, through the Chief of Staff, U.S. Army, the direction of those forces assigned or committed to him by the Military Departments.

5.3. Commanders designated by the DoD Executive Agent will exercise operational control over all committed military forces.

### 6. REPORTING

6.1. Reports will be submitted in accordance with procedures established by the DoD Executive Agent.

6.2. The reporting requirements prescribed herein are assigned Report Control Symbol DD-COMP(AR)1163.



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7. IMPLEMENTATION

Implementing directives, instructions, or plans, revised or developed by the DoD Components under assignment herein will be furnished to the DoD Executive Agent for review.

8. EFFECTIVE DATE

This Directive is effective immediately.

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Secretary of Defense

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense

**DIRECTIVE**

NUMBER 5105.60  
October 11, 1996

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DA&M

SUBJECT: National Imagery and Mapping Agency (NIMA)

References: (a) Title 10, United States Code  
(b) Title 50, United States Code  
(c) Executive Order 12333, "United States Intelligence Activities,"  
December 4, 1981  
(d) National Imagery and Mapping Agency Act of 1996  
(e) through (o), see enclosure 1

1. PURPOSE

This Directive:

- 1.1. Establishes the NIMA within the Department of Defense consistent with the authorities and duties of the Secretary of Defense and the Director of Central Intelligence (DCI) under references (a), (b), (c), and (d).
- 1.2. Prescribes the NIMA's mission, organization, responsibilities, functions, relationships, and authorities, pursuant to the authority vested in the Secretary of Defense by Section 113 and Chapters 8 and 22 of reference (a), and in accordance with references (a), (b), and (d).
- 1.3. Replaces DoD Directives 5105.40 and 5105.56 (references (e) and (f)).

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the 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")

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and other Federal Departments and Agencies on matters related to the statutory NIMA mission.

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. MISSION

The NIMA shall provide timely, relevant, and accurate imagery, imagery intelligence, and geospatial information in support of the national security objectives of the United States.

### 5. ORGANIZATION AND MANAGEMENT

The NIMA is hereby established as a Defense Agency of the Department of Defense under the authority, direction, and control of the Secretary of Defense, and is designated as a Combat Support Agency pursuant to 10 U.S.C. 193 (reference (a)). The NIMA is an agency within the Intelligence Community in accordance with 50 U.S.C. 401a(4)(E) (reference (b)) and E.O. 12333 (reference (c)). The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)) exercises overall supervision over the NIMA pursuant to Section 192 of reference (a); however, all substantive intelligence produced by the NIMA shall be submitted directly to the Secretary and Deputy Secretary of Defense and, as appropriate, to the Chairman of the Joint Chiefs of Staff and the DCI. The NIMA shall consist of a Director, and such subordinate organizational elements as the Director establishes within the resources made available. The Director, if a military officer, shall carry the grade of lieutenant general, or, in the case of the Navy, vice admiral.

### 6. RESPONSIBILITIES AND FUNCTIONS

The Director, NIMA, advises the Secretary and Deputy Secretary of Defense, the ASD(C3I), the Chairman of the Joint Chiefs of Staff, the Combatant Commanders, and, for national intelligence purposes, the DCI and other Federal Government officials, on imagery, imagery intelligence, and geospatial information; and supports the imagery, imagery intelligence, and geospatial requirements of the Departments and Agencies of the Federal Government, to the extent provided by law. In the exercise of these responsibilities, the Director, NIMA, shall:

- 6.1. Organize, direct, and manage the NIMA and all assigned resources.

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6.2. Provide responsive imagery, imagery intelligence and geospatial information products, support, services, and information (to include the coordination of imagery collection requirements, national tasking, processing, exploitation, and dissemination) to the DoD Components, and, for national intelligence purposes, to the DCI, the non-DoD members of the Intelligence Community, the National Security Council, and other Federal Government Departments and Agencies.

6.3. Manage imagery and geospatial analysis and production.

6.4. Manage the tasking of and task national collection operations in accordance with Section 442 of reference (a), Section 403-5(b)(2) of reference (b), and E.O. 12333 (reference (c)), and consistent with the DCI's collection tasking authority under Section 441(c) of reference (a), Section 402 et seq. of reference (b), reference (c), and DoD Directive S-3325.2 (reference (g)), as follows:

6.4.1. Developing and consolidating geospatial information requirements and national imagery collection requirements.

6.4.2. Supporting the imagery requirements of the Department of State and other non-DoD Agencies, in accordance with the requirements and priorities established by the DCI.

6.4.3. Tasking DoD imagery collection elements to meet national intelligence requirements and priorities, as established by the DCI, except as noted in paragraph 6.6., below.

6.4.4. Advising DoD imagery collection elements on the collection of imagery to meet non-national intelligence requirements.

6.5. Establish and/or consolidate DoD geospatial information data collection requirements and collecting or tasking other DoD Components to collect and provide necessary data, except as noted in paragraph 6.6., below.

6.6. Provide advisory tasking for theater and tactical assets, including advising imagery collection elements on collection of imagery to meet national intelligence requirements when the collection elements are both assigned to or under the operational control of the Secretary of a Military Department or the Commander of a Combatant Command, and not allocated by the Secretary of Defense to meet national intelligence requirements.

6.7. Disseminate or ensure the dissemination of imagery, imagery intelligence, and geospatial information by the most efficient and expeditious means consistent with DoD and DCI security requirements.

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6.8. Serve as the Program Manager for the National Imagery and Mapping Program, a program within the National Foreign Intelligence Program (NFIP), for activities within the NIMA, and as Program Manager for the Defense Imagery and Mapping Program within the DoD Joint Military Intelligence Program (JMIP).

6.9. Serve as the Functional Manager for imagery, imagery intelligence, and geospatial investment activities, which include RDT&E and procurement initiatives within the NFIP, JMIP, and the Tactical Intelligence and Related Activities (TIARA) aggregate.

6.10. Develop and make recommendations on national and non-national policy for imagery, imagery intelligence, and geospatial information, including as it relates to international matters, for the approval of appropriate Federal Government officials.

6.11. Prescribe and mandate standards and end-to-end technical architectures related to imagery, imagery intelligence, and geospatial information for the DoD Components and for the non-DoD elements of the Intelligence Community, in accordance with Section 442 of reference (a), and Sections 402 et seq. and 403-5(b) of reference (b), to include:

6.11.1. Standards for end-to-end architectures related to imagery, imagery intelligence, and geospatial information.

6.11.2. Standards for geospatial information products produced within the Department of Defense in accordance with DoD 4120.3-M (reference (h)).

6.11.3. Standards for career programs for imagery analysts, cartographers, and related fields.

6.11.4. Standards for training, programs and courses for advanced imagery analysts, cartographers, personnel performing imagery tasking, geospatial information collection, and imagery, imagery intelligence, and geospatial information processing, exploitation, and dissemination functions, imagery-related functional management, and related fields.

6.11.5. Technical guidance and direction to all the DoD Components and the non-DoD members of the Intelligence Community regarding standardization and interoperability of systems requiring geospatial information or imagery support.

6.11.6. Technical guidance and direction to all the DoD Components and the non-DoD members of the Intelligence Community regarding standardization and interoperability of systems for exploitation and dissemination of imagery and imagery intelligence products and geospatial information.

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6.12. Establish system and end-to-end architectures related to imagery, imagery intelligence, and geospatial information, in compliance with National and Defense Information Infrastructure guidance and standards in accordance with 10 U.S.C. 442 (reference (a)) and 50 U.S.C. 402 et seq. (reference (b)), by:

6.12.1. Performing or directing the research, design, development, deployment operation and maintenance of systems related to the processing, dissemination, and archiving of imagery (including tasking, processing, exploitation, and dissemination), imagery intelligence, and geospatial information.

6.12.2. Transferring or otherwise providing such systems to the DoD Components and to other Federal Government Agencies, as appropriate.

6.12.3. Developing and fielding systems of common concern related to imagery intelligence and geospatial information.

6.13. Evaluate the performance of imagery, imagery intelligence, and geospatial information components of the Department of Defense in meeting national and military intelligence requirements. To the extent authorized by the DCI, evaluate the performance of the non-DoD Departments or Agencies of the Intelligence Community having imagery or geospatial information tasking, collection, processing, exploitation, and dissemination functions, in meeting national and non-national intelligence requirements. Report evaluation results annually to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the DCI. Define and recommend cooperative production and dissemination arrangements for the performance of imagery, imagery intelligence, and geospatial information components of the Department of Defense and the Intelligence Community to support wartime and emergency operations.

6.14. Coordinate efforts of the DoD Components to provide their Tactical Impact Statements to the Congress on the ability of proposed national systems to satisfy tactical requirements.

6.15. Review and respond to the imagery, imagery intelligence, and geospatial information requirements and priorities for military operations, in support of the Chairman of the Joint Chiefs of Staff and the Combatant Commanders.

6.16. Develop and submit to the Secretary of Defense a consolidated statement of the geospatial information production requirements and priorities in accordance with the National Military Strategy and the national security objectives of the United States.

6.17. Review and validate the national reconnaissance imagery and imagery intelligence requirements and priorities for national customers, and develop and submit to the DCI a consolidated statement of these imagery and imagery intelligence requirements and priorities in accordance with policies and procedures established by the DCI.

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6.18. Manage the national archive of national and appropriate tactical imagery, imagery products, and geospatial information.

6.19. Exercise imagery and geospatial information systems for responsiveness and support to military forces in preparation for wartime and emergency operations.

6.20. In accordance with the DoD Plan for Peacetime Use of Reserve Component Intelligence Elements, dated December 21, 1994, identify imagery, and imagery intelligence tasks, products, support services, and information requirements that can appropriately be satisfied from within the Military Services' Reserve Forces. In coordination with the Defense Intelligence Agency and the Military Services, establish the capability to conduct mission tasking and mission management of Reserve Forces engaged in or capable of being engaged in these activities.

6.21. Develop policies and provide DoD participation in national and international imagery, imagery intelligence, and geospatial information activities, in coordination with appropriate DoD officials for geospatial information activities and with the DCI for imagery activities and activities which involve an intelligence or security service of a foreign country. Represent the Department of Defense in national and international geospatial information standardization activities. Execute DoD responsibilities under interagency and international geospatial information agreements.

6.22. Protect intelligence sources and methods from unauthorized disclosure pursuant to guidance received from the DCI in accordance with the National Security Act of 1947 (50 U.S.C., reference (b)), E.O. 12333 (reference (c)), PDD NSTC-8 (reference (i)), E.O. 12951 (reference (j)), and E.O. 12958 (reference (k)).

6.23. Advise the Secretary of Defense and the DCI on future needs for imagery, imagery intelligence, and geospatial information capabilities and systems, as appropriate.

6.24. Provide staff advice and assistance on imagery, imagery intelligence, and geospatial information related matters to the DoD Components and other Federal Government Departments and Agencies, as appropriate.

6.25. Serve as the sole DoD action agency for all purchases of commercial and foreign government-owned imagery-related remote sensing data by the DoD Components. Serve as the primary action agency for such purchases by any other Federal Department or Agency, on request.

6.26. Advise the Defense Acquisition Board, the Defense Science Board, the Joint Space Management Board, and other DoD boards on imagery, imagery intelligence, and geospatial information issues, as appropriate.

6.27. Identify and analyze the industrial base, as appropriate, to meet essential customer imagery requirements and to ensure industrial base impacts on NIMA functions



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are considered. Assess the applicability of evolving commercial capabilities to meet imagery and geospatial information needs of the Department of Defense and the Intelligence Community.

6.28. Establish and maintain a NIMA Joint Manpower Program that will be reviewed annually by the Chairman of the Joint Chiefs of Staff.

6.29. Serve as the DoD Modeling and Simulation Management Executive Agent for Terrain, managing and overseeing all aspects of DoD modeling and simulation related to the authoritative representation of terrain, including both data and the dynamic process models describing related natural and man-made effects, in accordance with DoD 5000.59-P (reference (l)).

6.30. Protect the security of NIMA installations, activities, property, information, and employees by all appropriate means in accordance with statute and DoD Regulations.

6.31. Consistent with DoD and DCI policies, promulgate procedures and instructions for imagery, imagery intelligence, and geospatial information and related matters to the Department of Defense, as necessary, including publication of handbooks for the exploitation, analysis, dissemination and release of imagery, imagery-derived products, and geospatial information.

6.32. Establish a Chief Information Officer, with responsibilities and functions as provided in Division E of Pub. L. 104-106 (1996) (reference (m)).

6.33. Perform such other functions as the Secretary of Defense may direct.

### 7. RELATIONSHIPS

7.1. In performing assigned functions, the Director, NIMA, subject to the authority, direction, and control of the Secretary of Defense and the overall supervision of the ASD(C3I), shall:

7.1.1. Be responsible to the Chairman of the Joint Chiefs of Staff for matters affecting the Chairman's responsibilities under Title 10 U.S.C. (reference (a)), especially requirements associated with the joint planning process, and for matters affecting the missions and responsibilities of the Combatant Commanders. For these purposes, the Chairman of the Joint Chiefs of Staff is authorized to communicate directly with, and task, the Director, NIMA.

7.1.2. Exchange information and advice and coordinate actions with the Heads of the other DoD Components having collateral or related functions, as appropriate.

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7.1.3. Maintain liaison with Executive Branch organizations on imagery and geospatial matters, as appropriate.

7.1.4. To the extent permitted by law, use established facilities and services of the Department of Defense or other Federal Government Departments or Agencies, whenever practicable, to avoid duplication and achieve an appropriate balance of modernization, efficiency, and economy of operations. Special emphasis should be placed on maximizing use of existing personnel, facilities, and services of the DoD Intelligence Components, and, to the extent authorized by the DCI, the Central Intelligence Agency.

7.2. The Heads of the DoD Components shall:

7.2.1. Provide assistance and support to the Director, NIMA, in their respective fields of responsibility and within available resources, as may be necessary to carry out functions assigned to the NIMA.

7.2.2. Ensure compliance with taskings issued by the Director, NIMA, pursuant to this Directive.

7.2.3. Submit imagery, imagery intelligence, and geospatial collection and production requirements to the Director, NIMA, in accordance with procedures established by the Chairman of the Joint Chiefs of Staff.

7.2.4. Coordinate with the Director, NIMA, on all matters concerning the mission, capabilities, functions, and operations of the NIMA.

7.3. The Chairman of the Joint Chiefs of Staff shall review and assess the responsiveness and readiness of the NIMA to support operating forces in the event of a war or threat to national security and make any recommendations the Chairman considers appropriate, in accordance with Section 193 of 10 U.S.C. (reference (a)).

### 8. AUTHORITY

8.1. The ASD(C3I) is delegated the authority to issue Instructions to the DoD Components to implement this Directive. Instructions to the Military Departments shall be issued through the Secretaries of the Military Departments. Instructions to the Combatant Commanders shall be issued through the Chairman of the Joint Chiefs of Staff.

8.2. The Director, NIMA, is specifically delegated authority to:

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8.2.1. Obtain reports, information, advice, and assistance, consistent with DoD Directive 4630.5 (reference (n)) and DoD Directive 8910.1 (reference (o)), as necessary, to carry out assigned functions.

8.2.2. Communicate directly with the Heads of the DoD Components, the Intelligence Community, and other Federal Government Departments and Agencies, as necessary, to carry out assigned functions. Communications to the Combatant Commanders shall be coordinated, as appropriate, with the Chairman of the Joint Chiefs of Staff.

8.2.3. Exercise functional oversight over the United States Imagery System (USIS) and the Geospatial Information Infrastructure (GII); such oversight shall include the requisite technical oversight authority over the tactical elements of the USIS and GII to ensure interoperability between existing and future USIS and GII systems, connectivity between national and tactical systems, and modernization of tactical systems.

8.2.4. Exercise the administrative authorities in enclosure 3.

8.3. The Director, NIMA, shall exercise the authorities and responsibilities of a Senior Official of the Intelligence Community pursuant to the National Security Act of 1947 (50 U.S.C., reference (b)), E.O. 12333 (reference (c)), and the NIMA Act of 1996 (reference (d)).

### 9. ADMINISTRATION

9.1. The Director, NIMA, shall be appointed and evaluated by the Secretary of Defense in accordance with 10 U.S.C. 201 (reference (a)).

9.2. The Military Departments shall assign military personnel to the NIMA in accordance with approved Joint Manpower Program authorizations and procedures for assignment to joint duty. The Chairman of the Joint Chiefs of Staff shall review NIMA joint staffing program requirements for those functions related to NIMA direct intelligence support to the Chairman of the Joint Chiefs of Staff, and provide appropriate recommendations to the ASD(C3I).


9.3. The NIMA shall be authorized such personnel, facilities, funds, and other resources as the Secretary of Defense deems appropriate. The NIMA may obtain personnel, administrative, and contracting support from the Central Intelligence Agency, to the extent permitted by law and approved by the Secretary of Defense and the DCI.

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10. EFFECTIVE DATE

This Directive is effective on October 1, 1996.



John P. White  
Deputy Secretary of Defense

Enclosures - 3

- E1. References, continued
- E2. Definitions
- E3. Delegations of Authority

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E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Directive 5105.40, "Defense Mapping Agency (DMA)," December 6, 1990 (hereby canceled)
- (f) DoD Directive 5105.56, "Central Imagery Office (CIO)", October 23, 1995 (hereby canceled)
- (g) DoD Directive S-3325.2, "Transfer of National Intelligence Collection Tasking Authority (U)," June 18, 1987
- (h) DoD 4120.3-M, "Defense Standardization Program (DSP) Policies and Procedures," July 1993
- (i) Presidential Decision Directive NSTC-8, "National Space Policy (U)," September 14, 1996
- (j) Executive Order 12951, "Release of Imagery Acquired by Space Based National Intelligence Reconnaissance Systems," February 22, 1995
- (k) Executive Order 12958, "Classified National Security Information," April 17, 1995
- (l) DoD 5000.59-P, "Modeling and Simulation (M&S) Master Plan," October 1995
- (m) Public Law 104-106, "National Defense Authorization Act for Fiscal Year 1996," February 10, 1996
- (n) DoD Directive 4630.5, "Compatibility, Interoperability, and Integration of Command, Control, Communications, and Intelligence (C3I) Systems," November 12, 1992
- (o) DoD Directive 8910.1, "Management and Control of Information Requirements," June 11, 1993

ENCLOSURE 1

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### E2. ENCLOSURE 2

#### DEFINITIONS

E2.1.1. Advisory Tasking. The submission of national requirements for collection, as appropriate, by theater and tactical reconnaissance platforms.

#### E2.1.2. Functional Management

E2.1.2.1. The review of and coordination on investment activities related to imagery, imagery intelligence, and geospatial information, which includes RDT&E, and procurement activities within the NFIP, JMIP, and TIARA aggregate. Review includes imagery-related fiscal and personnel resources, Program Objective Memoranda and budget submissions to affect resource allocation decisions and ensure compliance with architecture, equipment, and data and related standards and policy, in accordance with Section 105(b)(2) of the National Security Act of 1947 (50 U.S.C.) (reference (b)), as amended.

E2.1.2.2. Provision of program planning and resource guidance to the DoD Components for the development of inputs to the Planning, Programming, and Budgeting System and to the Intelligence Community agencies for inputs to the Capabilities Programming and Budgeting System.

E2.1.3. Geospatial Information. Information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth, including: statistical data; information derived from, among other things, remote sensing, mapping, and surveying technologies; and mapping, charting and geodetic data, including "geodetic products," as that term is used in Chapter 167 of 10 U.S.C. (reference (a)).

E2.1.4. Geospatial Information Infrastructure. The collection of technology, policies, standards, capabilities, services, and doctrine necessary to produce, maintain, disseminate, and exploit geospatial information. This includes the links between global geospatial information and sophisticated geographic information system technologies that allow desktop import and export of geospatial data sets; that ensure interactive and reliable data manipulation, update, and value adding; and that encourage dissemination through the use of electronic gateways and networks.

E2.1.5. Imagery. A likeness or representation of any natural or man-made feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including products produced by space-based national intelligence reconnaissance systems, and likenesses or representations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means (except

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that such term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations).

E2.1.6. Imagery Intelligence. The technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

E2.1.7. Imagery Related or End-to-End Architectures. The means by which imagery-related information flows from the collectors and producers to the customers. The term includes guiding principles, design concepts, standards, capabilities, customer feedback, and relationships of imagery-related organizations and systems.

E2.1.8. Intelligence Community. Has the same meaning as in Executive Order 12333 (reference (c)) and Section 3 of the National Security Act of 1947 (50 U.S.C.) (reference (b)), as amended.

E2.1.9. Defense Imagery and Mapping Program (DIMP). Imagery, imagery intelligence, and geospatial fiscal and personnel resources program, for which the Director, NIMA is Program Manager, of the DoD Joint Military Intelligence Program (JMIP). (Formerly the Defense Imagery Program and the Defense Mapping, Charting, and Geodesy Program in the JMIP.)

E2.1.10. Mapping, Charting, and Geodetic Data. Comprises the collection, transformation, generation, dissemination, and storing of geodetic, geomagnetic, gravimetric, aeronautical, topographic, hydrographic, cultural, and toponymic data. These data may be presented in the form of topographic, planimetric, relief, or thematic maps and graphics; nautical and aeronautical charts and publications; and in simulated, photographic, digital, or computerized formats. Has the same meaning as mapping, charting and geodesy.

E2.1.11. National Imagery and Mapping Program (NIMP). Imagery, imagery intelligence, and geospatial fiscal and personnel resources program, within the National Foreign Intelligence Program, for which the Director, NIMA, is Program Manager.

E2.1.12. United States Imagery System (USIS). All of the imagery capabilities of the U.S. Government as well as all the imagery, imagery data, and imagery-derived products produced by or for the U.S. Government. It includes the functional areas of requirements and needs management, collection, processing, exploitation, production, and dissemination.

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### E3. ENCLOSURE 3

#### DELEGATIONS OF AUTHORITY

E3.1.1. Pursuant to the authority vested in the Secretary of Defense, and subject to the authority, direction, and control of the Secretary of Defense, and in accordance with DoD policies, Directives, and Instructions, the Director, NIMA, or, in the absence of the Director, the person acting for the Director, is hereby delegated authority as required in the administration and operation of the NIMA to:

E3.1.1.1. Exercise the authority vested in the Secretary of Defense by 5 U.S.C. 301, 302(b), 3101 and 5107, and Chapter 83 of 10 U.S.C., as amended, on the employment, direction, and general administration of NIMA civilian personnel.

E3.1.1.2. Fix rates of pay for wage-rate employees exempted from the Classification Act of 1949 by 5 U.S.C. 5102 on the basis of rates established under the Coordinated Federal Wage System. In fixing such rates, the Director, NIMA, shall follow the wage schedule established by the DoD Wage Fixing Authority.

E3.1.1.3. Administer oaths of office to those entering the Executive Branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with 5 U.S.C. 2903, and designate in writing, as may be necessary, officers and employees of the NIMA to perform this function.

E3.1.1.4. Maintain an official seal and attest to the authenticity of official NIMA records under that seal.

E3.1.1.5. Establish a NIMA Incentive Awards Board, and pay cash awards to, and incur necessary expenses for, the honorary recognition of civilian employees of the Government whose suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, benefit or affect the NIMA, in accordance with 5 U.S.C. 4503, Office of Personnel Management (OPM) regulations, and DoD Directive 5120.15, "Authority for Approval of Cash Honorary Awards for DoD Personnel," August 13, 1985.

E3.1.1.6. Act as agent for the collection and payment of employment taxes imposed by appropriate statutes.

E3.1.1.7. Establish advisory committees and employ temporary or intermittent experts or consultants, as approved by the Secretary of Defense, for the performance of NIMA functions consistent with 10 U.S.C. 173, 5 U.S.C. 3109(b), and DoD Directive 5105.4, "Department of Defense Federal Advisory Committee Management Program," September 5, 1989.



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E3.1.1.8. In accordance with Executive Orders 10450, 12333, 12958, 12968, and DoD Directive 5200.2, "Department of Defense Personnel Security Program," May 6, 1992, as appropriate:

E3.1.1.8.1. Designate any position in the NIMA as a "sensitive" position.

E3.1.1.8.2. Authorize, in the case of an emergency, the appointment of a person to a sensitive position in the NIMA for a limited period of time and for whom a full field investigation or other appropriate investigation, including the National Agency Check, has not been completed.

E3.1.1.8.3. Initiate personnel security investigations and, if necessary in the interest of national security, suspend a security clearance for personnel assigned, detailed to, or employed by the NIMA. Any action under this paragraph shall be taken in accordance with procedures prescribed in DoD 5200.2-R, "Department of Defense Personnel Security Program," January 1987.

E3.1.1.9. Authorize and approve:

E3.1.1.9.1. Temporary duty travel for military personnel assigned or detailed to the NIMA in accordance with Joint Federal Travel Regulations, Volume 1, "Uniformed Service Members."

E3.1.1.9.2. Travel for NIMA civilian employees in accordance with Joint Travel Regulations, Volume 2, "DoD Civilian Personnel."

E3.1.1.9.3. Invitational travel to non-DoD personnel whose consultative, advisory, or other highly specialized technical services are required in a capacity that is directly related to, or in connection with, NIMA activities, in accordance with 5 U.S.C. 5703 and Joint Travel Regulations, Volume 2, "DoD Civilian Personnel."

E3.1.1.9.4. Overtime work for NIMA civilian employees in accordance with 5 U.S.C. Chapter 55, Subchapter V, and applicable OPM regulations.

E3.1.1.10. Approve the expenditure of funds available for travel by military personnel assigned or detailed to the NIMA for expenses incident to attendance at meetings of technical, scientific, professional, or other similar organizations in such instances when the approval of the Secretary of Defense, or designee, is required by 37 U.S.C. 412, and 5 U.S.C. 4110 and 4111.

E3.1.1.11. Develop, establish, and maintain an active and continuing Records Management Program, pursuant to 44 U.S.C. 3102 and DoD Directive 5015.2, "Records Management Program," March 22, 1991.

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E3.1.1.12. Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals, as required for the effective administration and operation of the NIMA, consistent with 44 U.S.C. 3702.

E3.1.1.13. Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures described in DoD 5025.1-M, "DoD Directives System Procedures," August 1994.

E3.1.1.14. Enter into support and service agreements with the Military Departments, other DoD Components, or other Federal Government Agencies, as required, for the effective performance of NIMA responsibilities and functions.

E3.1.1.15. Enter into and administer contracts, directly or through a Military Department, a DoD contract administration services component, or other Federal Agency, as appropriate, for supplies, equipment, and services required to accomplish the mission of the NIMA. To the extent that any law or Executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority shall be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

E3.1.1.16. Exercise the authority delegated to the Secretary of Defense by the Administrator of the General Services Administration on the disposal of surplus personal property.

E3.1.1.17. Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, NIMA, pursuant to DoD Directive 5200.8, "Security of DoD Installations and Resources," April 25, 1991.

E3.1.1.18. Establish and maintain appropriate property accounts for NIMA and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for NIMA property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

E3.1.1.19. Sell maps, charts, and other publications to the public at prices and under regulations that may be prescribed by the Secretary of Defense, under 10 U.S.C. 453.

E3.1.1.20. Execute responsibilities of 10 U.S.C. 454 relating to international agreements.

E3.1.1.21. Withhold from sale and public disclosure geospatial information, including maps, charts, and other geodetic products, restricted by international

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agreement, revealing sensitive sources and methods used to obtain source material for production of the geospatial information, or jeopardize or interfere with ongoing military or intelligence operations or reveal military operational or contingency plans, pursuant to 10 U.S.C. 455.

E3.1.1.22. Lease non-excess property under the control of the NIMA, under terms that will promote the national defense or that will be in the public interest, under 10 U.S.C. 2667.

E3.1.1.23. Administer DoD and DCI security policies and programs within the NIMA.

E3.1.1.24. Serve as the Designated Approving Authority for NIMA automated information systems and networks for less than Acquisition Category (ACAT) 1A programs, or serve as the milestone decision authority (MDA) for ACAT 1A programs when delegated by the ASD(C3I). The Director, NIMA, shall exercise delegated MDA in accordance with DoD Directive 5000.1, "Defense Acquisition," March 15, 1996 and DoD 5000.2-R, "Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs," March 1996.

E3.1.2. The Director, NIMA, may redelegate these authorities, as appropriate, and in writing, except as otherwise provided by law or regulation.

E3.1.3. These delegations of authority are effective immediately.

### **Appendix 8-11: DoDD 5230.16, Nuclear Accident and Incident Public Affairs**

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense

**DIRECTIVE**

**NUMBER 5230.16**

December 20, 1993

Certified Current as of November 21, 2003

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ATSD(PA)

SUBJECT: Nuclear Accident and Incident Public Affairs (PA) Guidance

- References: (a) DoD Directive 5230.16, subject as above, February 7, 1983 (hereby canceled)
- (b) Federal Preparedness Circular 8, "Public Affairs in Emergencies," June 22, 1989<sup>1</sup>
  - (c) DoD Directive 5100.52, "DoD Response to an Accident or Significant Incident Involving Radioactive Materials," December 21, 1989
  - (d) Executive Order 12356, "National Security Information," April 2, 1982
  - (e) through (h), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a) to update DoD policy, responsibilities, and procedures for the prompt release of information to the public in the interest of public safety, and to prevent public alarm in the event of accidents or significant incidents involving nuclear weapons or nuclear components, radioactive material, nuclear weapon launch or transport vehicles (when a nuclear weapon is aboard), or nuclear reactors under DoD control.

1.2. Updates DoD policy, responsibilities, and procedures during an improvised nuclear device (IND) incident.

<sup>1</sup> Available from the Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20429.

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### 2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Departments," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

It is DoD policy:

4.1. To establish efficient and effective procedures for the release of information to the public in the event of nuclear accidents, IND incidents, or nuclear weapon significant incidents. These procedures include exceptions to the policy of neither confirming nor denying the presence or absence of nuclear weapons at any specified location.

4.2. That in a nuclear weapon accident occurring in the United States, its territories or possessions, the Assistant to the Secretary of Defense for Public Affairs (ATSD(PA)) and the On-Scene Commander (OSC) are required to confirm to the general public the presence or absence of nuclear weapons or radioactive nuclear components, when necessary, in the interest of public safety or to reduce or prevent widespread public alarm. Notification of public authorities is also required if the public is, or may be, in danger of radiation exposure or other danger posed by the weapon or its components.

4.3. That in a nuclear weapon significant incident that has the potential of escalating to an accident, the Deputy Director of Operations (DDO), National Military Command Center (NMCC), may confirm to appropriate authorities, or the ATSD(PA) may confirm the presence of nuclear weapons in the interest of public safety or to reduce or prevent widespread public alarm.

4.4. That during a nuclear weapon accident overseas, the ATSD(PA) or the theater Commander in Chief (CINC), with concurrence of the foreign government through the appropriate Chief of U.S. Mission, may confirm the presence of nuclear weapons or radioactive nuclear components in the interest of public safety. Notification of public authorities is also required if the public is, or may be, in danger of radiation exposure or other danger posed by the weapon or its components.

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4.5. That in a nuclear weapon significant incident overseas having the potential to escalate to an accident, the ATSD(PA) or the theater CINC with concurrence of the foreign government, through the appropriate Chief of U.S. Mission, may confirm the presence of nuclear weapons in the interest of public safety or to reduce or prevent widespread public alarm.

4.6. That information releases relating to improvised nuclear devices will follow the same general guidelines as for accidents or significant incidents. However, the Defense Senior Representative must have the concurrence of the Federal Bureau of Investigation as lead Federal Agency (on U.S. territory or possessions) or of the foreign government and Department of State as lead Federal Agency through the appropriate chief of U.S. Mission.

4.7. With the exception of releasing information in the event of nuclear accidents and nuclear weapon significant incidents, to respond to any public requests about the location of nuclear weapons as follows: "It is U.S. policy to neither confirm nor deny the presence or absence of nuclear weapons at any general or specific location." This response shall be provided even when such location is thought to be known or obvious. Regarding the release of information on nuclear capable ships, submarines, and naval aircraft, the following statement shall be used: "It is general U.S. policy not to deploy nuclear weapons aboard surface ships, attack submarines, and naval aircraft. However, we do not discuss the presence or absence of nuclear weapons aboard specific ships, submarines, or aircraft." There is no exception to policy governing release of information about IND incidents.

4.8. That if asked why the United States has a "Neither Confirm Nor Deny" policy, the response should be as follows: "The basis for the security requirement inherent in the U.S. policy of neither confirming nor denying the presence or absence of nuclear weapons is to deny militarily useful information to potential or actual enemies, to enhance the effectiveness of nuclear deterrence, and contribute to the security of nuclear weapons, especially against the threats of sabotage and terrorism."

### 5. RESPONSIBILITIES

5.1. The Assistant to the Secretary of Defense for Public Affairs shall:

5.1.1. When notified of an accident or significant incident involving nuclear weapons, nuclear components, nuclear reactors or radioactive materials in the custody of or under the physical control of the Department of Defense do the following:

5.1.1.1. Establish communications, as appropriate, with public affairs officers (PAOs) of the Unified Commands, the Military Departments, Defense Nuclear Agency (DNA), Department of Energy (DoE), and Federal Emergency Management Agency (FEMA). The U.S. Chief of Mission and the U.S. Department of State (DoS)

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PAO shall be notified and consulted on accidents overseas or on accidents and significant incidents near a U.S. border.

5.1.1.2. Provide initial PA guidance, make news releases, respond to news media inquiries, and hold news conferences at the national level in coordination with appropriate DoD officials (to include the Assistant to the Secretary of Defense (Atomic Energy) and the Director, (DNA), the DoE, the FEMA, and if overseas or near a U.S. border, with the DoS.

5.1.1.3. Ensure that the DoD OSC is advised immediately of all news releases and news conferences held at the national level addressing accident response or recovery operations.

5.1.1.4. Delegate, when appropriate, overall PA responsibility to the Military Department or Unified Commander having primary responsibility for the DoD accident response.

5.1.2. Issue, as necessary, a DoD PA regulation and other discretionary instructions and guidance to ensure timely and uniform implementation in the Department of Defense of approved exceptions to the policy of neither confirming nor denying the presence or absence of nuclear weapons in a specific location.

5.1.3. When notified of an IND incident:

5.1.3.1. Establish communications with PAOs of the lead Federal Agency. The Federal Bureau of Investigation (FBI) is the lead agency for incidents in the United States, its territories and possessions. The DoS is the lead agency for acts not under FBI responsibility.

5.1.3.2. Establish communications with PAOs of the Military Departments, the DNA, the DoE, the FEMA, the applicable Unified Command, and other appropriate Federal Agencies.

5.1.3.3. Act in support of the lead Federal Agency PAO by ensuring DoD PAO representation in the joint information center (JIC) established by the lead Federal Agency. Such support shall include jointly coordinating all press releases and media events.

5.1.3.4. Ensure the Defense Senior Representative (DSR) is advised immediately of all news releases and press conferences held at the national level addressing IND incident response operations.

5.1.3.5. Delegate, when appropriate, overall DoD PA responsibility to the Military Department or Unified Command having primary responsibility for the DoD response to an IND incident.

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5.1.4. Coordinate with the General Counsel of the Department of Defense, as appropriate, when litigation is likely due to the conditions surrounding a nuclear accident or incident.

5.2. The Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Commanders of the Unified Commands, and the Directors of the Defense Agencies shall implement this Directive and shall ensure that the following PA aspects are included in their contingency planning:

5.2.1. Comprehensive PA planning for DoD nuclear accident, IND incident and nuclear weapon significant incidents, and comprehensive PA operations, including adequate personnel and administrative, communications, and logistical support for a potential DoD response force.

5.2.2. Procedures to be followed by potential OSCs under the DoD Component's command in the United States, its territories and possessions. These PA procedures shall be in the form of a checklist and shall include the subjects in the example in enclosure 4.

5.2.3. Pre-coordinated contingency releases for nuclear weapon accidents. Examples of contingency releases in enclosure 5 are appropriate for inclusion in PA plans. Actual releases shall pertain to the area and situation where they are needed; however, they should follow the examples in enclosure 5.

5.2.4. News media support at a nuclear weapon accident or significant incident site. If the DoD OSC designates the site a national defense area (NDA), news media representatives shall be supported as on a military installation. Briefings shall be given to news media representatives informing them of the appropriate information that can be disclosed during a nuclear accident and the procedures to be followed. A handout that provides the same information as the briefing shall be given to news media representatives.

5.2.5. Periodic training or at least annual briefings that include the PA aspects of a nuclear accident or incident. Briefings shall cover this Directive and implementing instructions of the applicable DoD Component, command, and unit. Such training is recommended for personnel who are directly involved in operations or events or have the potential of becoming involved. However, training shall include members from the Military Department police agencies, base, or station security personnel; nuclear weapons security force; and intelligence, operations, and PA personnel. In areas outside the United States, its territories, and possessions, members of the U.S. diplomatic mission, DoS, shall be invited to attend the annual briefings.

5.2.6. Provision for informing emergency response personnel, key local leaders, civilians, and State officials on radiation and other hazards that may or may not exist. For nuclear weapon or nuclear component accidents, IND incidents, and nuclear



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weapon significant incidents, notification may be accomplished early in the response process through telephone calls from or visits by the OSC or designees. As the response force increases, this may be accomplished with a Community Emergency Action Team (CEAT) comprising PA, medical, legal, security, communication, administrative, logistics, or other appropriate personnel from DoD and civil resources. As these resources become available, they shall function under the direction of the OSC or the DSR, or the lead Federal Agency. The CEAT shall be physically located in the JIC to facilitate coordination. Activities of the CEAT shall be coordinated through the senior FEMA official (SFO), under relationships established by Federal Preparedness Circular 8 (reference (b)), with similar activities of other Agencies to ensure a unified approach in working with the community. In overseas areas, the OSC or DSR may constitute a CEAT that shall coordinate through the appropriate Unified Commander, or designee, and Chief of U.S. Mission and host-government authorities. For military nuclear reactor or radiological material accidents, State and local officials can be informed via the FEMA in the United States, its territories and possessions, as appropriate; or through the Unified Commander, or designee, and Chief of U.S. Mission in overseas areas with host-government authorities who have this responsibility.

5.2.7. Expediently inform the ATSD(PA) on the PA aspects of military nuclear reactor or radiological material accidents.

5.3. The Chairman of the Joint Chiefs of Staff shall:

5.3.1. Notify the ATSD(PA), in accordance with DoD Directive 5100.52 (reference (c)), to provide timely, accurate information on the progress of an accident response.

5.3.2. Invoke exceptions to the policy of neither confirming nor denying the presence or absence of a nuclear weapon before the OSC arrives at a nuclear weapon accident site in accordance with procedures in enclosure 3 when it is necessary immediately to implement public safety actions or to reduce public alarm. This action shall be taken with available information and the Chief, or designee, of the responsible Military Department shall be informed. Pre-coordinated information required by local and State officials to ensure public safety and health, and necessary to aid law enforcement personnel to secure the weapon, shall be retained in the NMCC. The DDO shall give this information to State and local officials (if time permits, via the FEMA) when required to reduce the hazard to life, health, or property before the initial response force arrives.

5.3.3. Refer news media inquiries received at the NMCC to the Office of the Assistant to the Secretary of Defense for Public Affairs duty officer.

5.4. The Commanders of the Unified Commands shall implement this Directive and develop nuclear weapon accident, IND incident, nuclear weapon significant incident, and nuclear reactor or radiological accident PA planning guidance, including:

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5.4.1. Provisions and procedures to expeditiously inform the ATSD(PA); Chief of U.S. Mission, DoS; and the host government of emergency news releases; and the use of the host government's public release facilities.

5.4.2. Contingency plans, announcements, and methods of release developed by Unified Commanders, or designees, in consultation with the Chief of U.S. Mission in the country concerned.

5.4.3. Provisions for clearing contingency announcements and methods of release with host governments, when required by international agreement. This process shall be accomplished by the theater CINC through the Chief of U.S. Mission in the country concerned.

5.5. The Heads of the DoD Components shall comply with this Directive and shall establish notification procedures as required by DoD Directive 5100.52 (reference (c)).

### 6. PROCEDURES

DoD-prescribed procedures on nuclear weapon accidents and significant incidents, nuclear components, radioactive material, and DoD nuclear reactor and radiological accidents are in enclosure 3.

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7. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant to the Secretary of Defense for Public Affairs within 120 days.

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William J. Perry  
Deputy Secretary of Defense

Enclosures - 5

- E1. References, continued
- E2. Definitions
- E3. Procedures on Accidents and Significant Incidents Involving Nuclear Weapons,  
Nuclear Components, Nuclear Reactors, or Radioactive Materials
- E4. Model PA Checklist for DoD OSC or Designee at an Accident Involving  
Radioactive Materials
- E5. Contingency Releases for Nuclear Weapon Accidents

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E1. ENCLOSURE 1

REFERENCES, continued

- (e) Public Law 93-288, "Disaster Relief Act of 1974," May 22, 1974, as amended
- (f) Joint Pub 1-02, "Department of Defense Dictionary of Military and Associated Terms," December 1, 1989
- (g) Section 142 of Public Law 83-703, "Atomic Energy Act of 1954," August 30, 1954, as amended
- (h) Executive Order 12148, "Federal Emergency Management," July 20, 1979

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### E2. ENCLOSURE 2

#### DEFINITIONS

E2.1.1. Area Commander. A Military Service-designated commander with authority in a specific geographical area.

E2.1.2. BENT SPEAR. A Chairman of the Joint Chiefs of Staff term used in the Department of Defense to identify and report a nuclear weapon significant incident involving a nuclear weapon or warhead, nuclear components, or vehicle when nuclear loaded. This term includes a significant incident as defined in DoD Directive 5100.52 (reference (c)).

E2.1.3. BROKEN ARROW. A Chairman of the Joint Chiefs of Staff term to identify and report an accident involving a nuclear weapon or warhead or nuclear component. (See definition E2.1.23., below, nuclear weapon accident.)

E2.1.4. Classified National Security Information. Information or material subject to the control of the U.S. Government encompassing both U.S. national defense and foreign relations that has been determined under E.O. 12356 (reference (d)) to require protection against unauthorized disclosure and that is so designated.

E2.1.5. Combined Information Bureau (CIB). A facility established in a foreign country near the scene of a nuclear weapon accident or significant incident and staffed by U.S. and host-nation PA personnel. Space may also be allocated for the media. Normally, press briefings will be conducted at the CIB.

E2.1.6. Community Emergency Action Team (CEAT). A team comprising PA, medical, legal, security, communication, administrative, logistics, or other appropriate personnel from DoD and civil resources whose function is to inform emergency response personnel, key local leaders, civilians, and State officials on radiation and other hazards that may or may not exist. A team of response and local experts that operates out of the JIC and is available to assist the local community.

E2.1.7. Coordinate. To bring into common action so as not to duplicate unnecessarily or omit important actions. The act of coordination does not involve direction of one agency by another.

E2.1.8. Custodial Commander. A commander responsible for maintaining custody, guardianship, and safekeeping of nuclear weapons and their components and of source and special nuclear materials.

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E2.1.9. Defense Senior Representative (DSR). A general or flag officer provided by the responsible Military Department or CINC who acts as the DoD single point of contact on-site in the event of an IND incident. The DSR exercises operational control over all responding DoD assets unless otherwise specified. The DSR provides assets, advice, and assistance to the lead Federal Agency, and coordinates actions with the DoE senior official.

E2.1.10. EMPTY QUIVER. A reporting term to identify and report the seizure, theft, or loss of a U.S. nuclear weapon.

E2.1.11. FADED GIANT. A reporting term to identify an event involving a nuclear reactor or radiological accident.

E2.1.12. Federal Coordinating Officer (FCO). The Federal official appointed by the President upon declaration of a major disaster or emergency under Public Law 93-288 (reference (e)) to coordinate the overall Federal response.

E2.1.13. Formerly Restricted Data. Information removed from the restricted data category upon a joint determination by the DoE (or antecedent agencies) and the Department of Defense that such information relates primarily to the military use of atomic weapons and that such information can be adequately safeguarded as classified defense information. (For foreign dissemination, however, such information is treated in the same manner as restricted data.)

E2.1.14. Improvised Nuclear Device (IND). A device incorporating radioactive materials designed to result in either the dispersal of radioactive material or in the formation of nuclear yield. Such devices may be fabricated in a completely improvised manner or may result from the sabotage, seizure, theft, or loss of a U.S. or foreign nuclear weapon.

E2.1.15. Improvised Nuclear Device (IND) Incident. An event resulting from a deliberate act, involving nuclear weapons or nuclear materials that included the sabotage, seizure, theft, loss of a nuclear weapon or radiological nuclear weapon component, or the fabrication and employment of an IND or a credible threat of either.

E2.1.16. Initial Response Force (IRF). An element (whose capabilities are delineated in the Nuclear Accident Response Capabilities Listing), belonging to DoD or DoE installations, facilities, or activities, that would take emergency response actions necessary to maintain command and control on-site pending arrival of the Service or Agency response force. Functions that the initial response force is tasked to perform (within its capabilities) are rescue operations; accident site security; fire fighting; initiation of appropriate explosive ordnance disposal procedures; radiation monitoring; establishment of command, control, and communications; and PA activities.

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E2.1.17. Installation. See Joint Pub. 1-02 (reference (f)). For PA purposes, any Federal installation in active status.

E2.1.18. Joint Information Center (JIC). A facility established at the scene of a nuclear weapon accident or significant incident to coordinate all PA activities. The JIC shall include representation from the Department of Defense, the DoE, the FEMA, and other Federal Agencies, as well as State and local governments.

E2.1.19. Lead Federal Agency. The Federal Agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological activity causing the emergency and that has the authority to take action on site.

E2.1.20. National Defense Area (NDA). An area established on non-Federal lands located within the United States, its possessions or territories for safeguarding classified defense information or protecting DoD equipment and/or material. Establishment of an NDA temporarily places such non-Federal lands under the effective control of the Department of Defense and results only from an emergency event. The OSC or DSR at the scene shall define the boundary, mark it with a physical barrier, and post warning signs. The landowner's consent and cooperation shall be obtained whenever possible; however, military necessity will dictate the final decision regarding location, shape, and size of the NDA.

E2.1.21. National Security Area (NSA). An area established on non-Federal lands located within the United States, its possessions or territories, for safeguarding classified information and/or restricted data, equipment, or material belonging to the DoE. Establishment of a national security area temporarily places such non-Federal lands under the effective control of the DoE and results only from an emergency event. The senior DoE representative having custody of the material at the scene shall define the boundary, mark it with a physical barrier, and post warning signs. The landowner's consent and cooperation shall be obtained whenever possible; however, operational necessity shall dictate the final decision regarding location, shape, and size of the national security area.

E2.1.22. Nuclear Reactor Accident. An uncontrolled reactor criticality resulting in damage to the reactor core or an event such as loss of coolant that results in significant release of fission products from the reactor core.

E2.1.23. Nuclear Weapon Accident. An unexpected event involving nuclear weapons or nuclear components that results in any of the following:

E2.1.23.1. Accidental or unauthorized launching, firing, or use by U.S. Forces or U.S.-supported Allied forces of a nuclear-capable weapons system.

E2.1.23.2. An accidental, unauthorized, or unexplained nuclear detonation.

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E2.1.23.3. Non-nuclear detonation or burning of a nuclear weapon or nuclear component.

E2.1.23.4. Radioactive contamination.

E2.1.23.5. Jettisoning of a nuclear weapon or nuclear component.

E2.1.23.6. Public hazard, actual or perceived.

E2.1.24. Nuclear Weapon Significant Incident. An unexpected event involving nuclear weapons, nuclear components, or a nuclear weapon transport or launch vehicle when a nuclear weapon is mated, loaded, or on board that does not fall into the nuclear weapon accident category but that:

E2.1.24.1. Results in evident damage to a nuclear weapon or nuclear component to the extent that major rework, complete replacement, or examination or recertification by the DoE is required.

E2.1.24.2. Requires immediate action in the interest of safety or nuclear weapons security.

E2.1.24.3. May result in adverse public reaction (national or international) or inadvertent release of classified information.

E2.1.24.4. Could lead to a nuclear weapon accident and warrants that senior national officials or agencies be informed or take action.

E2.1.25. On-Scene Commander (OSC) for Nuclear Accidents. The flag or general officer designated to command the DoD response efforts at the accident site.

E2.1.26. On-Site. That area around the scene of a nuclear weapon accident or significant incident that is under the operational control of the installation commander, facility manager, or DoD OSC or DoE team leader. The on-site area includes any area that has been established as an NDA or NSA.

E2.1.27. Photograph. Any plate, negative, print, videotape, live television transmission, or other form of graphic representation, including any sketch or drawing.

E2.1.28. Primary Commander. The Unified Commander in Chief whose forces have possession of nuclear weapons.

E2.1.29. Radiological Accident. A loss of control over radiation or of radioactive material that presents a hazard to life, health, or property, or that may result in any member of the general population exceeding exposure limits for ionizing radiation.



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E2.1.30. Radiological Assistance. That assistance provided after an accident involving radioactive materials to:

E2.1.30.1. Evaluate the radiological hazard.

E2.1.30.2. Accomplish emergency rescue and first aid.

E2.1.30.3. Minimize safety hazards to the public.

E2.1.30.4. Minimize exposure of personnel to radiation or radioactive materials.

E2.1.30.5. Minimize the spread of radioactive contamination.

E2.1.30.6. Minimize damaging effects on property.

E2.1.30.7. Disseminate technical information and medical advice to appropriate authorities.

E2.1.31. Responsible Military Department. See DoD Directive 5100.52 (reference (c)).

E2.1.32. Restricted Data. All data (information) on the following:

E2.1.32.1. Design, manufacture, or use of nuclear weapons;

E2.1.32.2. Production of special nuclear material; or

E2.1.32.3. Use of special nuclear material in the production of energy. The term does not include data declassified or removed from the restricted data category under Pub. L. No. 83-703, Section 142 (Section 11w, Atomic Energy Act of 1954, as amended) (reference (g)) (Joint Pub. 1-02, reference (f)).

E2.1.33. Senior FEMA Official (SFO). A person appointed by the Director of the FEMA to coordinate the Federal response to a civil emergency. (See E.O. 12148, reference (h).)

E2.1.34. Service Response Force (SRF). A DoD response force appropriately manned, equipped, and able to perform and coordinate all actions necessary to control and recover from the effects of an accident or significant incident. The specific purpose of a Service response force is to provide nuclear weapon accident or significant incident assistance. Service response forces are organized and maintained by those Services or Agencies that have custody of nuclear weapons or radioactive nuclear weapon components.

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E2.1.35. U.S. Chief of Mission. The senior DoS official permanently assigned to represent the U.S. Government within a foreign country, often the U.S. ambassador to that country.

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### E3. ENCLOSURE 3

#### PROCEDURES ON ACCIDENTS AND SIGNIFICANT INCIDENTS INVOLVING NUCLEAR WEAPONS, NUCLEAR COMPONENTS, NUCLEAR REACTORS, OR RADIOACTIVE MATERIALS

##### E3.1. NUCLEAR WEAPON ACCIDENTS AND SIGNIFICANT INCIDENTS

E3.1.1. The ATSD(PA) retains initial PA responsibility for nuclear weapon accident and significant incidents in the United States, its territories and possessions. In overseas areas, the appropriate theater CINC, in coordination with the ATSD(PA) shall retain initial PA responsibility for nuclear weapon accidents and significant incidents.

E3.1.2. The presence of nuclear weapons or nuclear components at any specified location may not be confirmed nor denied except as follows:

E3.1.2.1. In the interest of PUBLIC SAFETY in the United States, its territories and possessions, confirmation of the presence of nuclear weapons or nuclear components must be made by the OSC. The DDO, NMCC, or the ATSD(PA) may invoke this exception to policy before the OSC arrives, based on available information and in coordination with the Chief, or designee, of the responsible Military Department. Any statement confirming the presence of nuclear weapons should contain information about the possibility of injury from high explosive weapon components and/or potential radiation exposure. If necessary, the statement may list the radiation hazards that are unclassified, such as uranium or plutonium, but may not reveal classified technical data about the weapon(s). The amounts of explosive or radioactive material are examples of classified technical data. If injury or radiation exposure is unlikely, it should also be stated. Public authorities shall be notified immediately in a candid manner to enable them to take public safety actions. Notification of public authorities confirming the presence of nuclear weapons or radioactive nuclear components is required if the public is, or may be, in danger of radiation exposure or any other danger posed by the nuclear weapon or nuclear components. Confirmation shall be made promptly when actions in the interest of public safety must be taken, particularly when protective action or evacuation of civilians may be required. These actions will include releasing statements to the news media to expedite public safety procedures. The ATSD(PA) shall be advised as soon as practical when confirmation has been made directly by the OSC or DDO.

E3.1.2.2. To reduce or prevent widespread PUBLIC ALARM in the United States, its territories and possessions, the OSC may issue an official statement of reassurance to the public that confirms or denies the presence of nuclear weapons or nuclear components. Before the OSC arrives, the ATSD(PA) may invoke this exception to policy with available information and inform the Military Department responsible. The DDO shall implement this policy through the appropriate local officials or by

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authorizing the DoD initial response force commander to issue a statement in an emergency. The DDO shall notify the responsible Military Department or Unified Commander if this authority is granted. Any statement confirming the presence of nuclear weapons should contain information about the possibility of injury from high explosive weapon components and/or potential radiation exposure. If injury or radiation exposure is unlikely, it should also be stated. The confirmation may state also that the use of explosive ordnance disposal teams is only a precautionary measure, and the evacuation of DoD personnel is only a precautionary measure designed to limit the number of personnel at the accident scene. A denial should characterize the accident or incident as a non-nuclear event. The ATSD(PA) shall be notified in advance if practical, or as soon as possible thereafter, if this exception to policy is initiated to enable the ATSD(PA) to continue initial PA responsibilities and to ensure the release of timely, accurate information at the national level.

E3.1.2.3. In overseas areas outside the United States (and its territories and possessions), the ATSD(PA) or the Unified Commander or representative, with concurrence of the foreign government through the appropriate Chief of U.S. Mission, may confirm the presence of nuclear weapons or nuclear weapon components at the scene of an accident or significant incident in the interest of public safety or to reduce or prevent public alarm. The ATSD(PA) shall be advised in advance, when practical, if exception to policy is necessary. Notification of civil authorities of foreign governments, through the Chief of the appropriate U.S. Mission, is required if the public is, or may be, in danger of radiation exposure or other danger posed by the weapon or its components. Notification of foreign governments is not considered an exception to the neither confirm nor deny policy. It is U.S. Government policy to notify foreign governments promptly of any U.S. incident that may create a hazard to public health and safety.) Any statement confirming the presence of nuclear weapons should contain information about the possibility of injury from high explosive weapon components and/or potential radiation exposure. If injury or radiation exposure is unlikely, it should also be stated.

E3.1.2.4. In a nuclear weapon significant incident, the DDO, NMCC, or the ATSD(PA) and the Unified Commander or his representative may confirm the presence of nuclear weapons in the interest of public safety or to reduce or prevent public alarm. Confirmation must be with the concurrence of the foreign government through the appropriate Chief of U.S. Mission.

E3.1.3. The DoD OSC, or designee, at a nuclear weapon or nuclear component accident or significant incident site in the continental United States shall expeditiously establish communication with the ATSD(PA) by ANY means available, if an accident or incident affecting the public requires implementation of public safety measures. Direct communication between the ATSD(PA), or designee, and the OSC, or designee, ensures appropriate coordination of PA policy matters for the Department of Defense and provides timely, accurate information for public release at the national level until the Military Department responsible for the weapon is delegated PA responsibility by the ATSD(PA).

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E3.1.3.1. If a nuclear weapons accident or significant incident results or appears likely to result, a JIC shall be established near the scene as a focal point for public release of information in a timely, accurate manner, guided by Federal Preparedness Circular 8 (reference (b)). The OSC, or designee, shall establish the JIC in coordination with the DoE, the FEMA, and State and local authorities without delay. If the SFO, or designee, arrives at the accident scene before the DoD OSC, or designee, the SFO, or designee, may establish and supervise a JIC until the OSC, or designee, arrives. JIC capabilities shall be expanded when additional personnel and resources arrive. The JIC shall have dedicated administrative, communications, and logistical support for use by all participating agencies. The JIC shall include a press center for media use and press briefings.

E3.1.3.2. The OSC, or designee, shall assume primary leadership and direction of the JIC until such time as transition of JIC responsibility may occur, as described in subparagraph E3.1.3.3. of this enclosure, below. To provide a coordinated Federal response to the public, the OSC, or designee, shall ensure that on-scene DoD PA activities, such as news releases, briefings, or interviews, are coordinated in advance with the DoE, FEMA, and other Agencies represented in the JIC. Other DoD Components will advise the OSC. Other Agencies also are obligated to coordinate PA activities in advance with the OSC, or designee.

E3.1.3.3. The ATSD(PA) and the Director of Public Affairs for the FEMA, by mutual agreement, may transfer JIC responsibility and authority from the OSC to the SFO at any time. However, when a presidentially declared emergency or disaster exists, the appointed FCO, or designee, shall assume leadership and direction of the JIC. In all cases, the Department of Defense, through the OSC, shall retain authority on security classification matters. When JIC responsibility and authority are delegated to the SFO or FCO, all PA matters about the Federal technical response shall be coordinated in advance with the OSC, or designee.

E3.1.4. If an accident or significant incident, with the potential to evolve into an accident, happens outside the continental United States, the Unified Commander or the OSC, or their designees, shall expeditiously establish communication with the appropriate Chief of Mission and the ATSD(PA), or their designees, by ANY means available if an accident or incident requires implementation of public safety measures. In the absence of international agreements that provide specific guidance, the OSC, or designee, shall establish the CIB in coordination with the Chief of Mission, the foreign government military and civilian national and local authorities, and the DoE. The OSC or designee shall ensure that on-scene DoD PA activities, such as news releases, briefings, or interviews, are coordinated in advance with the Chief of Mission, the foreign government, and the DoE.

E3.1.5. Policy and responsibilities about DoD programs that provide information to appropriate Federal, State, and local officials and news media on radiological safeguards,

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emergency plans, and other unclassified nuclear matters are outlined in DoD Directive 5100.52 (reference (c)).

E3.1.6. In the event of losses, seizures, or thefts of nuclear weapons, materials, or components by terrorists or other dissident groups, or in the case of seizures of nuclear storage sites, or any site or location having a nuclear weapon or nuclear weapon system, the ATSD(PA) shall approve and handle release of information for the Department of Defense. However, this does not apply in overseas areas outside the United States, its territories and possessions, where governmental agreements exist for the release of this information.

E3.1.7. Most information on nuclear weapons and their storage is classified restricted data or formerly restricted data and is very sensitive; e.g., information about the design of nuclear weapons and components, disclosing its physical state and chemical form, and the specific location of nuclear weapons. The OSC and other responsible persons at the scene shall follow the contingency releases to prevent compromise of classified information. If declassification of other information is needed, it shall be referred to the Department of Defense for consideration and coordination with the DoE, as required.

### E3.2. DoD NUCLEAR REACTOR AND RADIOLOGICAL ACCIDENTS

E3.2.1. Detailed PA planning and guidance shall be incorporated in the DoD Components' nuclear reactor and radiological accident plans and shall be in effect for the United States, its territories and possessions, and in overseas areas. This planning shall include provisions for notifying the ATSD(PA) through the chain of command to ensure PA coordination for the Department of Defense.

E3.2.2. Within the United States, its territories and possessions, the appropriate DoD commander (area, on-scene, or custodial):

E3.2.2.1. Shall immediately notify public authorities in the United States, its territories and possessions, when a DoD nuclear reactor or radiological accident presents an immediate danger to the public, particularly when the evacuation of civilians is considered prudent. If time permits, the appropriate DoD commander should issue to State and local officials any recommendations on the need to take shelter or to evacuate. In cases of imminent peril, it may be necessary for the DoD commander to issue, directly to the public or through the news media, a warning for individuals to take shelter or evacuate in those areas in immediate danger of exposure. The ATSD(PA) and other PA components shall be advised immediately of this notification.

E3.2.2.2. May issue a public statement confirming a DoD nuclear reactor or radiological accident to reduce or prevent widespread public alarm. This confirmation may be beneficial when the accident requires a special team that attracts public attention

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or when evacuation of DoD personnel is necessary to prevent injury from radiation exposure.

E3.2.2.3. When a nuclear reactor accident occurs outside the United States, its territories and possessions, the commander shall immediately inform the Chief of the U.S. Mission in the country (or its territory) where the accident occurs, as well as the Chiefs of U.S. Missions in countries whose populations might be affected. He or she also shall inform the authorities of the host-country's government through the Chief of U.S. Mission when the local population is in immediate danger and public announcement is necessary for public safety. Coordination procedures for these eventualities shall be established in advance. The ATSD(PA) shall be kept advised in all cases.

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### E4. ENCLOSURE 4

#### MODEL PA CHECKLIST FOR DoD OSC OR DESIGNEE AT AN ACCIDENT INVOLVING RADIOACTIVE MATERIALS

E4.1.1. Expediently contact the ATSD(PA) by any means available. The ATSD(PA) duty officer phone numbers are DSN 227-5131 or commercial (703) 697-5131 and are maintained on a 24-hour basis. As a backup, communication also may be established through the NMCC.

E4.1.2. If actions have not been taken by the FEMA or the DoE to establish a JIC, immediately establish a JIC near the scene of the accident, but outside the NDA and the OSC operational location. A press center shall also be established. Notify the ATSD(PA) of the locations of the JIC and press center and phone numbers. Also advise the ATSD(PA) how to contact the PAO at the OSC operational location. PA representation in the JIC shall include the Department of Defense, the DoE, the FEMA, other Federal Agencies, and State and local governments. Ensure that all public information is coordinated in the JIC before release.

E4.1.3. When an accident occurs in overseas areas, immediately establish a CIB near the accident site if the foreign government has not already done so. The CIB should include representatives from the appropriate U.S. Embassy, the Department of Defense, the DoE, and foreign national and local military and civilian organizations. Ensure that all public information is coordinated in the CIB before release. (Before CIB establishment, ensure all information is coordinated with the U.S. Embassy, which will ensure coordination with the foreign government.)

E4.1.4. Activate a CEAT, as appropriate.

E4.1.5. Immediately provide dedicated administrative, communications, and logistical support to the JIC. Communication support to the JIC shall include adequate dedicated telephone lines, fax capability, and copiers.

E4.1.6. Immediately provide the press center with dedicated communications and logistical support.

E4.1.7. Do not disclose classified information, unclassified controlled nuclear information, or critical nuclear weapons design information.



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E5. ENCLOSURE 5

CONTINGENCY RELEASES FOR NUCLEAR WEAPON ACCIDENTS

CONTINGENCY RELEASE NUMBER 1

To notify the general public

"No Radiological Danger to the Public"

(Confirms to reduce public alarm)

(Format of sample release to be used initially when no danger to the public from contamination or blast exists, but when confirmation of the presence or absence of a nuclear weapon or nuclear components significantly prevents or reduces widespread public alarm that will result from unusual activity at the incident site.)

A U.S. (type) aircraft (other type of transportation) carrying hazardous material, classified cargo, or unarmed nuclear weapon(s) crashed (or other circumstances) at approximately (location and time).

The public is requested to stay out of the area (add, if true: under surveillance by guards) to prevent any remote possibility of hazard from the accident (or conventional high explosives detonation) and to avoid hampering removal operations. There is no need for evacuation. (There is no danger of nuclear detonation.)

The cause of the accident is under investigation. Further details will be provided as they become available.

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### CONTINGENCY RELEASE NUMBER 2

To notify the general public

#### "When Public Is Possibly in Danger"

(Confirms possibility of contamination in a nuclear weapon accident)

(Format of sample release to be used when nuclear weapons or nuclear components have been involved in an accident and the possibility exists for contamination due to fire or explosion, and details are unknown. The release to the general public should only be used after the area has been secured. Release can be modified as indicated below depending on audience.)

#### Minimum Announcement

A U.S. (type) aircraft (other type of transportation) carrying unarmed nuclear weapons or nuclear components crashed (or other circumstances) at (location) at approximately (time).

The public is asked to stay out of the accident area in the interest of safety due to the possibility of hazard from the accident (or conventional high-explosives detonation) and to avoid hampering recovery operations. (There is no danger of nuclear detonation.)

#### Add the following for appropriate officials:

Fire, rescue, and other emergency services personnel should approach the area with caution from upwind and be equipped with protective clothing and breathing apparatus. Any local official at the scene of the accident or who has left the site who can provide details on the situation should call this number: ( ). Current information from the accident scene will assist response personnel in responding to the accident and providing additional public safety guidance. If contact with the accident scene is established, determine the following: condition of aircraft and/or vehicle (such as burning, evidence of explosion, or extent of damage); condition of accident site (such as fire or blast damage); or evidence of obvious cargo (such as shapes or containers). Avoid handling any debris at the crash site.

If the aircraft is transporting nuclear weapons containing insensitive high explosives or weapons over-packed with accident resistant containers, there is a much lower probability of a detonation and the fire should be fought as long as there is a reasonable expectation of saving lives or containing the fire. The weapons, or containers, if exposed, should be cooled with water.

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Law enforcement officials should prevent unauthorized personnel from entering the site and picking up fragments of the plane (vehicle) or its cargo. If any fragments already have been picked up, avoid further contact or handling. Notify (authorities) for retrieval and proper disposition.

A U.S. (Military Department) team from (name of installation) is en route to (has arrived at) the accident scene.

We have no details yet on civilian or military casualties or property damage.

The cause of the accident is under investigation. Further details will be provided as they become available.

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### CONTINGENCY RELEASE NUMBER 3

To the General Public

#### "When Public Is Probably in Danger"

(Does Confirm)

(Format of sample release to be used when a nuclear accident occurs. Public safety considerations require this announcement because of the likelihood of fire or conventional high-explosive detonation of the weapon. The following statement should be made locally or by appropriate higher authority if no local authority is available:)

An aircraft (other type of transportation) accident occurred (or other circumstances) approximately (location and time). The accident involved a nuclear weapon that contains conventional explosives and radioactive material. There is no danger of a nuclear detonation, but there is a danger from the conventional explosives that (are burning, may detonate, have detonated). The public is requested to stay out of (indicate the area) (under surveillance by guards) in the interest of safety and to avoid hampering operations at the accident scene. An experienced response team has been ordered to the scene.

(If appropriate, the following WILL be included in the release:) Radioactive material in the form of dust may be scattered as a result of the accident. The dust poses little risk to health unless taken into the body by breathing or swallowing, although it is unlikely that any person would inhale or swallow an amount that would cause illness. As a precautionary measure, you are asked to remain calm and indoors. Turn off fans, air conditioners, and forced-air heating units that bring in fresh air from the outside. Use them only to re-circulate air already in the building. Eat and drink only canned or packaged food and drinks that have been inside. If you must go outside, cover your nose and mouth and avoid stirring up and breathing any dust. It is important to remember that your movement could cause yourself greater exposure to any radioactive dust, should it be present, and you could possibly spread contamination to others.

(If plutonium is involved) One of the materials involved is plutonium, which is both a toxic and radiation hazard and chemical poison if ingested. The radiation given off consists of alpha particles that do not have sufficient energy to penetrate buildings, clothing, or even the outer skin. Therefore, short-term exposure to contamination outside the body poses a negligible health risk. The precautions mentioned earlier should be carefully followed to prevent ingestion.

(If uranium is involved) One of the materials involved is uranium. Uranium, depending upon the type, may be a radiological hazard or a chemical health hazard, similar to lead poisoning. Uranium gives off alpha particles that cannot penetrate skin and pose no health risk when outside the body.

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The public is asked to stay out of the area (under surveillance or closed off by guards) (and if true) until a monitoring team, now en route to the accident site, can survey the ground and determine the exact area affected by the accident. Any fragments found near the scene may be contaminated and should be left in place. If fragments have been picked up, avoid further handling and notify (authorities) for proper retrieval and disposition.

Periodic announcements will be made as more information is known. It is expected that these precautionary actions will be modified as more information becomes available. A U.S. (Military Service) team from (name of installation) is en route to (has arrived at) the accident scene.

We have no details yet on civilian or military casualties (or give the number only of civilian and military casualties) or property damage.

The cause of the accident is under investigation. Further details will be provided as they become available.

### IN RESPONSE TO QUERY ONLY:

Question: "Are nuclear weapons stored at (name of facility) or (name of facility)?"

Answer: "It is U.S. policy neither to confirm nor deny the presence or absence of nuclear weapons at any specific location."

If asked whether nuclear weapons are aboard a specific surface ship, attack submarine, or naval aircraft:

"It is general U.S. policy not to deploy nuclear weapons aboard surface ships, attack submarines, and naval aircraft. However, we do not discuss the presence or absence of nuclear weapons aboard specific ships, submarines or aircraft."

## Appendix 8-12: DoDD 6000.12, Health Services Operations and Readiness

APPENDIX 8: MISC. DOMESTIC  
SUPPORT OPERATIONS



Department of Defense

DIRECTIVE

NUMBER 6000.12

April 29, 1996

Certified Current as of November 24, 2003

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Incorporating Change 1, January 20, 1998  
ASD(HA)

SUBJECT: Health Services Operations and Readiness

- References: (a) Title 10, United States Code  
(b) Title 37, United States Code  
(c) DoD 6010.13-M, "Medical Expense and Performance Reporting System for Fixed Military Medical and Dental Treatment Facilities," October 1995  
(d) DoD 5025.1-M, "DoD Directives System Procedures," August 1994  
(e) through (r), see enclosure 1

1. PURPOSE

This Directive:

1.1. Establishes policy and assigns responsibilities under references (a) and (b) for matters related to health services operations and readiness, including, but not limited to, medical manpower, medical personnel, medical compensation, military medical training, medical logistics, *patient movement* and the Armed Services Blood Program (ASBP). Detailed procedures on the above matters, as required, shall be prescribed in DoD Instructions and policy memoranda.

1.2. Authorizes the publication of reference (c), consistent with reference (d).

1.3. Designates the Secretary of the Army as the DoD Executive Agent for the ASBP Office (ASBPO).

1.4. Replaces references (e) through (r).

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### 2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments (including, for supplemental healthcare, the Coast Guard when it is not operating as a Military Service in the Navy by agreement with the Department of Transportation), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Uniformed Services University of the Health Sciences (USUHS), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

### 3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

### 4. POLICY

The following is DoD policy:

#### 4.1. Entry Grade Credit

4.1.1. The award of service credit to any person being appointed, assigned, or designated as a "health professions officer" in any of the Military Departments shall be equitably determined and uniformly applied throughout the Military Departments.

4.1.2. Credit for prior service as a commissioned officer (other than as a commissioned warrant officer) shall be granted to recognize previous military experience, while maintaining cognizance of the level of professional (technical) expertise.

#### 4.2. Active Duty Service Obligation of Health Professions Officers

4.2.1. The minimum term of service for first-term personnel fulfilling an active duty obligation shall be 2 years following internship for physicians and 3 years for other health professions officers. The minimum term is not additive to active duty obligations incurred for education or training. Prior active duty service and internship or any other initial qualifying training program (e.g., psychology or dietetic internship) may not count toward fulfilling that requirement.

4.2.2. Participants of the F. Edward Hébert School of Medicine at the USUHS and the F. Edward Hébert Armed Forces Health Professions Scholarship Program and Financial Assistance Program (AFHPSP and FAP) shall incur an active duty obligation, as specified in Sections 2114 and 2123 of 10 U.S.C. (reference (a)), respectively.

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4.2.3. Active duty obligations for Graduate Professional Education (GPE) for physicians, dentists, and veterinarians shall be specified by the Assistant Secretary of Defense for Health Affairs (ASD(HA)).

### 4.3. The F. Edward Hébert AFHPSP and FAP

4.3.1. The number of persons who may be designated as members of the program shall not at any time exceed 5,000. Persons enrolled in the program shall not be counted against any other prescribed military strength.

4.3.2. Program eligibility shall be in accordance with Section 2122 of 10 U.S.C. (reference (a)). Participants shall be appointed as O-1s in the Reserve components, unless eligible to hold a higher grade under other statute.

4.4. Medical Special Pays. Special pay authorities for Medical Department officers shall be administered in accordance with Sections 301d., 302, 302a., 302b., 302c., 302d., 302e., 303, and 303a of 37 U.S.C. (reference (b)) and in a fiscally responsible manner that will assist in attracting and retaining the number and the quality of health professions officers needed in the Military Departments.

### 4.5. Medical Training

4.5.1. Comprehensive systems for providing, assessing, and monitoring medical skills training essential for all military personnel shall be developed and sustained.

4.5.2. Medical training of active duty and Reserve component personnel, medical and non-medical, shall be structured to achieve medical readiness that shall ensure the maximum effectiveness of those personnel to provide essential medical support during military operations.

4.6. The ASBP. The ASBP shall be a single, integrated, blood products system composed of the Military Departments' and *the Combatant* Commands' blood programs. That program shall ensure, to the maximum extent possible, the provision of all blood and blood products to DoD Component medical treatment facilities (MTFs) for both peacetime and wartime. The ASBP shall be coordinated by the ASBPO, a joint DoD field operating agency, subject to the authority, direction, and control of the Secretary of Defense. The ASBPO shall coordinate with the Chairman of the Joint Chiefs of Staff on all program related operational matters. The Secretary of the Army, through the Surgeon General, shall serve as the DoD Executive Agent for the ASBPO. The Director of the ASBPO shall communicate directly with Government and civilian agencies involving blood and related items. The ASD(HA) shall implement policies for the ASBP through the ASBPO, maintaining maximum standardization of procedures and equipment. The ASBP shall adhere to the manufacturing practices and regulations published by the U.S. Food and Drug Administration and the American Association of Blood Banks Standards.



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The readiness posture of the program shall be maintained through an active voluntary blood donor program, an adequate blood products storage and distribution program, a comprehensive blood training program at all personnel levels, a dedicated blood research and development program, and an aggressive involvement in joint exercises.

4.7. Department of Defense Medical Standardization Board (DMSB). The DMSB, a joint DoD activity, shall provide policy and standardization guidance relative to the development of deployable medical systems and medical materiel used for the delivery of healthcare in the Military Health Services System.

4.8. Medical Expense and Performance Reporting System (MEPRS). A uniform expense and manpower reporting system shall be maintained in all fixed MTFs and dental treatment facilities to provide standardized expense and manpower data for management of healthcare resources. DoD 6010.13-M (reference (c)) outlines provisions for reporting MEPRS data.

4.9. National Disaster Medical System (NDMS). The NDMS, a joint Federal, State, and local mutual aid organization, shall respond to the healthcare requirements of a U.S. national emergency, a major U.S. domestic disaster, or a conventional military conflict involving U.S. Armed Forces. The NDMS is activated by the ASD(HA) for support of military contingencies when casualties exceed the combined capabilities of the Department of Veterans Affairs and DoD contingency care system. The NDMS may be activated by the Director of Federal Emergency Management Agency or the Assistant Secretary of Health, Department of Health and Human Services, in response to a U.S. domestic disaster, and the DoD Components shall participate in relief operations to the extent compatible with U.S. national security.

4.10. Military-Civilian Health Services Partnership Program. Military and civilian healthcare resources shall be combined, through the implementation of the Military-Civilian Health Services Partnership Program, to improve the cost-effectiveness of the DoD healthcare delivery system. Beneficiaries of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall receive inpatient care and outpatient services through the CHAMPUS from civilian personnel providing healthcare services in MTFs and from Uniformed Service professional providers in civilian facilities. That policy applies when the MTF is unable to provide sufficient healthcare services for CHAMPUS beneficiaries.

4.11. DoD Policies for Planning Fixed Military Health Facilities. The Department of Defense shall provide quality healthcare for active duty military personnel, their dependents, and other authorized personnel; provide sufficient military health facilities to maintain the combat effectiveness of the military forces; provide for essential teaching and training of the military medical force; and ensure support for expanded missions during periods of mobilization or national emergency.

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### 4.12. Supplemental Health Care Program (SHCP) (formerly Active Duty Claim Program)

4.12.1. The Department of Defense shall establish payment rules for the SHCP as they apply under CHAMPUS. The Director, Office of CHAMPUS (OCHAMPUS) shall assist the Uniformed Services in the administration of the SHCP.

4.12.2. Claims from inpatient or outpatient facilities for services rendered under the SHCP shall first be submitted on a claim form by the provider to the appropriate Service MTF and/or claims office. The MTF and/or claims office shall verify the active duty member's eligibility for services and validate that the claim should be priced under the SHCP. Before they are forwarded to the CHAMPUS contractor for pricing, claims shall be stamped with a stamp that reads "SHCP" and contain the MTF and/or claims office Defense Medical Information System code. The CHAMPUS contractor shall inform the MTF or claims office of the action taken on each claim. The MTF shall issue the appropriate payment to the institution or individual professional provider based on the pricing information provided by the CHAMPUS contractor.

4.12.3. The Department of Defense may authorize waivers to claim payments, as necessary, to ensure availability of healthcare services rendered under the SHCP. Pricing of claims under the SHCP may be accomplished at the MTF if the parent Service determines that the MTF has access to, and is proficient in, pricing claims using current CHAMPUS maximum allowable charges or other CHAMPUS pricing data and guidelines. The Military Services shall reimburse OCHAMPUS for costs incurred for claims pricing and annual diagnosis related group pass-through costs of capital and direct medical education.

### 4.13. Patient Movement

4.13.1. *The Commander in Chief (CINC) of U.S. Transportation Command (USTRANSCOM) shall be the DoD single manager for patient movement, other than intra-theater patient movement. Commanders of outside the continental United States (OCONUS) Combatant Commands shall be responsible for intra-theater medical regulating and movement, and shall establish Theater Patient Movement Requirements Centers (TPMRCs) in their respective theaters.*

4.13.2. *The CINC, USTRANSCOM, shall:*

4.13.2.1. *Make recommendations, through the Chairman of the Joint Chiefs of Staff, to the ASD(HA) on the capability, capacity, characteristics, design, and other DoD policies that may be appropriate to implement this Directive.*

4.13.2.3. *Establish and maintain automated information systems (AIS) for medical regulating and movement, and provide standardized procedures for use of such systems by other DoD units and resource providers. The primary mission of the DoD*

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*patient movement system is to safely transport U.S. military casualties from the combat zone to fixed MTFs and/or field hospitals rearward in or out of the combat zone, as required. Other patients may be provided movement on a non-interference basis if the patient's medical condition, lack of local care, and patient movement costs warrant such movement.*

*4.13.3. The CINTRANSOM shall establish and maintain the Global Patient Movement Requirements Center (GPMRC). The GPMRC will provide medical regulating and AE scheduling for the continental United States (CONUS) and inter-theater operations, and provide support to TPMRCs. The GPMRC shall coordinate with supporting resource providers to identify available assets and communicate lift and bed requirements to providers. With the approval of the Combatant Commander of the destination theater, inter-theater evacuations may be made directly from the supported combat theater to the MTFs of the destination theater.*

*4.13.4. Requests for medical regulating should be submitted to the appropriate Patient Movement Requirements Center after competent medical authority attests to the need to move the patient, and after the MTF commander determines that less expensive, acceptable quality care is not available locally. Patients will be regulated to the nearest appropriate MTF.*

### 5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Health Affairs *under the Under Secretary of Defense for Personnel and Readiness*, shall:

5.1.1. *Supplement* policy in section 4., above.

5.1.2. Provide procedures and standards required to implement policy in section 4., above.

5.1.3. Ensure that the Director, *TRICARE Support Office (TSO)*, shall be responsible for contracting for healthcare services and obtaining appropriate reimbursement from the Services: Provide policy and oversight for medical regulating.

5.2. The Chairman of the Joint Chiefs of Staff shall coordinate with the ASBPO on all blood program plans and actions that involve military operations.

5.3. The Heads of the DoD Components shall:

5.3.1. Administer the policy in section 4., above.

5.3.2. Carry out the procedures and standards specified by the ASD(HA) in the implementation of policy in section 4., above.

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5.3.3. Recommend policy changes to this Directive to the ASD(HA).

5.4. *The Commander in Chief, United States Transportation Command, as the single manager for patient movement, other than for intra-theater patient movement, shall:*

5.4.1. Implement the policy in section 4., above.

5.4.2. Recommended policy changes to this Directive to the ASD(HA) via the Chairman of the Joint Chiefs of Staff.

5.5. The Secretary of the Army, as the DoD Executive Agent for the ASBPO, shall:


5.5.1. Manage the ASBPO and provide administrative support for its internal administrative operation including civilian personnel requirements, civilian personnel and security administration, inspection, space, facilities, supplies, and other administrative provisions and services, as required to ensure that the responsibilities of the ASBPO shall be properly discharged.

5.5.2. Program, budget, and finance the operational costs and staff of the ASBPO, except the pay, allowances, and permanent change of station travel of military personnel members and assigned staff that are the responsibility of the Military Department providing those personnel.

5.5.3. Fund for blood procurement from civilian sources including the costs of transportation to the appropriate Armed Services Whole Blood Processing Laboratory when overall military requirements exceed the organic capability of the Military Services.

### 6. EFFECTIVE DATE

This Directive is effective immediately.

  
John P. White  
Deputy Secretary of Defense

Enclosures - 2

- E1. References, continued
- E2. Definitions



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### E1. ENCLOSURE 1

#### REFERENCES, continued

- (e) DoD Directive 1312.2, "Entry Grade Credit for Health Services Officers," October 4, 1989 (hereby canceled)
- (f) DoD Directive 6000.2, "Minimum Terms of Service and Active Duty Obligations for Health Services Officers," April 8, 1988 (hereby canceled)
- (g) DoD Directive 1340.8, "Special Pay for Dental Corps Officers," February 21, 1986 (hereby canceled)
- (h) DoD Directive 1340.13, "Special Pay for Medical Corps Officers," July 23, 1988 (hereby canceled)
- (i) DoD Directive 6025.12, "Use of Joint Healthcare Manpower Standards (JHMS)," March 21, 1989 (hereby canceled)
- (j) DoD Directive 1215.4, "Medical Training in the Reserve Components," November 27, 1990 (hereby canceled)
- (k) DoD Directive 6430.2, "DoD Medical Standardization Board," June 21, 1984 (hereby canceled)
- (l) DoD Directive 6010.13, "Medical Expense and Performance Reporting (MEPR) System for Fixed Military Medical and Dental Treatment Facilities," February 3, 1986 (hereby canceled)
- (m) DoD Directive 6010.17, "National Disaster Medical System (NDMS)," December 28, 1988 (hereby canceled)
- (n) DoD Instruction 6010.12, "Military-Civilian Health Services Partnership Program," October 22, 1987 (hereby canceled)
- (o) DoD Directive 6015.16, "Department of Defense Policies for Planning Fixed Military Health Facilities," April 15, 1986 (hereby canceled)
- (p) DoD Instruction 6010.19, "Active Duty (AD) Claims Payment Program," April 26, 1991 (hereby canceled)
- (q) DoD 6025.12-STD, "Joint Healthcare Manpower Standards," November 1989 (hereby canceled)
- (r) *DoD Directive 5154.6, "Armed Services Medical Regulating," April 29, 1993 (hereby canceled)*

ENCLOSURE 1

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### E2. ENCLOSURE 2

#### DEFINITIONS

E2.1.1. Active Duty. Full-time duty in the active military service of the United States. It includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a "Service school" by law or by the Secretary of the Military Department concerned. Such term does not include full-time National Guard duty.

E2.1.2. TRICARE Support Contractor. *An organization with which TRICARE Support Office has entered into a contract that includes pricing claims for care received in a particular region.*

E2.1.3. Deployable Medical System. *A facility that is capable of being located in a desired or required area of operation during a contingency, war, or national emergency. Deployable medical systems are composed of fixed contingency hospitals and other than fixed contingency hospitals that are not operated during peacetime.*

E2.1.4. Graduate Professional Education (GPE). Internships, residencies, and fellowships in their respective professional fields, only for medical, dental, and veterinary officers.

E2.1.5. Healthcare Resources. *Available manpower, facilities, revenue, equipment, and supplies to produce healthcare and services.*

E2.1.6. Health Professions Officers. Includes those officers serving in the Medical Corps, the Dental Corps, the Veterinary Corps, the Nurse Corps, the Medical Service Corps, the Army Medical Specialist Corps, the Biomedical Sciences Corps, officers whom the Secretaries of the Military Departments have designated as "qualified in specified healthcare functions," and those members in DoD programs leading to commissioning in, assignment to, or designation for service in any of those Corps.

E2.1.7. Medical Regulating. *A process that selects destination MTFs for Uniformed Services patients being medically evacuated.*

E2.1.8. Military Health Facility. *A military facility, or complex of facilities, capable of providing a level of health services or health service support commensurate with its mission and functions.*

E2.1.9. Patient Movement. *The act or process of moving a sick, injured, wounded, or other person to obtain medical and/or dental care or treatment. Decisions made in*

ENCLOSURE 2

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

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*this process involve coordination between the sending MTF, the gaining MTF, and GPMRC/TPMRC.*

E2.1.10. Provider. *Healthcare professional or facility or group of healthcare professionals or facilities that provide healthcare services to patients.*

E2.1.11. Reserve Components. As defined in Section 101(c) of 10 U.S.C. (reference (a)), the Reserve components include the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, and the Air Force Reserve.

E2.1.12. Supplemental Healthcare Program (SHCP). The program that provides payment to civilian (non-Government) healthcare providers for care given to active duty members of the Uniformed Services and certain other MTF patients for whom healthcare services are ordered by an MTF provider who maintains full clinical responsibility for the episode of care.

ENCLOSURE 2

## Appendix 8-13: Wildfire MOU<sup>1</sup>

Appendix B  
Memorandum of Understanding Between the  
Department of Defense and the Departments of  
Agriculture and the Interior

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### I. PURPOSE

This Memorandum of Understanding establishes general guidelines concerning the furnishing of assistance by Department of Defense (DOD) components at the request of Boise Interagency Fire Center (BIFC) <sup>1/</sup> in forest and grass-land fire emergencies occurring within the continental United States (48 contiguous states).

### II. RESPONSIBILITIES

A. This Memorandum of Understanding does not supersede or modify the existing mutual aid agreement procedures between individual military installations and States. The Forest Service (FS), Department of Agriculture, has statutory responsibility for protection of the National Forests from damage by wildfire and for cooperation with the States in the protection of forest and watershed lands from fire. FS at BIFC will provide national coordination and logistical support for interregional fire control action.

B. Agencies of the Department of the Interior [Bureau of Land Management (BLM), National Park Service (NPS), Bureau of Indian Affairs (BIA), and U.S. Fish and Wildlife Service (FWS)] have statutory responsibility for the protection of land under their respective administration from damage by wildfire. The Bureau of Land Management (BLM) at BIFC provides logistical support to the initial attack capabilities of its Districts including coordination of fire control efforts in the twelve; Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Wyoming, Washington; Western States. BLM at BIFC also provides logistical support in fire control to the National Park Service, Bureau of Indian Affairs, and U.S. Fish and Wildlife Service.

C. When military assistance is furnished to BIFC in fire emergencies, such assistance will be deemed to have been furnished pursuant to section 601 of the Economy Act of 1932, as amended (31 U.S.C. 686).

D. The BIFC is responsible for providing national coordination and logistical support for Federal interagency fire control actions.

<sup>1/</sup> A Federal interagency fire coordination center under control of the Departments of Agriculture and the Interior.

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<sup>1</sup> This MOU is included for reference only. It is no longer still in effect, but some of the specified procedures have been modified by subsequent agreement (MOU between Dept of the Army and NIFC, 8 Aug, 1990).



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1. BIFC is staffed by Federal interagency personnel whose facilities are collectively combined to carry out their parent Department's fire responsibilities and who collaborate and cooperate in the solution of fire problems of mutual concern.

2. BIFC will act as liaison between Federal and, when requested, State agencies as regards their requirements for military assistance in suppressing forest or grassland fires.

3. BIFC shall establish and maintain contact with each CONUS Army headquarters to develop local procedures and to maintain information on military capabilities for emergency assistance.

E. As outlined in DOD Directive 3025.1, the Secretary of the Army has been designated DOD Executive Agent for military support in disasters within the 50 States, the District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof. The Secretary enters into this Memorandum of Understanding on behalf of the Department of the Army, Navy, Air Force, and DOD agencies, referred to hereafter as DOD Components, which may be requested to provide disaster assistance to Federal agencies and States through the BIFC.

F. The Federal Disaster Assistance Administration (FDAA), Department of Housing and Urban Development, is responsible for coordinating all Federal disaster assistance provided under the authority of the Disaster Relief Act of 1974 (PL 93-288) and Executive Order 11795, 11 July 1974, (hereinafter referred to as the Act).

### III. POLICY

It is the policy of the DOD to provide emergency assistance to Federal agencies in the form of personnel, equipment, supplies, or fire protection services in cases where a forest or grassland fire emergency is beyond the capabilities of the resources available. There are two situations in which the DOD, consistent with Defense priorities, will provide such assistance:

A. At the Request of the BIFC - When, in the determination of the BIFC, military assistance is required and justified in order to suppress wildfires. This includes requests for assistance for fires on Federal property as well as fires on State or private lands. Requests will include a statement to the effect that all available or suitable civilian resources have been committed and that requested support is not in competition with private enterprise.

B. Pursuant to the Act - When a forest or grassland fire on State or private land is declared a major disaster or a determination for emergency assistance is made by the President and the required military support is requested by the Federal Coordinating Officer (FCO) or FDAA Regional Director. The Act is not normally invoked for incidents or related incidents occurring on Federal property.

IV. OPERATIONAL PROCEDURES AND FUNDING

A. The procedures set forth below will be followed when assistance is rendered under circumstances other than the Act.

1. All requests for forest or grassland fire assistance from Federal and State agencies should be submitted through the BIFC. BIFC will then submit the requests to the commander of the appropriate CONUS Army. However, when a fire emergency is so serious that adherence to normal request channels would significantly endanger life or result in great loss of property, Federal or State agencies may make requests for assistance directly to the commander of the nearest military installation. As soon as the situation permits, the BIFC will be notified and normal procedures established by the requesting agency.

2. Upon receipt of a request for assistance from the BIFC the CONUS Army Commander will provide the required support from either Army assets or from other DOD component assets, as required. Normal DOD disaster relief procedures will be followed and every effort will be made to expedite the provision of the requested support.

3. The Departments of Agriculture (FS) and the Interior (BLM, NPS, BIA, & FWS) will promptly reimburse the DOD for all costs incurred in furnishing the requested assistance as are in addition to the normal operating expenses of the personnel, equipment and resources involved without requirements of audit (see 31 U.S.C. 686 (a)). Such costs will include additional personal services of military and civilian employees, travel and per diem expenses for military and civilian personnel, and other expenses to include transportation of supplies, materials, and equipment furnished and not returned or damaged beyond economical repair; and costs of repairing or reconditioning nonconsumable items returned.

4. Each request submitted by BIFC will carry an appropriate identifying number (Fire Order Number), which will be utilized by the CONUS Army furnishing the assistance to maintain an accurate record of all expenses incurred in fulfilling that request. Billings attributable to each fire order will be submitted on Standard Form 1080, Voucher for Transfer Between Appropriation and/or Funds.

5. Billings by DOD components for the cost of assistance furnished will be forwarded by the CONUS Army to the BIFC for distribution to the agency responsible for reimbursement. Primary responsibility for reimbursement rests with the Departments of Agriculture and the Interior. Payments, however, will be made directly to the appropriate CONUS Army, with a copy of the payment voucher or other suitable document being furnished to BIFC to indicate that payment has been made.

6. Charges for personal services, materials, and/or equipment furnished will be governed by applicable DOD directives and implementing regulations.

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7. Charges will be made for costs incurred in withdrawing materials and equipment from and returning them to, depot stock. Damages to equipment will be charged on the basis of costs of repairing or reconditioning the equipment and placing it in as good a condition as when loaned. The DOD components concerned will furnish all needed repair material and perform all necessary repair and maintenance work. Charges for equipment destroyed will be on the basis of current replacement costs for an item in a condition similar to that immediately prior to destruction (30 Comptroller General 295 and Comptroller General B146588, 8/29/61).

8. In the event that the actual costs of furnishing requested assistance significantly differ from the standard costs or rates of charge specified in appropriate directives described in IV.A.6., above, it is mutually agreed that appropriate adjustments of charges will be made on the basis of actual costs. It is further agreed that where the extent of assistance provided requires an increase in the overall operating costs of the military agency involved, reimbursement will also cover these relevant increases in costs. Due consideration shall be given to the unusual costs involved in the expeditious transport of personnel, supplies, and equipment necessitated by emergency conditions (e.g., airlift, airdrop, ship-to-shore, float-in operations, etc.) and claims for the costs of such emergency operations shall be deemed valid and to constitute proper claims for reimbursement.

9. All charges for services or materials as specified above will be accumulated against appropriate reimbursable orders and cross-referenced to each Fire Order issued by BIFC. In the interest of convenience and economy, if the total accumulated charges for any single incident covered by one or more Fire Orders does not exceed \$100, billing by the respective DOD components concerned will be waived.

B. The procedures set forth below will be followed when assistance is rendered pursuant to Public Law 93-288.

1. When requesting assistance in connection with fire emergencies for support to State or private lands which have been declared "major disasters" or emergencies, the State officials will submit their requests to the FDAA Regional Director/Federal Coordinating Officer.

2. The FDAA Regional Director/Federal Coordinating Officer should request military assistance from the appropriate CONUS Army commander in accordance with existing procedures.

3. Military assistance will be provided in accordance with the policies and procedures established in DOD Directive 3025.1 and other appropriate directives.

4. Reimbursement to DOD for personnel, supplies, and services furnished will be made by FDAA pursuant to the provisions of Public Law 93-288 and the Code of Federal Regulations, Title 24, Chapter 13, Part 2205.

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V. This memorandum rescinds June 1971 Memorandum of Understanding between the Department of Defense and the Department of Agriculture.

VI. SUPPLEMENTAL AGREEMENT

Subordinate components of the DOD are authorized to enter into supplemental agreements with BIFC to implement provisions of this agreement. All such agreements will be documented on DD Forms 1144; and where such agreements involve recurring support, the participating DOD components will process such forms to the retail interservice support data bank in accordance with the applicable provisions of DOD Directive 4000.19-M.

VII. RESOLUTION OF DISAGREEMENTS

When disputes or unique situations produce stalemates, DOD components and the BIFC will promptly submit jointly-signed statements of disagreement to the DOD Executive Agent for resolution.

VIII. EFFECTIVE DATE

This memorandum is effective as of the date it is signed below and shall remain in effect until specifically rescinded; however, the provisions hereof relative to operational procedures and funding and financial procedures shall be reviewed biennially by designated representatives of the respective signatories to determine whether the agreements contained herein should be continued, modified, or terminated.

APPROVED FOR U. S. DEPARTMENT OF AGRICULTURE

By Earl L. Butz Date 1-10-75

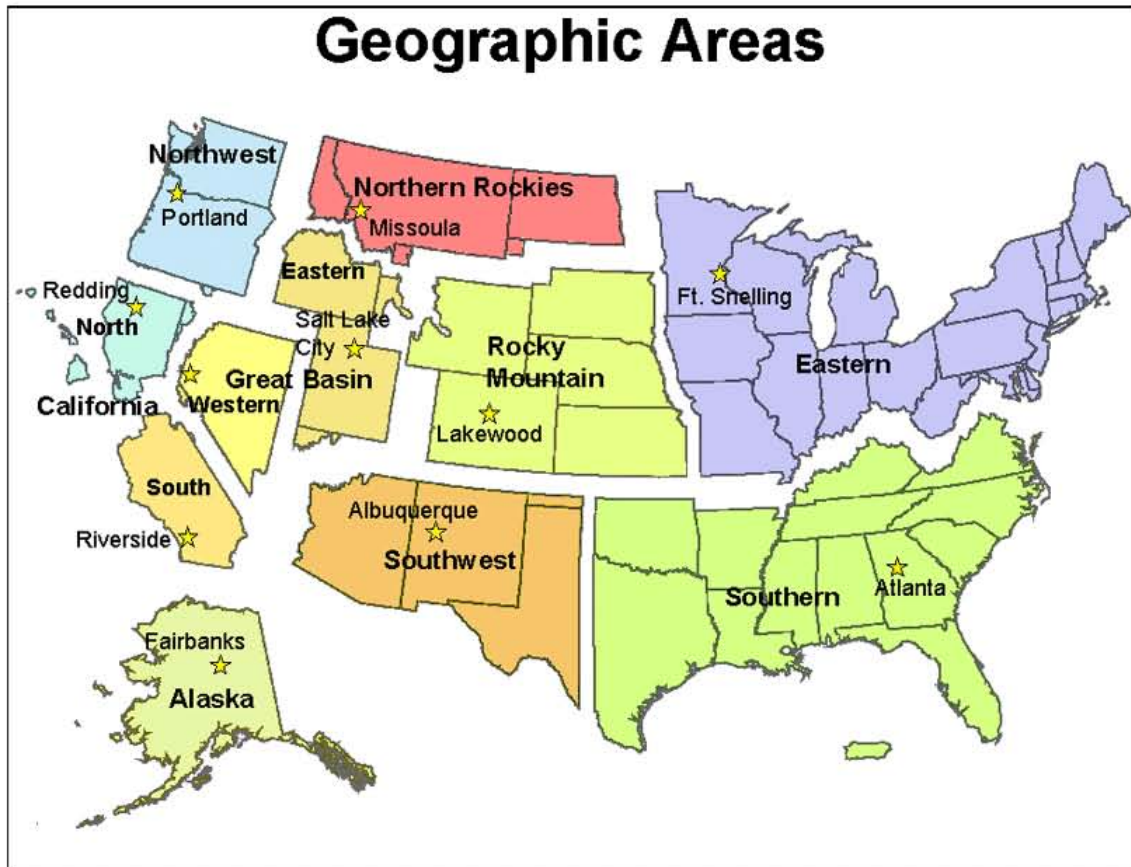
APPROVED FOR U. S. DEPARTMENT OF THE INTERIOR

By Stanley K. Hathaway Date 6-26-75

APPROVED FOR DEPARTMENT OF DEFENSE

By Howard H. Callaway Date 25 APR 75

APPENDIX 8-14: NIFC AREA COORDINATION CENTERS



Appendix 8-15: Critical Asset Assurance Program

Department of Defense  
DIRECTIVE

NUMBER 5160.54

January 20, 1998

Certified Current as of November 24, 2003

USD(P)

SUBJECT: Critical Asset Assurance Program (CAAP)

- References:
- (a) DoD Directive 5160.54, "DoD Key Asset Protection Program (KAPP)," June 26, 1989 (hereby canceled)
  - (b) DoD Directive 3020.36, "Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to Department of Defense Components," November 2, 1988
  - (c) DoD Directive S-3600.1, "Information Operations (IO) (U)," December 9, 1996
  - (d) DoD 5160.54-R, "Industrial Facilities Protection Regulation," March 1977
  - (e) through (n), see enclosure 1

1. REISSUANCE AND PURPOSE

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

This Directive:

1.1. Reissues reference (a) to update DoD policies and responsibilities for the protection and assurance of DoD and non-DoD Critical Assets worldwide, to support the requirements of reference (b), and to implement the policies established by reference (c) as they pertain to Critical Assets that are, include, or depend upon Information Systems. (See definition E2.1.9.)

1.2. Expands the requirement to identify Critical Assets and ensure their integrity, availability, survivability, and capability to support vital DoD missions across the full range of military operations.

1.3. Provides for an integrated infrastructure vulnerability assessment and assurance program based on an analysis of the identified Critical Assets using risk management principles. The risk management-based analysis provides the information necessary to effectively allocate available resources necessary for assurance.

1.4. Continues the authorization to publish reference (d), and authorizes the publication of DoD 5160.54-M, consistent with DoD 5025.1-M (reference (e)).

### 2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

### 3. DEFINITIONS

The terms used in this Directive are defined in enclosure 2.

### 4. POLICY

It is DoD policy to:

4.1. Identify and ensure the availability, integrity, survivability and adequacy of those assets (domestic and foreign) whose capabilities are deemed critical to DoD Force Readiness and operations in peace, crisis, and war by providing for their protection from all hazards; mitigating the effect of their loss or disruption; and/or planning for timely restoral or recovery. The level of assurance appropriate for each asset is a risk management decision of the owning or controlling DoD Component, made in coordination with those dependent on the asset, and based on its criticality, the threat, and resources available.

4.2. Recognize that critical DoD equipment, facilities, and services are dependent upon non-DoD assets -- the international and national infrastructures, other facilities and services of the private sector, and those of other Government Departments and Agencies; and that non-DoD assets essential to the functioning of DoD Critical Assets are also Critical Assets of concern to the Department of Defense. Critical Assets include information systems and computer-based systems and networks that can be distributive in nature.

4.3. Recognize that in peacetime responsibility for protecting non-DoD Critical Assets and designing their security rests primarily with the civil sector owners and with local, State, and Federal law enforcement authorities and that responsibility for protecting non-U.S. Critical Assets rests with the appropriate national authority. However, the Department of Defense must participate with the civil sector, emergency preparedness and law enforcement authorities in planning for Critical Asset assurance during an emergency, and must be prepared, in concert with the appropriate authorities and within defense priorities, to assist in their protection during emergencies, including natural disaster, physical or technical attack, and technological or other emergency that seriously degrades or threatens DoD operations. (See DoD Directives 3025.1, 3025.12, and 3025.15, references (f) through (h).)

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

4.4. Provide an integrated asset and infrastructure vulnerability assessment and assurance program for the protection and assurance of DoD and non-DoD Critical Assets worldwide through the CAAP. The CAAP must provide a comprehensive and integrated decision support environment to represent the relationship between Critical Assets and force readiness and operations in peace, crisis or war that can be used to assess the dependencies, vulnerabilities and effects of the disruption or loss of Critical Assets or supporting infrastructures on their plans and operations. The CAAP must also provide the capability for Critical Asset assurance analysis, planning, prioritization, resource programming, and response necessary to mitigate the disruption or loss of Critical Assets. It must also ensure that the collection, retention, and dissemination of CAAP information are in compliance with applicable U.S. law, statutes, directives, and policies as delineated by the established intelligence oversight program. (See DoD Directive 5240.1 and DoD 5240.1-R (references (i) and (j)).)

### 5. RESPONSIBILITIES

#### 5.1. The Under Secretary of Defense for Policy shall:

5.1.1. Provide policy direction and guidance for the development and implementation of the CAAP as an element of national security emergency preparedness.

5.1.2. Represent the Secretary of Defense with other Federal Departments and Agencies and with industry in the development, review, and approval of standards for the assurance of all Critical Assets and coordinate such agreements as may be appropriate for this program.

5.1.3. Develop and lead a process for annual program review of the CAAP with the DoD Components and the DoD Executive Agent that includes an analysis of the program effectiveness in meeting goals and objectives, an assessment of the performance of organizations in accomplishing their roles and responsibilities, a review of threats and technologies, and the status of planning and analysis for the assurance of Critical Assets to ensure compliance with this Directive.

5.1.5. Establish, support, and provide the Co-Chair (with the Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence) for the Critical Infrastructure Protection Working Group (CIPWG).

5.1.6. Maintain and revise this Directive.

#### 5.2. The Under Secretary of Defense for Acquisition and Technology shall:

5.2.1. Comprehensively integrate the policies established by this Directive in acquisition policy guidance, to include the Federal Acquisition Regulations System (reference (k)); develop assurance standards; and ensure that internal and external infrastructure protection, mitigation, detection, reaction, and recovery measures are designed into the acquisition process, systems being developed and acquired, and the supporting industrial base.

5.2.2. Foster research on infrastructure systems assurance and analysis and promote development of infrastructure interdependency analysis. Identify technologies that represent threats to Critical Assets or related infrastructures (e.g., information or command and control systems), countermeasures technologies for existing or emerging threats, and technologies that may have inherent susceptibilities or vulnerabilities.

5.2.3. Provide policy to assess and mitigate infrastructure dependencies and vulnerabilities of specific DoD installations, facilities, and supporting private sector facilities and systems.

5.2.4. In accordance with instructions from the DoD Executive Agent, provide DoD installations and facilities database support to facilitate maintenance of Critical Assets data by the DoD Components for inclusion in the CAAP.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

### 5.3. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall:

5.3.1. Integrate the policies established by this Directive into policy guidance and standards promulgated for functional areas assigned by DoD Directive 5137.1 (reference (l)). Ensure, in consultation with Under Secretary of Defense for Acquisition and Technology, infrastructure dependencies and protection, mitigation, detection, reaction, and recovery measures are considered during command, control, communications, intelligence, information, and security systems development and acquisition. Ensure that intelligence, counterintelligence, and security countermeasure programs support the protection, survivability, availability, integrity, and recovery of Critical Assets.

5.3.2. Provide the Co-Chair (with the Office of the Under Secretary of Defense for Policy) for the CIPWG.

5.3.3. Require the Director, Defense Investigative Service (DIS), to:

5.3.3.1. Conduct, in coordination with the appropriate DoD Component and with permission of the owners, on-site surveys, to include vulnerability analyses to physical and technical threats, for each non-DoD Industrial and Infrastructure Critical Asset designated by the DoD Executive Agent as requiring on-site survey.

5.3.3.2. Maintain liaison with the DoD Executive Agent, the responsible DoD Component, and consult with industry, as appropriate. Develop CAAP survey procedures in coordination with the DoD Executive Agent, and support courses of instruction to orient and train Government and industry personnel on CAAP surveys. Obtain technical assistance from the other DoD Components, as required.

5.3.4. Require the Director, Defense Intelligence Agency (DIA), in coordination with the National Security Agency (NSA), the DIS, the Federal Bureau of Investigation (FBI), and the Director, Central Intelligence, to develop procedures for continuous analysis of the hostile intelligence; special operations; and technical, terrorist, criminal, and other transnational threats to Critical Assets and Infrastructures; develop and maintain a Critical Asset and Infrastructure Threat Assessment, and advise the DoD Executive Agent, the Chairman of the Joint Chiefs of Staff and the DoD Components of hostile threats to Critical Assets and Infrastructures in their areas of responsibility as evolving threats become known. These activities must be accomplished within the provisions of DoD Directive 5240.1 and DoD 5240.1-R (references (i) and (j)).

5.3.5. Require the Director, National Imagery and Mapping Agency, to support the DoD Executive Agent's requirements for imagery and maps needed for the CAAP.

5.3.6. Require the Director, Defense Information Systems Agency, to:

5.3.6.1. Provide, in conjunction with the DoD Components, for the assurance of the Defense Information Infrastructure (DII) and mitigation of the effects of its loss or disruption.

5.3.6.2. Coordinate with the National Communication System (NCS) to identify National Information Infrastructure (NII) assets critical to the DoD operations and National Security and Emergency Preparedness telecommunications. Identify to the DoD Executive Agent and the appropriate DoD Components the Critical Assets of the DII and the NII whose disruption or loss would seriously affect DoD operations and the nature of those effects. Coordinate with the DoD Executive Agent, the DoD Components, and the NCS regarding actions taken to increase the reliability, redundancy, protection, and restoral of information systems supporting Critical Assets.

5.3.6.3. Provide for overall coordination of the Computer Emergency Response Team (CERT) activities of the DoD Components and their interface with CERT-related activities of the Federal Government (to include the FBI), the NSA for national security systems, and the private sector.

### 5.4. The Chairman of the Joint Chiefs of Staff shall:



## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

5.4.1. Ensure identification of Critical Assets necessary for the execution of Deliberate and Crisis Action Plans and plan for mitigation of their loss or disruption. Identify those Critical Assets to the DoD Executive Agent.

5.4.2. Ensure that disruption and loss of Critical Assets, to include supporting national infrastructures, are scripted and responded to in Joint Exercises.

5.5. The Secretary of the Army, as the DoD Executive Agent, shall:

5.5.1. Develop, implement, and administer the CAAP to meet the requirements described in paragraph 4.4., above. Obtain Critical Asset nominations from the DoD Components, integrate them into the CAAP, and program and provide CAAP resources for support of CAAP decision support systems, analytic and management activities. Provide the capability for each DoD Component to use the CAAP for identification, analysis, and assurance of assets critical to its operations. In coordination with the DoD Components, establish priorities for infrastructure analysis, and remediation, recommend actions to the DoD Components based upon the CAAP and DIA threat analysis, and review the CAAP annually with the Under Secretary of Defense for Policy (USD(P)) and the DoD Components.

5.5.2. Develop, publish, and administer DoD 5160.54-R (reference (d)), and 5160.54-M, consistent with DoD 5025.1-M (reference (e)).

5.5.3. Coordinate with other Departments and Agencies, as required, to solicit nominations of Infrastructure Assets critical to national defense applications. Designate non-DoD Industrial and Infrastructure Critical Assets that require on-site surveys and vulnerability assessments. Coordinate with the DIS regarding conduct of industrial Critical Asset site surveys and vulnerability assessments.

5.5.4. Ensure that regulations, plans, and procedures governing military support to law enforcement in civil disturbances, as promulgated under DoD Directive 3025.12 (reference (g)), facilitate response by the DoD Components to protect Critical Assets under any conditions or circumstances covered by that Directive.

5.6. The Secretary of the Navy shall require the Program Manager, Joint Program Office for Special Technology Countermeasures, to provide the infrastructure assurance analysis and vulnerability assessment support to the DoD Executive Agent.

5.7. The Heads of the DoD Components shall:

5.7.1. Identify those assets critical to their operations (to include the supporting DoD and non-DoD infrastructures and other civil sector facilities and services), nominate those Critical Assets for inclusion in the CAAP, conduct risk assessments, and designate their category of importance in accordance with the instructions of the DoD Executive Agent.

5.7.2. Retain overall responsibility for the assurance of the Critical Assets subject to their authority or control. Program and provide for increased Critical Asset reliability, security and redundancy; plan for their disruption or loss and subsequent restoral; and develop systems that are less dependent upon vulnerable infrastructures and systems. Program and provide for supplemental integrated infrastructure vulnerability assessment and assurance capability when requirements exceed organic capabilities. Provide for a CERT capability.

5.7.3. Include a contractual requirement for cooperation in vulnerability assessments and assurance planning when contracting for private sector facilities, services and products, and consider all-hazard assurance of service when awarding contracts.

5.7.4. Review annually all Critical Asset nominations and recommend changes in accordance with the instructions of the DoD Executive Agent. Review the CAAP annually with the USD(P) and the DoD Executive Agent. Provide senior (flag or senior executive service) representation on the CIPWG.

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

5.7.5. Assign personnel to the Executive Agent to support the CAAP and comply with the requirements of the DoD Executive Agent in accordance with this Directive.

5.7.6. Require that commanders of DoD installations conduct an annual review with all tenant activities of all Critical Assets associated with their installation, to include supporting DoD and non-DoD infrastructures and other civil sector facilities and services upon which the Critical Assets depend. This review shall include the validation of data on facilities and their dependencies, an examination of Installation and tenants' plans for increasing reliability, reducing vulnerabilities, mitigating hazards to and the restoration of Critical Assets, and a review of these plans with the FBI, local emergency services personnel (including local law enforcement), the National Guard, and the representatives of critical infrastructure and support service providers, as appropriate. Assist tenant activities in direct coordination with local providers of critical infrastructure and other support services necessary to the operation of the their Critical Assets. Require that commanders of DoD Installations report through their chains of command the review results to the DoD Executive Agent so that plans and requirements can be fully coordinated and supported across the Department.

### 6. INFORMATION REQUIREMENTS

The collection of installations and facilities data identified in subparagraph 5.2.4., above, is assigned Report Control Symbol DD-A&T(A)760, and the collection of Critical Asset data identified in subparagraphs 5.5.1. and 5.7.1., above, is assigned Report Control Symbol DD-POL(A)1747, in accordance with DoD 8910-M (reference (m)). The information collections in subparagraphs 5.3.3.1., 5.3.4., and 5.7.6., above, are exempt from licensing in accordance with reference (m).

### 7. EFFECTIVE DATE

This Directive is effective immediately.

/s/

John J. Hamre

Deputy Secretary of Defense

Enclosures - 2

E1. References, continued

E2. Definitions

#### E1. ENCLOSURE 1 REFERENCES, continued

- (e) DoD 5025.1-M, "DoD Directives System Procedures," August 1994
- (f) DoD Directive 3025.1, "Military Support to Civil Authorities (SCA)," January 15, 1993
- (g) DoD Directive 3025.12, "Military Assistance for Civil Disturbances," February 4, 1994
- (h) DoD Directive 3025.15, "Military Assistance to Civil Authorities," February 18, 1997
- (i) DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988
- (j) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982
- (k) Title 48, Code of Federal Regulations, "Federal Acquisition Regulations System," October 1, 1996
- (l) DoD Directive 5137.1, "Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD (C3I)), " February 12, 1992
- (m) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 28, 1986, authorized by DoD Directive 8910.1, June 11, 1993
- (n) DoD Directive 5200.8, "Security of DoD Installations and Resources," April 25, 1991

#### E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Assurance. In the context of CAAP, assurance is a process of identifying assets deemed critical to the Department of Defense in peacetime, crisis and war; assessing the potential threats to these assets and the

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

capabilities they provide; quantifying the likely non-availability to the Department of Defense under various hazard scenarios; identifying potential actions that can be taken to restore those assets (or functionality they provide) if they are lost, damaged, corrupted, or compromised; and identifying and recommending options to protect, mitigate, and improve the availability of these Critical Assets to the DoD organizations that own, use, and control them. It includes a range of activities to systematically inform planners and decisionmakers of the probability of availability and quality (e.g., integrity, reliability, confidentiality, survivability, endurance, capacity, adequacy) of specific assets or services under given scenarios; quantifying the likely impact of non-availability to the military operation or defense activity; and identifying and prioritizing options to improve the likelihood of the availability of specific assets or services in specific scenarios. Examples of assurance activities that can improve the likelihood of asset availability include protection (preventing, by whatever means, the disruption or corruption of an asset); mitigation or moderation of the effects of disruption or corruption (by controlling the damage, providing alternative services, and reducing demand on the asset); and planning for and providing timely restoral or recovery. Alternatively, plans can be made to absorb the loss of otherwise anticipated services. Assurance of a Critical Asset is the responsibility of the owning or controlling DoD Component.

E2.1.2. Computer Emergency Response Team (CERT). An organization chartered by an information system owner to coordinate and/or accomplish necessary actions in response to computer emergency incidents that threaten the availability or integrity of its information systems.

E2.1.3. Critical Asset. Any facility, equipment, service or resource considered essential to DoD operations in peace, crisis and war and warranting measures and precautions to ensure its continued efficient operation, protection from disruption, degradation or destruction, and timely restoration. Critical Assets may be DoD assets or other Government or private assets, (e.g., Industrial or Infrastructure Critical Assets), domestic or foreign, whose disruption or loss would render DoD Critical Assets ineffective or otherwise seriously disrupt DoD operations. Critical Assets include both traditional "physical" facilities or equipment, non-physical assets (such as software systems) or "assets" that are distributed in nature (such as command and control networks, wide area networks or similar computer-based networks).

E2.1.4. DoD Executive Agent. The individual designated by position to have and to exercise the assigned responsibility and delegated authority of the Secretary of Defense, as specified in this Directive.

E2.1.5. DoD Infrastructure. Infrastructure owned, operated or provided by the Department of Defense. DoD Infrastructures include the DII, C4ISR, Space, Financial Services, Logistics, Public Works (includes DoD-owned or -operated utilities, roads, rails and railheads and their interface to commercial and other Government Systems), Personnel, Health Affairs and Emergency Preparedness. See also definitions of Infrastructure and National Infrastructure, below.

E2.1.6. DoD Installation. A facility subject to the custody, jurisdiction, or administration of any DoD Component. This term includes, but is not limited to, military reservations, installations, bases, posts, camps, stations, arsenals, or laboratories where a DoD Component has operational responsibility for facility security and defense. Examples are facilities where orders or regulations for protection and security have been issued by the military commander or other specified DoD official under provisions of DoD Directive 5200.8 (reference (n)). Both industrial assets and infrastructure assets, not owned by the Department of Defense, may exist within the boundaries of a military installation.

E2.1.7. Industrial Asset. Any factory, plant, building or structure used for manufacturing, producing, processing, repairing, assembling, storing, or distributing a product or components that supports a DoD Component. A Critical Industrial Asset is an industrial asset deemed essential to DoD operations or the functioning of a Critical Asset

E2.1.8. Information Assurance. Information Operations that protect and defend information and information systems by ensuring their availability, integrity, authentication, confidentiality, and non-repudiation. This includes providing for restoration of information systems by incorporating protection, detection, and reaction capabilities. (See DoD Directive S-3600.1, reference (c).)

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

E2.1.9. Information System. The entire infrastructure, organization, personnel and components that collect, process, store, transmit, display, disseminate and act on information under reference (c).

E2.1.10. Infrastructure. The framework of interdependent networks and systems comprising identifiable industries, institutions, and distribution capabilities that provide a continual flow of goods and services essential to the defense and economic security of the United States, the smooth functioning of government at all levels, or society as a whole.

E2.1.11. Infrastructure Asset. Any Infrastructure facility, equipment, service or resource that supports a DoD Component. A Critical Infrastructure Asset is an infrastructure asset deemed essential to DoD operations or the functioning of a Critical Asset.

E2.1.12. National Infrastructure. Those infrastructures essential to the functioning of the nation and whose incapacity or destruction would have a debilitating regional or national impact. National infrastructures include telecommunications, electrical power systems, gas and oil transportation and storage, water supply systems, banking and finance, transportation, emergency services, and continuity of government operations.

E2.1.13. Technical Attack. An attack that can be perpetrated by circumventing or nullifying hardware or software protection mechanisms, or exploiting hardware or software vulnerabilities, rather than physical destruction or by subverting system personnel or other users.

### **Appendix 8-16: PDD-NSC-67**

#### **PDD-NSC-67**

#### **Enduring Constitutional Government and Continuity of Government Operations (U) 21 October 1998**

*Presidential Decision Directive 67 (PDD 67), issued 21 October 1998, relates to enduring constitutional government, continuity of operations (COOP) planning, and continuity of government (COG) operations. The purpose of Enduring Constitutional Government (ECG), Continuity of Government (COG), and Continuity of Operations (COOP) is to ensure survival of a constitutional form of government and the continuity of essential Federal functions. Presidential Decision Directive 67 replaced the Bush Administration's NSD 69 "Enduring Constitutional Government" of 02 June 1992, which in turn succeeded NSD 37 "Enduring Constitutional Government" of 18 April 1990 and NSDD 55 "Enduring National Leadership" of 14 September 1982.*

*In addition, Executive Order 12656 [Section 202] required that "The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities."*

*Among other things, PDD 67 required Federal agencies to develop Continuity of Operations Plans for Essential Operations. In response to this directive, many Federal agencies formed task forces of representatives from throughout the agency who were familiar with agency contingency plans. They developed the COOP as a unifying concept that did not replace existing plans but, instead, superimposed COOP functions if and when a problem threatens serious disruption to agency operations. The plans identify those requirements necessary to support the primary function, such as emergency communications, establishing a chain of command, and delegation of authority.*

## APPENDIX 8: MISC. DOMESTIC SUPPORT OPERATIONS

*With the reduced threat to this country of nuclear attack by the former Soviet Union and its successor nations, Enduring Constitutional Government programs (the former Continuity of Government programs) were scaled back in the early 1990s. Most of the resources of the National Preparedness Directorate of the Federal Emergency Management Agency [FEMA] were spent on ensuring the continuation of civilian government in the event of a nuclear war, through what are known as the Enduring Constitutional Government programs. The directorate also supports ongoing studies through war gaming, computer modeling, and other methods.*

*The April 1999 "Federal Response Plan" [FEMA 9230.1-PL] required te head of each Federal Department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.*

*The text of PDD-67 has not been released, and there is no White House Factsheet summarizing its provisions.*

*A [Federal Preparedness Circular \(FPC-65\)](#) provides guidance to Federal Executive Branch departments and agencies for use in developing viable and executable contingency plans for the continuity of operations (COOP).*

**APPENDIX 9  
INTELLIGENCE LAW**

**Appendix 9-1: DoDD 5143.01 – Undersecretary of Defense for Intelligence**

See next page.



# Department of Defense

## DIRECTIVE

NUMBER 5143.01  
November 23, 2005

DA&M

SUBJECT: Under Secretary of Defense for Intelligence (USD(I))

- References:
- (a) Title 10, United States Code
  - (b) Title 50, United States Code
  - (c) Public Law 108-458, "Intelligence Reform and Terrorism Prevention Act of 2004," 118 Stat. 3638, December 17, 2004
  - (d) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, as amended
  - (e) through (ad), see enclosure 1

### 1. PURPOSE

Under the authorities vested in the Secretary of Defense by reference (a), including Sections 113 and 137, and consistent with reference (b), including Sections 401 through 405, as well as references (c), (d), and Executive Order (E.O.) 13355 (reference (e)), this Directive:

- 1.1. Assigns the responsibilities, functions, relationships, and authorities of the Under Secretary of Defense for Intelligence (USD(I)).
- 1.2. Cancels the Secretary of Defense Memorandum, "Office of the Under Secretary of Defense for Intelligence"; the Deputy Secretary of Defense Memorandum, "Implementation Guidance on Restructuring Defense Intelligence—and Related Matters"; and DoD Directive 5134.11 (references (f) through (h)).
- 1.3. Authorizes the USD(I), as a Principal Staff Assistant (PSA) reporting directly to the Secretary of Defense, to promulgate DoD policy in DoD Instructions within the responsibilities, functions, and authorities assigned herein.
- 1.4. Shall conform to and be consistent with law and Presidential guidance concerning the authorities and responsibilities of the Director of National Intelligence (DNI).

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2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

4. RESPONSIBILITIES AND FUNCTIONS

The USD(I) is the PSA and advisor to the Secretary and Deputy Secretary of Defense regarding intelligence, counterintelligence, security, sensitive activities, and other intelligence-related matters (hereafter referred to as “intelligence, counterintelligence, and security” matters). In this capacity, the USD(I) exercises the Secretary of Defense’s authority, direction, and control over the Defense Agencies and DoD Field Activities that are Defense intelligence, counterintelligence, or security Components and exercises planning, policy, and strategic oversight over all DoD intelligence, counterintelligence, and security policy, plans, and programs. In the exercise of assigned responsibilities, the USD(I) shall:

4.1. Serve as the senior DoD intelligence, counterintelligence, and security official below the Secretary and Deputy Secretary of Defense.

4.2. Serve as the primary representative of the Secretary of Defense to the Office of the Director of National Intelligence (ODNI) and other members of the Intelligence Community.

4.3. For human capital:

4.3.1. Consistent with DoD Directive 1400.35 (reference (i)), exercise policy oversight of personnel in defense intelligence positions to ensure that Defense intelligence, counterintelligence, and security Components are manned, trained, equipped, and structured to support the missions of the Department and fully satisfy the needs of the Combatant Commands, the Military Departments, and the ODNI, as appropriate.

4.3.2. Develop and oversee the policies associated with the Defense Civilian Intelligence Personnel System in conjunction with the Under Secretary of Defense for Personnel and Readiness pursuant to reference (i).



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4.3.3. Develop policy and provide oversight on training, education, and career development of personnel within the Defense intelligence, counterintelligence, and security Components and ensure integration of Defense intelligence into other DoD training within the Department of Defense and Intelligence Community, as appropriate.

4.3.4. Identify candidates for Secretary of Defense consideration to be nominated and/or appointed to serve as Directors of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency/Central Security Service.

4.3.5. Oversee the duty performance of the Directors of the Defense Intelligence Components (identified in paragraph 5.1.2) and solicit evaluative input from the DNI, as appropriate.

4.3.6. Oversee the implementation of DoD detailee policy within the Defense intelligence, counterintelligence, and security Components, and exercise approval authority, consistent with the processes developed by the Secretary of Defense and the DNI, over the assignment of intelligence, counterintelligence, and security personnel, including personnel who are subject to the Defense Civilian Intelligence Personnel System, detailed to duty from one DoD Component to another or to an external organization. All requests for detailees external to the Department to perform duties in the fields of intelligence, counterintelligence, or security shall receive the concurrence of the USD(I) prior to approval by the Director of Administration and Management pursuant to applicable law, regulations, and policy, including DoD Directive 1000.17 (reference (j)).

4.4. For planning, programming, budgeting, and execution matters, and other budgetary matters, consistent with Section 135 of 10 U.S.C. (reference (a)):

4.4.1. Participate, pursuant to the responsibilities and functions prescribed herein, in the DoD Planning, Programming, Budgeting, and Execution (PPBE) process, which includes proposing DoD resource programs, formulating budget estimates, recommending resource allocations and priorities, and monitoring the implementation of approved programs in order to ensure adherence to approved policy and planning guidance. The USD(I) shall consult and coordinate with the Under Secretary of Defense for Policy (USD(P)), the Under Secretary of Defense (Comptroller) (USD(C)), and the Director, Program Analysis and Evaluation (DPA&E) on PPBE matters.

4.4.2. Support the Assistant Secretary of Defense for Legislative Affairs and USD(C) in presenting, justifying, and defending intelligence, counterintelligence, and security programs and budgets before the Congress as well as evaluating and assessing Congressional activity for impact on all assigned areas of responsibility, and consult and coordinate with the USD(C) on budgetary matters, as appropriate, and the DNI on National Intelligence Program (NIP) matters.

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4.4.3. Oversee Defense intelligence, counterintelligence, and security policy, plans, programs, required capabilities, and resource allocations, which includes exercising responsibility for the DoD Components within the NIP and the Military Intelligence Program (MIP), according to Deputy Secretary of Defense Memorandum (reference (k)).

4.4.4. Oversee all Defense intelligence budgetary matters to ensure compliance with the budget policies issued by the DNI for the NIP.

4.5. For acquisition matters:

4.5.1. Provide advice and assistance, as appropriate, to the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), the Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer, the Defense Acquisition Board, the Defense Space Acquisition Board, the DNI, and other officials and/or entities in the U.S. Government concerning acquisition programs that significantly affect Defense intelligence, counterintelligence, and security Components as well as intelligence, counterintelligence, and security programs.

4.5.2. Exercise acquisition authority as delegated by the USD(AT&L), the DNI, or other appropriate officials in the U.S. Government for the acquisition of technologies, systems, and equipment.

4.5.3. In coordination with the USD(AT&L), oversee the exercise of acquisition authority by the Directors of the Defense intelligence, counterintelligence, and security Components.

4.6. Provide policy and strategic oversight of all Defense intelligence, counterintelligence, and security programs within the Department of Defense operating under the authority, direction, and control of the USD(I) as prescribed herein, and ensure that these organizations perform their missions.

4.7. Ensure that USD(I) policies and programs are designed and managed to improve standards of performance, economy, and efficiency and that all of the Defense Agencies and DoD Field Activities over which the USD(I) exercises the Secretary of Defense's authority, direction, and control are attentive and responsive to the requirements of their organizational customers, both internal and external to the Department of Defense.

4.8. Serve on boards, committees, and other groups pertaining to assigned responsibilities and functions and represent the Secretary of Defense on all intelligence, counterintelligence, and security matters in other U.S. Government fora.

4.9. For Defense intelligence:

*DoDD 5143.01, November 23, 2005*

4.9.1. Oversee all DoD intelligence policies and activities, including those implemented pursuant to DoD Directive 5240.1 (reference (l)), and establish priorities to ensure conformance with Secretary of Defense and DNI policy guidance, as appropriate.

4.9.2. Develop, coordinate, and oversee the implementation of DoD policy, strategy, programs, and guidance on manned and unmanned spaceborne, airborne, surface, and subsurface activities and other matters pertaining to intelligence, surveillance, and reconnaissance (ISR), including those in support of foreign and international requirements involving the use of space and non-space resourced ISR activities and products.

4.9.3. Oversee Sensitive Reconnaissance Operations (SRO) Program policy and maintain cognizance of non-SRO reconnaissance and surveillance activities and operations.

4.9.4. Develop and oversee policy for Defense intelligence planning and preparation activities as well as Defense warning and forecasting activities.

4.10. For counterintelligence:

4.10.1. Represent the Secretary of Defense in meetings and communications with the National Counterintelligence Executive (NCIX).

4.10.2. Develop, coordinate, and oversee the implementation of DoD policy, programs, and guidance for DoD counterintelligence pursuant to DoD Directive 5240.2 (reference (m)) and oversee and provide guidance to ensure compliance with counterintelligence policies issued by the DNI, as appropriate.

4.10.3. Oversee DoD polygraph policies and ensure the Department of Defense supports the polygraph requirements identified by the heads of other Federal Agencies with polygraph programs.

4.10.4. Promptly inform the Secretary and Deputy Secretary of Defense, OSD PSAs, Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff as well as the DNI, NCIX, and Congress of significant counterintelligence activity, as appropriate.

4.11. For security policy matters:

4.11.1. Serve as the DoD Senior Security Official pursuant to E.O. 12958 (reference (n)) and advise the Secretary of Defense, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, and the Heads of other DoD Components on the development and integration of risk-managed security and protection policies and programs, except for Nuclear Physical Security pursuant to DoD Directive O-5210.41 (reference (o)).

4.11.2. Develop, coordinate, and oversee the implementation of DoD policy, programs, and guidance for personnel, physical, industrial, information, operations, chemical/biological, and DoD Special Access Program (SAP) security as well as research and technology protection.

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4.11.2.1. Oversee the implementation of policy regarding the protection of sensitive compartmented information pursuant to Presidential and DNI guidance as well as DoD Directive 8520.1 (reference (p)).

4.11.2.2. Perform all duties and responsibilities of the Secretary of Defense regarding the National Industrial Security Program pursuant to E.O. 12829 (reference (q)).

4.11.3. Develop and oversee DoD policy regarding the sharing of information consistent with applicable laws, regulations, and policy, including E.O. 12333 (reference (d)), DNI policies, and DoD policies.

4.11.3.1. Ensure that all DoD Components integrate security education and awareness into their personnel-security programs pursuant to E.O. 12968 (reference (r)).

4.11.3.2. Develop and oversee DoD SAP security policy, carry out guidance provided by the DoD SAP Oversight Committee, serve as the oversight authority for all DoD Intelligence SAPs and those SAPs delegated to the USD(I) for oversight, and establish a SAP Coordination Office (SAPCO) in OUSD(I) that provides administrative support to and facilitates the management of SAPs delegated to the USD(I), and ensure that all NIP-funded SAPs are consistent with DNI policies and coordinated with the ODNI.

4.12. Serve as the DoD focal point for all policy and oversight matters relating to intelligence information sharing and interoperability of Defense intelligence systems and processes pursuant to reference (c) and E.O. 13356 and E.O. 13354 (references (s) and (t)). The USD(I) shall develop, coordinate, and oversee DoD requirements and compliance with intelligence information sharing and interoperability requirements and policies issued by the DNI.

4.13. For Information Operations (IO):

4.13.1. Serve as the PSA and advise the Secretary of Defense on development and oversight of DoD IO policy and integration activities, and serve as the DoD lead with the Intelligence Community on DoD IO Issues.

4.13.2. Coordinate, oversee, and assess the efforts of the DoD Components to plan, program, and develop capabilities in support of IO requirements pursuant to DoD Directive S-3600.1 (reference (u)).

4.13.3. Provide IO assessments for Operational Plans and Security Cooperation Guidance in support of the USD(P).

4.14. Oversee Defense Sensitive Support Program policy pursuant to DoD Directive S-5210.36 (reference (v)), oversee coordination pursuant to the DNI's policy and guidance, currently DCID 5/1 (reference (w)), and oversee the Defense Cover Program.

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4.15. Pursuant to 10 U.S.C. (reference (a)), 50 U.S.C. (reference (b)), and Secretary of Defense guidance, develop policies and implementation guidance, as well as provide oversight to ensure versatility and agility in meeting the Department's missions.

4.16. Develop, coordinate, and oversee policy and policy implementation for all other sensitive intelligence, counterintelligence, security, and special technology programs and activities within the Department of Defense.

4.17. Identify gaps and opportunities for technology insertion to enhance intelligence, counterintelligence, and security capabilities of the Department and, in conjunction with USD(AT&L), Director of Operational Test and Evaluation, Director of Defense Research and Engineering, and other OSD PSAs, as appropriate, oversee research, development, test, and evaluation, subject to DoD acquisition regulations and Sections 139 and 2399 of 10 U.S.C. (reference (a)). NIP-funded programs shall be undertaken in coordination with the DNI.

4.18. Periodically assess any DoD Executive Agent assignments under the cognizance of the USD(I) for continued need, currency, and effectiveness and efficiency in satisfying end user requirements, consistent with DoD Directive 5101.1 (reference (x)).

4.19. Coordinate with the USD(P) regarding intelligence and intelligence-related matters that affect antiterrorism, counterterrorism, and terrorism consequence management policies as well as special operations intelligence elements and special operations-related activities funded through the MIP.

4.20. Perform such other duties as the Secretary may prescribe.

## 5. RELATIONSHIPS

5.1. The Under Secretary of Defense for Intelligence, in the performance of assigned functions and responsibilities, shall take precedence in the Department of Defense on all intelligence, counterintelligence, and security matters prescribed herein after the Secretary and Deputy Secretary of Defense, and shall:

5.1.1. Report directly to the Secretary of Defense.

5.1.2. Exercise the Secretary of Defense's authority, direction, and control over:

5.1.2.1. Director, Defense Security Service;

5.1.2.2. Director, DoD Counterintelligence Field Activity;

5.1.2.3. Director, Defense Intelligence Agency;

5.1.2.4. Director, National Geospatial-Intelligence Agency;

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5.1.2.5. Director, National Security Agency/Central Security Service;

5.1.2.6. Director, National Reconnaissance Office; and

5.1.2.7. Such other positions and organizations as may be established by the USD(I), consistent with applicable law, within the resources provided by the Secretary of Defense.

5.1.3. Exercise the Secretary of Defense's authority, direction, and control over the Directors listed in subparagraphs 5.1.2.3 through 5.1.2.6 above, in consultation with the DNI regarding national intelligence and related matters under the purview of the DNI, as appropriate, consistent with Secretary of Defense and DNI responsibilities under 50 U.S.C. (reference (b)) and the "Intelligence Reform and Terrorism Prevention Act of 2004" (reference (c)).

5.1.4. Serve as the Secretary of Defense's focal point pursuant to responsibilities and functions prescribed herein with other government entities, including the National Security Council, Homeland Security Council, Department of the Treasury, Department of State, Department of Justice, and Department of Homeland Security as well as foreign governments, international organizations, state agencies, the Intelligence Community, and Congress.

5.1.5. As Program Executive for the Military Intelligence Program pursuant to Acting Deputy Secretary of Defense Memorandum (reference (k)), provide policy, guidance, and oversight and establish mechanisms for the appropriate coordination with USD(P), USD(C), DPA&E, and Chairman of the Joint Chiefs of Staff throughout the DoD planning, programming, budgeting, and execution cycles, according to DoD Directive 7045.14 (reference (y)). The USD(I) will work in close concert with the DNI, as appropriate. The USD(I) shall chair or participate in, as appropriate, groups established to address programmatic issues.

5.1.6. Make recommendations to the USD(C) on all transfers, realignments, and/or reprogramming of funds to and from the Military Intelligence Program in accordance with thresholds established in the Financial Management Regulation (reference (z)). The USD(I) shall consult with the ODNI in advance of transferring or reprogramming funds made available under the Military Intelligence Program. In addition, the USD(I) shall coordinate or consult with other OSD PSAs and Heads of the DoD Components, as appropriate, on all reprogramming plans.

5.1.7. For national intelligence centers established by the DNI:

5.1.7.1. Coordinate with the USD(P) as well as the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, and other OSD PSAs, as appropriate, to ensure that DoD support to national intelligence centers is provided, as necessary, and comply with DoD Directive 1000.17 (reference (j)), as applicable.

5.1.7.2. Provide policy, oversight, and guidance for all Defense intelligence, counterintelligence, and security support provided to national intelligence centers, including the National Counterterrorism Center and the National Counterproliferation Center as well as similar activities.

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5.1.8. Coordinate with the Inspector General of the Department of Defense and the Assistant to the Secretary of Defense for Intelligence Oversight to ensure that Defense intelligence, counterintelligence, and security Components and DoD activities comply with statutory, Executive, Departmental and other national policies, guidance, and regulations.

5.1.9. Work closely with the USD(P) to ensure that space-based-intelligence systems support the Secretary of Defense and his position regarding national security space policy.

5.1.10. Work closely with the DoD Executive Agent for Space regarding his or her DoD-wide responsibilities representing and advocating space interests in the planning and programming processes and Defense acquisition process, pursuant to the DoD Directive 5101.2 (reference (aa)).

5.1.11. Work closely with the Chairman of the Joint Chiefs of Staff in carrying out functions under Section 153 of reference (a) to ensure the development of intelligence, counterintelligence, and security programs that enhance interoperability and effectively support the joint warfighting responsibilities of the Commanders of the Combatant Commands consistent with Sections 164, 167, and 167a of 10 U.S.C. (reference (a)).

5.1.12. Work closely with the DNI to ensure effective, complementary, and mutual support between Defense intelligence programs and the NIP.

5.1.13. Use existing systems, facilities, and services of the Department of Defense and other Federal Agencies, when practicable, to avoid duplication and to achieve maximum readiness, sustainability, economy, and efficiency.

5.1.14. Coordinate and exchange information with other OSD officials and the Heads of the DoD Components having collateral or related responsibilities and functions.

5.2. The Assistant Secretary of Defense for Networks and Information Integration/DoD Chief Information Officer, pursuant to DoD Directive 5144.1 (reference (ab)), shall work closely with the USD(I) on all matters prescribed herein, as appropriate.

5.3. The General Counsel of the Department of Defense shall serve as the legal advisor to the Secretary of Defense, the Deputy Secretary of Defense, the USD(I), and other DoD officials, as appropriate, regarding legal matters associated with intelligence, counterintelligence, and security matters and shall consult as appropriate with the USD(I) on such matters.

5.4. The Heads of the Defense Intelligence Components shall ensure, to the extent possible, USD(I) receipt of intelligence estimates or other substantive and time-sensitive intelligence produced by the Defense Intelligence Components and submitted to the Secretary of Defense, Deputy Secretary of Defense, and the Chairman of the Joint Chiefs of Staff as well as the DNI or other senior officials outside of the Department of Defense.



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5.5. The other Office of the Secretary of Defense officials and the Heads of the DoD Components shall coordinate with the USD(I) on all matters related to the authorities, responsibilities, and functions assigned in this Directive.

5.6. The Secretaries of the Military Departments shall provide timely advice to the USD(I) and shall ensure that the policies and guidance issued by the USD(I) are implemented in their respective Military Departments.

5.7. The Chairman of the Joint Chiefs of Staff shall consult with, and seek the advice of, the Combatant Commanders on policy, programs, and other related activities that support the Department's intelligence, counterintelligence, and security goals and missions, including requests for advice, resources, assistance, and other functions pursuant to Section 153 of 10 U.S.C. (reference (a)). The Chairman of the Joint Chiefs of Staff shall facilitate communications with the Combatant Commanders to ensure intelligence, counterintelligence, and security interoperability and support for joint warfighting, particularly as they relate to intelligence-related functions prescribed herein and consistent with Sections 164, 167, and 167a of 10 U.S.C. (reference (a)).

## 6. AUTHORITIES

The USD(I) is hereby delegated authority to:

6.1. Issue in DoD Instructions, DoD policy within the authorities and responsibilities assigned herein, including authority to identify collateral responsibilities of OSD officials and the Heads of the DoD Components. Such Instructions shall be fully coordinated in accordance with DoD 5025.1-M (reference (ac)). Further, in areas of assigned responsibilities and functions, the USD(I) has authority to issue other DoD Instructions, DoD Publications, and one-time directive-type memoranda, consistent with reference (ac), that implement policy approved by the Secretary of Defense. Instructions to the Military Departments shall be issued through the Secretaries of the Military Departments. Instructions to the Combatant Commands normally shall be communicated through the Chairman of the Joint Chiefs of Staff.

6.2. Obtain reports and information, consistent with DoD Directive 8910.1 (reference (ad)), as necessary in carrying out assigned responsibilities and functions.

6.3. Communicate directly with the Office of the DNI on Defense intelligence matters on behalf of the Secretary of Defense.

6.4. Communicate directly with the Heads of the DoD Components, as necessary, to carry out assigned functions and responsibilities, including the transmission of requests for advice and assistance. Communications to the Military Departments shall be through the Secretaries of the Military Departments, their designees, or as otherwise provided in law or directed by the Secretary of Defense in other DoD issuances. Communications to the Commanders of the Combatant Commands normally shall be transmitted through the Chairman of the Joint Chiefs of Staff.



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6.5. Establish arrangements for DoD participation in U.S. Governmental programs for which the USD(I) is assigned primary DoD cognizance.

6.6. Communicate with other Government officials, representatives of the Legislative Branch, members of the public, and representatives of foreign governments, as appropriate, in carrying out assigned responsibilities and functions.

6.7. Exercise the delegations of authority in enclosure 3.

### 7. EFFECTIVE DATE

This Directive is effective immediately.

A handwritten signature in black ink, appearing to be "D. M. ...".

Enclosures — 3

- E1. References, continued
- E2. Definitions
- E3. Delegations of Authority

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E1. ENCLOSURE 1REFERENCES, continued

- (e) Executive Order 13355, "Strengthened Management of the Intelligence Community," August 27, 2004
- (f) Secretary of Defense Memorandum, "Office of the Under Secretary of Defense for Intelligence," April 18, 2003 (hereby canceled)
- (g) Deputy Secretary of Defense Memorandum, "Implementation Guidance on Restructuring Defense Intelligence—and Related Matters," May 8, 2003 (hereby canceled)
- (h) DoD Directive 5134.11, "Defense Airborne Reconnaissance Office (DARO)," April 5, 1995 (hereby canceled)
- (i) DoD Directive 1400.35, "Defense Civilian Intelligence Personnel System (DCIPS)," March 18, 2002
- (j) DoD Directive 1000.17, "Detail of DoD Personnel to Duty Outside the Department of Defense," February 24, 1997
- (k) Acting Deputy Secretary of Defense Memorandum, "Establishment of the Military Intelligence Program," September 1, 2005
- (l) DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988
- (m) DoD Directive 5240.2, "DoD Counterintelligence (CI)," May 22, 1997
- (n) Executive Order 12958, "Classified National Security Information," April 17, 1995, as amended
- (o) DoD Directive O-5210.41, "Security Policy for Protecting Nuclear Weapons," November 1, 2004
- (p) DoD Directive 8520.1, "Protection of Sensitive Compartmented Information (SCI)," December 20, 2001
- (q) Executive Order 12829, "National Industrial Security Program," January 6, 1993, as amended
- (r) Executive Order 12968, "Access to Classified Information," August 2, 1995
- (s) Executive Order 13356, "Strengthening the Sharing of Terrorism Information to Protect Americans," August 27, 2004
- (t) Executive Order 13354, "National Counterterrorism Center," August 27, 2004
- (u) DoD Directive S-3600.1, "Information Operations," December 9, 1996
- (v) DoD Directive S-5210.36, "Provision of DoD Sensitive Support to DoD Components and Other Departments and Agencies of the United States Government," June 10, 1986
- (w) DCID 5/1, "Coordination of United States Clandestine Foreign Activities Abroad," December 19, 1984<sup>1</sup>
- (x) DoD Directive 5101.1, "DoD Executive Agent," September 3, 2002
- (y) DoD Directive 7045.14, "Planning, Programming, and Budgeting System," May 22, 1984
- (z) DoD 7000-14-R, "Financial Management Regulation," September 2005
- (aa) DoD Directive 5101.2, "DoD Executive Agent for Space," September 3, 2003
- (ab) DoD Directive 5144.1, "Assistant Secretary of Defense for Networks and Information Integration/Department of Defense Chief Information Officer," May 2, 2005
- (ac) DoD 5025.1-M, "DoD Directives System Procedures," March 5, 2003

<sup>1</sup> If a copy is needed on a need-to-know basis, contact the Office of the Under Secretary of Defense for Intelligence Staff in the Pentagon at USDI.Pubs@osd.mil.

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- (ad) DoD Directive 8910.1, "Management and Control of Information Requirements," June 11, 1993

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ENCLOSURE 2DEFINITIONS

E2.1.1. Counterintelligence. Information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities. (50 U.S.C. 401a)

E2.1.2. Defense Counterintelligence. Information gathered and activities conducted to detect, identify, exploit, and neutralize the intelligence capabilities and activities of terrorists, foreign powers, and other entities directed against U.S. national security.

E2.1.3. Defense Intelligence. The term “Defense Intelligence” refers to the integrated departmental intelligence that covers the broad aspects of national policy and national security and that intelligence relating to capabilities, intentions, and activities of foreign powers, organizations, or persons, including any foreign military or military-related situation or activity which is significant to Defense policy-making or the planning and conduct of military operations and activities. Defense Intelligence includes Active and Reserve military, strategic, operational, and tactical intelligence.

E2.1.4. Defense Intelligence Components. The term “Defense Intelligence Components” refers to all DoD organizations that perform national intelligence, Defense Intelligence, and intelligence-related functions, including: the Defense Intelligence Agency; the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the National Security Agency/Central Security Service, and the intelligence elements of the Active and Reserve components of the Military Departments, including the United States Coast Guard when operating as a service in the Navy.

E2.1.5. Defense Security Components. For the purposes of this Directive, the term “Defense Security Components” means all DoD organizations that perform security functions, including the Defense Security Service and the security elements of the Military Departments, including the United States Coast Guard when operating as part of the Department of the Navy, as appropriate.

E2.1.6. Defense Counterintelligence Components. For the purposes of this Directive, DoD organizations that perform national and DoD counterintelligence and counterintelligence-related functions, including the DoD Counterintelligence Field Activity and the counterintelligence elements of the Military Departments, the Defense Agencies with organic counterintelligence, the Joint Staff, the Office of the Secretary of Defense, and the Combatant Commands.

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E2.1.7. Intelligence, Surveillance, and Reconnaissance (ISR). The term “Intelligence, Surveillance and Reconnaissance” or “ISR” refers to an activity that synchronizes and integrates the planning and operation of sensors, assets, and processing, exploitation, and dissemination systems in direct support of current and future operations. This is an integrated intelligence and operations function. (Joint Publication 1-02 as amended through November 2004)

E2.1.8. Military Intelligence. The term “Military Intelligence” refers to the collection, analysis, production, and dissemination of information relating to any foreign military or military-related situation or activity that is significant to military policy-making or the planning and conduct of military operations and activities.

E2.1.9. National Intelligence. The term “National Intelligence” refers to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States that pertains, as determined consistent with any guidance issued by the President, to more than one United States Government Agency; and that involves threats to the United States, its people, property, or interests; the development, proliferation, or use of weapons of mass destruction; or any other matter bearing on United States national or homeland security. (Intelligence Reform Act of 2004, (reference (c)).

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E3. ENCLOSURE 3

DELEGATIONS OF AUTHORITY

E3.1. Pursuant to the authority vested in the Secretary of Defense, and subject to his or her authority, direction, and control, and in accordance with DoD policies, DoD Directives, and DoD Instructions, the USD(I) is hereby delegated authority to exercise, within his or her assigned responsibilities and functional areas, all authority of the Secretary of Defense derived from statute, Executive Order, regulation, and interagency agreement, except where specifically limited by statute or Executive Order to the Secretary of Defense, including, but not limited to:

E3.1.1. Designate, on behalf of the Secretary of Defense, Department of Defense organizational elements that perform intelligence functions as Department of Defense Intelligence Components, with the concurrence of the Head of the DoD Component affected, according to Section 1614 of 10 U.S.C. In addition, the Deputy Secretary of Defense, as the head of the Office of the Secretary of Defense, delegates to the USD(I) his authority to concur in such designations for those elements and positions under the cognizance of the USD(I).

E3.1.2. Make original security classification determinations in accordance with E.O. 12958 and E.O. 12968.

E3.1.3. Carry out delegations regarding the Defense Civilian Intelligence Personnel System as prescribed in DoD Directive 1400.35 (reference (i)).

E3.1.4. Make written determinations for the conduct of all closed meetings of Federal Advisory Committees under his cognizance as prescribed by Section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix II, 10(d)).

E3.1.5. Make determinations relating to personal contracts for personal services that directly support the mission of a Defense Intelligence activity under 10 U.S.C. 129b(d)(1)(B).

E3.1.6. On behalf of the Secretary of Defense, waive prohibitions of award of certain contracts to entities controlled by a foreign government, according to 10 U.S.C 2536(b).

E3.2. The USD(I) may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or prohibited by law, Executive Order, DoD Directive, or regulation.

**Appendix 9-2: DoDD 5240.01 – DoD Intelligence Activities**

See next page.



Department of Defense  
**DIRECTIVE**

NUMBER 5240.01  
August 27, 2007

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USD(I)

SUBJECT: DoD Intelligence Activities

- References:
- (a) DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988 (hereby canceled)
  - (b) DoD Directive 5143.01, "Under Secretary of Defense for Intelligence," November 23, 2005
  - (c) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, as amended by Executive Order 13284, January 23, 2003, and Executive Order 13355, August 27, 2004
  - (d) Executive Order 13388, "Further Strengthening the Sharing of Terrorism Information to Protect Americans," October 25, 2005
  - (e) through (k), see Enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

- 1.1. Reissues Reference (a) and implements References (b), (c), and (d); section 188 of Public Law 108-458 (Reference (e)); Executive Order 12863 (Reference (f)); and chapter 36 of title 50, United States Code (Reference (g)).
- 1.2. Updates policy and provides direction for DoD intelligence activities.
- 1.3. Shall be the primary authority used as guidance by the Defense Intelligence Components and those performing an intelligence or counterintelligence (CI) function to collect, process, retain, or disseminate information concerning U.S. persons.
- 1.4. Continues to authorize the publication of DoD 5240.1-R (Reference (h)).

2. APPLICABILITY AND SCOPE

This Directive:



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2.1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the 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 Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. Applies to all intelligence activities conducted by the DoD Components.

2.3. Does not apply to authorized law enforcement activities carried out by the Defense Intelligence Components, or to individuals executing law enforcement missions while assigned to the Defense Intelligence Components.

### 3. DEFINITIONS

Terms used in this Directive are defined in Enclosure 2.

### 4. POLICY

It is DoD policy that:

4.1. All DoD intelligence and CI activities shall be carried out pursuant to the authorities and restrictions of the U.S. Constitution, applicable law, Reference (c), the policies and procedures authorized herein, and other relevant DoD policies authorized by Reference (b). Special emphasis shall be given to the protection of the constitutional rights and privacy of U.S. persons.

4.2. DoD intelligence and CI activities shall conform to U.S. law and Presidential guidance concerning the authorities and responsibilities of the Director of National Intelligence (DNI).

4.3. Defense Intelligence and CI shall be the all-source information collection, analysis, sharing, and dissemination capability derived from intelligence and CI activities, operations, and campaign plans, provided to national and defense decision makers and warfighters for military planning and operations.

4.4. Defense Intelligence shall provide accurate and timely warning of threats and of foreign capabilities and intent to national and defense decision makers to allow for consideration of the widest range of options. While Defense Intelligence must be timely, it also must be substantive, thorough, contextual, and useful in form and format.

4.5. Consistent with the need to protect intelligence sources and methods and the provisions of Director of Central Intelligence Directive 8/1 (Reference (i)), the Defense Intelligence and CI Components have an affirmative responsibility to share collected and stored information, data, and resulting analysis with other Defense Intelligence and CI Components, the national Intelligence Community (IC), other relevant Federal agencies, and civilian law enforcement officials, as appropriate. This also applies to the exchange and sharing of terrorism-related

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information pursuant to Reference (d). Information sharing shall adhere to the requirements and restrictions imposed by Federal law, Executive order, and DoD and DNI policies.

4.5.1. The Defense Intelligence and CI Components shall share collected or stored information in a manner consistent with both the need to protect sources and methods and the need to enable the Defense Intelligence and DoD Components, other Government agencies, and the Intelligence Community, as appropriate, to accomplish their missions and responsibilities.

4.5.2. The broadest possible sharing of intelligence with coalition and approved partner countries shall be accomplished unless otherwise precluded from release by law, explicit direction, or policy.

4.5.3. Original classifiers shall draft intelligence products with a presumption of release and in such a manner as to allow the widest dissemination to allies, coalitions, and international organizations.

4.6. No Defense Intelligence or CI Component shall request any person or entity to undertake unauthorized activities on behalf of the Defense Intelligence or CI Component. No Defense Intelligence or CI Component shall request any person or entity to undertake intelligence activities on behalf of the Defense Intelligence or CI Component that do not follow the procedures described in Reference (h). The collection techniques described in Reference (h) shall be employed only to perform intelligence or CI functions assigned to the Defense Intelligence Component concerned. Use of such techniques to collect information about U.S. persons shall be limited to the least intrusive means feasible and shall not violate law, Executive order, Presidential guidance, or DoD or DNI policy.

4.7. The Defense Intelligence and CI Components and their employees shall report all intelligence or CI activities that may violate law, Executive order, Presidential directive, or applicable DoD policy through the Component chain of command to the Inspector General or General Counsel responsible for the Defense Intelligence Component concerned, or to the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)).

4.8. The Defense Intelligence Components shall only conduct, or provide support for the conduct of, covert activities in times of war declared by Congress, during a period covered by a report from the President to Congress consistent with sections 1541-1548 of Reference (g), or when such actions have been approved by the President and directed by the Secretary of Defense.

4.9. Under no circumstances shall any DoD Component or DoD employee engage in, or conspire to engage in, assassination.

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5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Intelligence (USD(I)), according to Reference (b), shall provide overall policy guidance for the conduct of DoD intelligence, CI, security, and intelligence-related activities. Pursuant to Reference (b), the USD(I) shall:

5.1.1. Serve as the focal point for the Secretary of Defense, according to the responsibilities and functions prescribed herein, with other U.S. Government entities and agencies, including the National Security Council, the DNI, the Homeland Security Council, the Department of the Treasury, the Department of State, the Department of Justice, and the Department of Homeland Security as well as State agencies, the IC, and Congress.

5.1.2. Serve as the focal point for the Secretary of Defense, according to the responsibilities and functions prescribed herein, with foreign governments, international organizations, and non-governmental organizations.

5.1.3. Promote coordination, cooperation, information sharing, and cross-Service management of intelligence, CI, security, and related programs within the Department of Defense and between the Department and other Federal agencies.

5.1.4. Provide oversight and policy guidance on sensitive intelligence activities; serve as the DoD lead for Departmental participation in all such activities.

5.2. The Department of Defense General Counsel shall:

5.2.1. Serve as the focal point for contact with, and reporting to, the Attorney General regarding legal matters arising under this Directive.

5.2.2. Interpret this Directive and Reference (h), as required.

5.3. The ATSD(IO) shall serve as the focal point for all contacts with the Intelligence Oversight Board of the President's Foreign Intelligence Advisory Board pursuant to Reference (f), and shall perform the responsibilities assigned in DoD Directive 5148.11 (Reference (j)).

5.4. The Secretaries of the Military Departments with IC elements shall:

5.4.1. Organize, staff, train, and equip the intelligence assets of the Military Departments, including CI, signals intelligence, geospatial intelligence, measurement and signatures intelligence, and human intelligence assets, to support operational forces, national-level policy-makers, and the acquisition community.

5.4.2. Develop intelligence capabilities including interoperable and compatible systems, databases, and procedures for joint operational forces according to DoD guidance; Combatant Commander and Director, Defense Intelligence Agency, requirements; the Defense Intelligence Information System Network-Centric Architecture; and the Joint Technical Architecture.

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5.4.3. Fulfill assigned Defense Intelligence Analysis Program responsibilities, both national-level and Military Department-unique, for national intelligence activities in support of national and DoD entities through timely, tailored, all-source intelligence tasking, collection, processing/exploitation, analysis/production, and dissemination/integration.

### 6. EFFECTIVE DATE

This Directive is effective immediately.



Gordon England

Enclosures - 2

- E1. References, continued
- E2. Definitions

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E2. ENCLOSURE 2

DEFINITIONS

- E2.1. All-Source Analysis. An intelligence activity involving the integration, evaluation, and interpretation of information from all available data sources and types, to include human intelligence, signals intelligence, geospatial intelligence, measurement and signature intelligence, and open source intelligence.
- E2.2. CI. Defined in Joint Publication 1-02 (Reference (k)).
- E2.3. Defense CI Components. Defined in Reference (b).
- E2.4. Defense Intelligence. Defined in Reference (b).
- E2.5. Defense Intelligence Components. Defined in Reference (b).
- E2.6. Foreign Intelligence. Defined in section 401a(2) of Reference (g).
- E2.7. Intelligence Activities. The collection, analysis, production, and dissemination of foreign intelligence and CI pursuant to References (b) and (c).
- E2.8. National Intelligence. Defined in Reference (b).
- E2.9. Covert Action. Defined in section 413 of Reference (g).
- E2.10. U.S. Person. Defined in Reference (c).

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E1. ENCLOSURE 1

REFERENCES, continued

- (e) Section 188 of Public Law 108-458, "Intelligence Reform and Terrorism Prevention Act of 2004," December 17, 2004
- (f) Executive Order 12863, "President's Foreign Intelligence Advisory Board," September 13, 1993, as amended by Executive Order 13070, December 15, 1997; Executive Order 13301, May 14, 2003; and Executive Order 13376, April 13, 2005
- (g) Chapter 36 and sections 401a(2), 413, and 1541-1548 of title 50, United State Code
- (h) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 11, 1982
- (i) Director of Central Intelligence Directive 8/1, "Intelligence Community Policy on Intelligence Information Sharing," June 4, 2004
- (j) DoD Directive 5148.11, "Assistant to the Secretary of Defense (Intelligence Oversight)," May 21, 2004
- (k) Joint Publication 1-02, "DoD Dictionary of Military and Associated Terms," as amended

**Appendix 9-3: DoDD 5240.1-R – Procedures Governing the Activities of DoD Intelligence Components That Affect U.S. Persons**

See next page.



DoD 5240 1-R

**DEPARTMENT OF DEFENSE**

**PROCEDURES GOVERNING THE  
ACTIVITIES OF  
DOD INTELLIGENCE COMPONENTS  
THAT AFFECT UNITED STATES PERSONS**

**DECEMBER 1982**

**UNDER SECRETARY OF DEFENSE FOR POLICY**



**Appendix 9-4: DoDI 5210.52 – Security Classification of Airborne Sensor Imagery and Imaging Systems**

See next page.

Department of Defense  
INSTRUCTION

NUMBER 5210.52

May 18, 1989

ASD(C3I)

SUBJECT: Security Classification of Airborne Sensor Imagery and Imaging Systems

References: (a) DoD Instruction 5210.52, "Security Classification of Airborne Sensor Imagery," September 26, 1973 (hereby canceled)

(b) DoD 5200.1-R, "Information Security Program Regulation," June 1986, authorized by DoD Directive 5200.1, June 7, 1982

(c) DoD Instruction 5210.51, "Security Classification Concerning Airborne Passive Scanning Infrared Imaging Systems," September 26, 1973 (hereby canceled)

(d) DoD Instruction 5210.57, "Security Classification Concerning Airborne Radar Imaging System," September 26, 1973 (hereby canceled)

(e) through (k), see enclosure E1.

1. REISSUANCE AND PURPOSE

This Instruction:

- 1.1. Reissues reference (a) to implement revisions to reference (b).
- 1.2. Consolidates into one document references (c) and (d).
- 1.3. Updates policy, procedures, and responsibilities.

2. APPLICABILITY AND SCOPE

This Instruction:

- 2.1. Applies to the Office of the Secretary of Defense (OSD), the Military

**Appendix 9-5: SECNAVINST 3820.3E – Oversight of Intelligence Activities within the Department of the Navy**

See next page.



DEPARTMENT OF THE NAVY  
OFFICE OF THE SECRETARY  
1000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-1000

SECNAVINST 3820.3E  
NAVINGEN-N2  
21 September 2005

SECNAV INSTRUCTION 3820.3E

From: Secretary of the Navy

Subj: OVERSIGHT OF INTELLIGENCE ACTIVITIES WITHIN THE DEPARTMENT  
OF THE NAVY (DON)

Ref: (a) Executive Order 12333  
(b) DOD Directive 5240.1 of 25 Apr 88  
(c) DOD Regulation 5240.1-R of Dec 82  
(d) SECNAVINST 5000.34B  
(e) DOD Directive 5148.11  
(f) SECNAVINST 5510.30A  
(g) US Navy Regulations, 1990  
(h) SECNAVINST 5215.1D, Secretary of the Navy Directives  
Policy

Encl: (1) Naval Inspector General Intelligence Oversight  
Inspection Checklist  
(2) Naval Inspector General Intelligence Oversight  
Report Format and Content  
(3) Memorandum of Understanding: Reporting of Information  
Concerning Federal Crimes, August 1995

1. Purpose. To implement policies, procedures, and governing regulations regarding the conduct of intelligence activities, and a system of program reviews, inspections, and reporting requirements of those activities. This instruction has been substantially revised and should be reviewed in its entirety. Highlights of significant changes from previous instruction are as follows:

a. Updated definition of "DON intelligence components," - to include new and reorganized DON intelligence organizations and describe revised responsibilities under this instruction,

b. Further definition of the term "Questionable intelligence activity" and resultant reporting requirements (i.e. Procedure 15 reporting),

c. Inclusion of a sample Intelligence Oversight inspection checklist, which may be used by components or elements as a guideline for administering an effective Intelligence Oversight program, (enclosure (1)), and

d. Inclusion of a standard format for quarterly reports from DON intelligence components to the Office of the Naval Inspector General (NAVINGEN) (enclosure (2)).

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2. Cancellation. SECNAVINST 3820.3D.

3. Background.

a. Intelligence Oversight ensures that all tasks performed by intelligence, counterintelligence, and intelligence related activities are conducted in accordance with Federal law, Executive Orders, DOD directives, regulations and policies.

b. The collection, retention, and dissemination of information concerning U.S. persons and the conduct of intelligence activities by Department of the Navy (DON) intelligence components will be governed by the requirements set forth in references (a) through (c), enclosure (3), and this instruction.

c. The Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)) is responsible for developing Intelligence Oversight policy within the Department of Defense (DOD) consistent with references (a) through (c).

4. Scope and Applicability. This instruction applies to all DON intelligence components and governs all intelligence activities undertaken by personnel assigned to those components. This instruction also applies to non-intelligence personnel, engaged in any intelligence activity (e.g., collection, research, analysis, production, retention, dissemination), as well as all other DON components and personnel when that component conducts intelligence and/or intelligence-related activities. This instruction does not apply to law enforcement activities carried out by DON law enforcement agencies that also have an intelligence mission. It does not constitute authority for any DON intelligence component to conduct an activity not otherwise authorized by law. Questions of interpretation pertaining to references (a), (b), (c) or this instruction should be referred to the legal office responsible for advising the component concerned. If such questions are not resolved at that level, they should be taken up that component's legal chain of command for resolution and, if necessary, to the General Counsel of the Navy or to the Judge Advocate General, depending on which office would otherwise have cognizance over the issue. Alternatively, such questions may also be referred to the Office of the Naval Inspector General (NAVINSGEN), who may refer this matter to the General Counsel of the Navy (GC), the Judge Advocate General (JAG), or the General Counsel of the Department of Defense (DODGC) for resolution, as appropriate. If a question is referred to the component's legal chain of command for resolution, that office shall keep NAVINSGEN informed of the status of the review, and any conclusions reached or advice rendered in connection with such question(s). Likewise, if a

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question is referred to NAVINSGEN for resolution, that office shall keep the component's cognizant legal office informed of the status of the review, and any conclusions reached or advice rendered in connection with such question(s). Requests for exceptions or amendments to the policies or procedures issued by this instruction should be referred to NAVINSGEN.

### 5. Conduct of Intelligence Activities.

a. DON intelligence components and personnel shall carry out their authorized missions and functions per the policies and procedures contained in references (a), (b), (c), and this instruction. Moreover, they shall carry out their authorized functions in a manner that does not violate the constitutional rights and privacy of U.S. persons, and shall not request any other person or entity to undertake unauthorized activities. Use of the techniques prescribed by reference (c) to collect information about U.S. persons shall be accomplished by the least intrusive means practicable.

b. DON personnel shall not conduct, or provide support for the conduct of, special activities without proper authorization, and will comply with the reporting requirements of higher authority. Reference (d) provides guidance for the conduct and oversight of intelligence, intelligence-related, special, and sensitive activities within the DON.

c. Under no circumstances shall any DON personnel condone, support, encourage, engage in, or conspire to engage in the assassination of a specific individual or individuals.

### 6. Action.

a. NAVINSGEN shall submit to ATSD(IO), with a copy each to JAG, CNO (N2) GC, and UNSECNAV, a quarterly Intelligence Oversight report for the Department of the Navy describing:

(1) Any intelligence or counterintelligence activity that has come to the attention of NAVINSGEN during the quarter reasonably believed to be illegal, improper, or contrary to references (a), (b), (c), this instruction, or other applicable directives, and policies. The report may also include any corrective action taken, as appropriate.

(2) Any significant Intelligence Oversight activities undertaken during the quarter (i.e., inspections, training, published documents).

(3) Any recommendations for improvement to existing Intelligence Oversight regulations and the subject program.

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(4) Status of any outstanding reports of confirmed or suspected questionable intelligence activity.

b. DON intelligence components, less USMC intelligence components, shall submit to NAVINSGEN a quarterly Intelligence Oversight report for their respective component (and claimancy) covering the information identified in paragraph 6.a. above. USMC elements shall submit to DNIGMC a quarterly Intelligence Oversight report similarly covering the information identified in paragraph 6.a. above. DNIGMC shall then submit a consolidated report to NAVINSGEN on behalf of all USMC elements.

(1) The format for DON intelligence component and DNIGMC quarterly Intelligence Oversight reports is provided in enclosure (2).

(2) Significant instances of fraud, waste, abuse, standards of conduct or ethics violations (less that described above), financial misconduct, or conflicts of interest that affect intelligence operations do not need to be included in the quarterly Intelligence Oversight reports. However, they shall be reported to NAVINSGEN, as appropriate, via a separate report, e-mail, or Hotline action.

c. Commanding Generals and Inspectors General of Fleet Marine Forces will comply with the above reporting requirements and submit their quarterly Intelligence Oversight report to DNIGMC, as directed.

d. Quarterly Intelligence Oversight reporting periods and report due dates are identified as follows:

<u>QUARTER</u>	<u>REPORT DUE TO NAVINSGEN</u>
First Quarter (JAN/FEB/MAR)	15 APR
Second Quarter (APR/MAY/JUN)	15 JUL
Third Quarter (JUL/AUG/SEP)	15 OCT
Fourth Quarter (OCT/NOV/DEC)	15 JAN

7. Definitions. The following terms are used throughout this instruction.

a. DON intelligence components include:

- (1) The Office of the Director of Naval Intelligence (CNO (N2)),
- (2) The Office of Naval Intelligence (ONI),
- (3) Naval Security Group Command (NAVSECGRU),

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(4) Naval Criminal Investigative Service (NCIS) (specifically those select elements of NCIS conducting counterintelligence activities),

(5) Marine Corps intelligence components,

(6) Naval Reserve Intelligence Program (CNRIC),

(7) Naval Security Group Command Reserve (CNSGR),

(8) Other DON organizations, staffs, and offices, when used for foreign intelligence or counterintelligence activities, including command and subordinate intelligence staffs, activities, units, and elements of Commander, Fleet Forces Command (COMFLTFORCOM); Commander U.S. Pacific Fleet (COMPACFLT); Commander, U.S. Naval Forces Central Command (COMUSNAVCENT); Commander, U.S. Naval Forces Southern Command (COMUSNAVSO); Commander, U.S. Naval Forces Europe/Commander, U.S. Sixth Fleet (COMUSNAVEUR/COMSIXTHFLT); Commander, Naval Reserve Force (COMNAVRESFOR); Commander, Naval Special Warfare Command (COMNAVSPECWAR); and Echelon 2, 3, 4, 5, and 6 commands that do not report operationally or administratively for Intelligence Oversight reporting and inspection purposes to any of the other DON intelligence components defined in subparagraph 7a(1) through 7a(8). The heads of such organizations, staffs, and offices listed in this subparagraph shall not be considered heads of DOD intelligence components for the purposes of approving intelligence collection activities authorized by references (c) and (d).

b. Marine Corps Intelligence components, for purposes of Intelligence Oversight, include the Office of the Director of Intelligence, Headquarters U.S. Marine Corps (HQMC-I), Marine Corps Intelligence Activity (MCIA), Marine Corps intelligence units, G-2/S-2 staffs, intelligence battalions, radio battalions, reconnaissance battalions/companies, scout sniper platoons, unmanned aerial vehicle squadrons, and Marine Corps reserve counterparts.

c. Intelligence activity is the collection, production and dissemination of foreign intelligence and counterintelligence by DON intelligence components.

d. Intelligence-related activities are activities normally considered to be linked directly or indirectly to the intelligence field.

e. Questionable intelligence activity is intelligence that may violate Federal law, an Executive Order (such as EO 12333), a Presidential Directive, DON policies, or this instruction.



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Examples of questionable intelligence activity include, but are not limited to, the following:

(1) Tasking intelligence personnel to conduct intelligence activities that are not part of the organization's approved mission, even if they have the technical capability to do so.

(2) Providing intelligence services and/or products without proper authorization.

(3) Failing to file proper use statement for imagery collection associated with U.S. persons.

(4) Collecting information on U.S. persons, even through open source, when it is not part of the unit's mission.

f. Special activities as defined by reference (a) are activities conducted in support of national foreign policy objectives abroad which are planned and executed so the role of the U.S. Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence U.S. political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

g. Other terms used in this instruction are defined in references (b) through (d).

8. Violations. This instruction at paragraphs 5.b. and 5.c., reference (a) at parts 2.3, 2.4, and 2.9 through 2.12, and reference (c) at chapters 1 through 15 constitute and shall apply as general regulatory orders. They apply to all eligible DON personnel individually and need no further implementation. A violation of those provisions is punishable under the Uniform Code of Military Justice for military personnel and may be the basis for appropriate administrative disciplinary procedures with respect to civilian employees.

### 9. Intelligence Oversight Responsibilities.

a. The Chief of Naval Operations (CNO), the Commandant of the Marine Corps (CMC), and the General Counsel of the Navy for NCIS shall:

(1) Implement the policies and procedures contained in references (a), (b), (c), and this instruction.

(2) Ensure the Under Secretary of the Navy (UNSECNAV),

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GC, JAG, NAVINSGEN, and the Senior Review Board (SRB), are kept fully and currently informed of significant and/or sensitive DON intelligence activities, questionable intelligence activities, and intelligence-related activities using any DON non-intelligence component assets, including personnel and equipment. In those instances where DON intelligence components support National Security Agency (NSA) activities, those activities need not be reported under the provisions of this subparagraph when they are subject to the current Intelligence Oversight activities of NSA. Nothing in this subparagraph is intended to exempt DON intelligence activities from complying with any separate non-Intelligence Oversight related, reporting requirement.

(3) Ensure NAVINSGEN is notified each time any Navy or Marine Corps organization, staff, or office not specifically identified as a DON intelligence component in paragraphs 7.a. and 7.b. of this instruction is tasked to collect, retain, or disseminate information for intelligence or counterintelligence purposes.

b. Heads of DON intelligence components and elements thereof, as appropriate, shall:

(1) Ensure that all subordinate intelligence components, activities, units, and elements in or under their command comply with the requirements of references (a), (b), (c), and this instruction.

(2) Report to NAVINSGEN within 48 hours confirmed or suspected questionable intelligence activities conducted by or on behalf of their respective component (reference (c), chapter 15, germane).

(3) Report to NCIS any possible federal crimes by employees of DON intelligence organizations, or violations of specified federal criminal laws by any other person when collected as part of intelligence activities as required in enclosure (3).

(4) Ensure that all intelligence activities, in whole or in part, which raise issues of legality, consistency with applicable policy, or propriety in general are submitted for legal review prior to implementation or as soon as identified. Navy and Marine Corps command or staff judge advocates or Office of the General Counsel attorneys of the component concerned, who possess the requisite security clearances, shall participate actively in the operational planning and review of intelligence activities. Activities or legal issues of significance should be referred to the legal office responsible for advising the component concerned. If such issues are not resolved at that

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level, they should be taken up that component's legal chain of command for resolution and, if necessary, to the General Counsel of the Navy or to the Judge Advocate General, depending on which office would otherwise have cognizance over the issue. Alternatively, such issues may also be referred for review to NAVINSGEN, who may refer the matter to and confer with the GC, JAG, or DODGC, as appropriate. Marine Corps issues shall be referred via the Counsel for the Commandant, Staff Judge Advocate to the Commandant, and Deputy Naval Inspector General for Marine Corps Matters (DNIGMC), as appropriate. If an issue or question is referred to the component's legal chain of command for resolution, that office shall keep NAVINSGEN informed of the status of the review, and any conclusions reached or advice rendered in connection with such issue(s) or question(s). Likewise, if an issue or question is referred to NAVINSGEN for resolution, that office shall keep the component's cognizant legal office informed of the status of the review, and any conclusions reached or advice rendered in connection with such issue(s) or question(s).

(5) Ensure Intelligence Oversight refresher training of all staff and subordinate DON personnel is conducted and documented on an annual basis. Intelligence components are not required to train personnel who are not involved in the intelligence mission of the command (e.g., Morale, Welfare, and Recreation employees, groundskeepers, etc.). At a minimum, annual refresher training shall familiarize employees with the provisions of references (a), (b), (c), and this instruction that apply to the operations and activities of their component, and of their responsibilities under this instruction to report suspected or confirmed questionable intelligence activities.

(6) Ensure that no adverse or retaliatory action is taken against any personnel who reports confirmed or suspected questionable intelligence activities under this instruction.

(7) Ensure that employees and contractors assigned to a DON intelligence component and who are aware of the intelligence mission of the component, shall:

(a) Familiarize themselves with the policies and procedures required by this instruction and references (a), (b), and (c).

(b) Report suspected or confirmed questionable intelligence activities to the Inspector General of the command or intelligence component concerned, NAVINSGEN, GC, JAG, DNIGMC, Staff Judge Advocate to the Commandant, Counsel for the Commandant (for Marine Corps matters), DODGC, or ATSD(IO), as appropriate. If it is not practical to report through the chain

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of command, an employee may report questionable intelligence activity directly to the office of the NAVINSGEN.

(8) Impose such sanctions as may be appropriate on any employee who violates the provisions of references (a), (b), (c), and this instruction.

(9) Ensure NAVINSGEN, GC, JAG, DNIGMC, Counsel for the Commandant, Staff Judge Advocate to the Commandant (for Marine Corps Matters), DODGC, and ATSD(IO), as appropriate and after proper security clearance is verified, have access to all information concerning intelligence activities in the conduct of Intelligence Oversight responsibilities, and that employees of their components cooperate fully with such officials.

(10) Provide to NAVINSGEN annually, no later than (NLT) 15 September, an updated list of all intelligence component activities, units and elements in or under their command. The list shall include the full address for each command/activity/unit/element, as well as the date of the most recent Intelligence Oversight inspection by the lead echelon. A summary of modifications identifying any commands/activities/units/elements to be added or deleted (compared to previous year's list) shall also be included along with a brief justification for the change(s). Marine Corps Intelligence components will provide their input to DNIGMC.

(11) Provide to NAVINSGEN annually, (NLT) 15 September, a schedule of Intelligence Oversight inspections to be conducted during the upcoming fiscal year for all components, activities, units, and elements under their command.

(12) Conduct Intelligence Oversight inspections on all subordinate shore intelligence components, activities, units, and elements in or under their command at an interval of no greater than once every 36 months, with appropriate follow-up/"spot checks" or assistance between inspections as deemed necessary.

(13) Provide a quarterly Intelligence Oversight report to NAVINSGEN as directed in paragraph 6. DNIGMC will consolidate report inputs from Marine Corps intelligence components and provide a single Marine Corps quarterly Intelligence Oversight report input to NAVINSGEN for incorporation into subsequent reporting to ATSD(IO).

(14) Intelligence oversight inspections are not required for afloat activities (e.g. squadrons, ships, and submarines). Nonetheless, Commanding Officers remain accountable for annual Intelligence Oversight training, reporting of that training to appropriate higher authority (identified subparagraph 7.a).

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above), and active enforcement of intelligence oversight matters. As well, should an Intelligence Oversight infraction or a suspected questionable activity occur while afloat, it must be reported to higher authority.

c. NAVINSGEN shall be responsible for:

(1) Inspecting DON intelligence components to ensure compliance with references (a), (b), (c), and this instruction. Of note, although COMSIXTHFLT would normally be exempt, subject merger of duties and responsibilities with COMUSNAVEUR staff mandate that the combined staff is fully accountable for all Intelligence Oversight program requirements, including periodic inspection. (Enclosure (1) will be used by NAVINSGEN as a baseline checklist during inspection of component Intelligence Oversight programs.)

(2) Investigating reports of confirmed or suspected questionable intelligence activities. Suspected criminal activities will be referred to NCIS for investigation.

(3) Investigating any alleged failures of DON intelligence components to report confirmed or suspected questionable intelligence activities. In the event that questionable intelligence activities are conducted by, or on behalf of, a DON intelligence component but not reported, NAVINSGEN will recommend appropriate corrective action.

(4) Ensuring procedures exist within all DON intelligence components for the reporting of questionable intelligence activities, and for documenting that employees of DON intelligence components are familiar with the provisions of references (a), (b), and (c), and are aware of their responsibilities to report questionable intelligence activities.

(5) Referring reports of confirmed or suspected questionable intelligence activities to the GC, or JAG, as appropriate, to determine whether the activity is legal and consistent with applicable policy.

(6) Immediately reporting to the DODGC and ATSD(IO) questionable intelligence activities of a serious nature.

(7) Carrying out other Intelligence Oversight responsibilities set forth in references (a) through (e), and this instruction.

d. The Deputy Naval Inspector General for Marine Corps Matters (DNIGMC) shall be responsible for carrying out the functions outlined in subparagraph 9.c., with respect to Marine

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Corps intelligence component activities, units, and elements and report subject results to NAVINSGEN.

e. The General Counsel of the Navy, in coordination with the Judge Advocate General, shall be responsible for:

(1) Determining whether activities, as defined in paragraph 7 of this instruction, conducted by DON intelligence components, are in compliance with applicable law and regulations.

(2) Referring reports of suspected or confirmed questionable intelligence activities conducted by or on behalf of DON intelligence components to NAVINSGEN for investigation.

(3) Carrying out any applicable responsibilities as set forth in references (a) through (c) and enclosure (3).

10. Reports. Reports required by this instruction are exempt from reports control per SECNAVINST 5214.2B.

11. Authority. References (g) and (h) authorize the Naval Inspector General to issue this instruction and publish changes to it.



R. A. ROUTE  
Vice Admiral, U.S. Navy  
Naval Inspector General

Distribution:  
Electronic only, via Navy Directives Website at  
<http://ned.s.daps.dla.mil//>

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## Naval Inspector General Intelligence Oversight Inspection Checklist

ACTIVITY/DETACHMENT: \_\_\_\_\_

POINT(S) OF CONTACT: \_\_\_\_\_

TODAY'S DATE: \_\_\_\_\_

INSPECTOR(S):

**Definition of terms:** For purposes of this checklist, the term Executive Order 12333 compliance shall include compliance/ noncompliance with, or violations of, Executive Order 12333 and DOD Regulation 5240.1-R of December 1982 (NOTAL) as well as unauthorized intelligence missions and functions.

### 1. Intelligence Oversight Policy

a. Does the Commanding Officer, Executive Officer, Officer in Charge and Senior Intelligence Officer receive annual training on Executive Order 12333 and its DOD and Navy implementing directives/regulations/instructions?

b. Describe the command's Intelligence Oversight program.

c. What are the training, inspection, and reporting mechanisms?

d. Have any violations occurred? If so, when and how reported? What corrective actions were taken?

e. What is the impact of Intelligence Oversight restrictions on the command's mission?

f. Is the official responsible for administering the command's Intelligence Oversight program designated by command instruction (Intelligence Oversight instruction, Standards Operations Regulations Manual, collateral duty list) or designation letter?

g. Does this official have access to all the intelligence collection, retention (databases, files), and dissemination programs within the command for oversight purposes?

h. If not, what mechanism is in place to ensure compliance with Executive Order 12333?

Enclosure (1)

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i. Who certifies compliance with Executive Order 12333 for all command programs? How is compliance for all programs certified to this official?

**NOTE: Reports will be sent/forwarded to Echelon 2 if inspecting Echelon 3 or below. Is the quarterly report to NAVINSGEN signed by direction? Who signs? What is the command relationship to the official who certifies compliance?**

j. Has the command received any tasking from higher authority that could actually or potentially (or perceived to be) contrary to intelligence restrictions? How was it handled? What was the outcome? How was it documented?

### 2. Training and Compliance Elements

a. Does the command hold SECNAVINST 3820.3E? DOD Directive 5240.1? DOD Regulation 5240.1-R? Executive Order 12333?

b. Does the command have its own instruction on Intelligence Oversight?

c. Does the command instruction or directive designate the official responsible for conducting/coordinating Intelligence Oversight training?

d. Does the command have NAVINSGEN-N2 (or the appropriate Echelon 2) POC's phone numbers, e-mail addresses and Internet home page address (as applicable)? Do they have the Navy Hotline number? DODIG phone number? ATSD(IO) phone number?

e. How is required annual training conducted and documented? (Review training records for the last 3 years)

f. How does the command review its programs for compliance with Executive Order 12333? How are the results documented? How frequently are programs reviewed?

g. Are contracting activities reviewed for Executive Order 12333 compliance?

h. Are espionage cases reported to NAVINSGEN quarterly per SECNAVINST 3820.3E?

i. Are significant instances of fraud, waste, abuse, standards of conduct or ethics violations, financial misconduct, or conflicts of interest that impact upon intelligence operations reported to senior echelon or NAVINSGEN quarterly (per SECNAVINST 3820.3E)?



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j. What databases does the command have access to that contain information on U.S. persons? How is compliance with Executive Order 12333 ensured? Are there directives or SOPs for preventing Executive Order 12333 violations when accessing these databases?

k. What is the reporting procedure for personnel to report questionable activities?

l. Is the proper channel for reporting Executive Order 12333 violations well publicized within the Command?

**NOTE: Are Plan of the Day notes run periodically? Are notices posted on bulletin boards? Are the Executive Officer, Command Master Chief, military Division Officers, and senior civilians conversant with the procedures for reporting Executive Order 12333 violations?**

m. Are there any command personnel assigned independent duty or serving in outlying areas? If so, how is Intelligence Oversight training administered? How is Executive Order 12333 compliance monitored and documented?

n. How do personnel receive Intelligence Oversight training when they report aboard? Is it part of the check-in process?

o. How does the command ensure subcomponents are inspected per the timelines established in SECNAVINST 3820.3E? Is an oversight inspection schedule submitted to NAVINSGEN each September per SECNAVINST 3820.3E? Are inspection records current?

### 3. Potential Problem Areas

- a. Are there any indications of:
1. Potential oversight violations?
  2. Standards of Conduct problems?
  3. Fraud/waste/abuse
  4. Financial misconduct?
  5. Conflict of interest?
  6. Espionage?
  7. Violation of law, directives, policy, or procedures?

- b. Have any of the following special collection techniques been used by the command:
1. Concealed monitoring?
  2. Physical searches?
  3. Searches and examinations of mail?
  4. Physical surveillance?

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5. Undisclosed participation in organizations to gain intelligence information?

#### 4. Personnel and Records Review

- a. Visit operating spaces and randomly question personnel to evaluate their knowledge of intelligence activities.

- b. Examine intelligence files for compliance with collection and retention criteria.

- c. Is the annual training required by SECNAVINST 3820.3E reported in a timely manner by subordinate commands? How are they monitored by the Echelon 2 command?

5. Command Feedback. Does the command have any recommendations for improving the Intelligence Oversight process?

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21 September 2005

Naval Inspector General  
Intelligence Oversight Report (Format and Content)

3820  
Ser/

From: Reporting Command  
To: Naval Inspector General (ATTN: N2)  
Subj: QUARTERLY INTELLIGENCE OVERSIGHT REPORT FOR \_\_ QUARTER/  
FISCAL YEAR \_\_  
(e.g. QUARTERLY INTELLIGENCE OVERSIGHT REPORT FOR  
4<sup>RD</sup> QUARTER/FISCAL YEAR 2005)  
Ref: (a) SECNAVINST 3820.3E

1. Per reference (a), the following report is provided.
2. (In paragraph 2, identify any subordinate commands that were inspected during the quarter in the following format.)

*e.g. The following Intelligence Oversight inspections were conducted during this quarter:*

<u>COMMAND</u>	<u>INSPECTION DATE</u>
Command Alfa	12 AUG 05
Command Bravo Det One	15 AUG 05

3. (In paragraph 3, discuss any significant Intelligence Oversight program-related activities that occurred during this quarter - e.g. training initiatives, awareness, indoctrination, familiarization, published documents, new instructions or policy.)
4. (In paragraph 4, identify/discuss any recommendations (if any) as to how the Intelligence Oversight system or overall program may be improved.)
5. (In paragraph 5, provide a statement describing those activities (if any) that have come to the attention of the command during subject quarter, which are reasonably believed to be illegal or contrary to Executive Order or Presidential directive, or applicable DOD policy. Be sure to include an explanation of all action(s) taken at all levels, as applicable, with respect to such activities.)

Enclosure (2)

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6. (In paragraph 6, provide a statement describing the status of any earlier (outstanding) reports of confirmed or suspected questionable intelligence activity that have already been reported during a previous quarter.)

7. (In paragraph 7, identify your command Intelligence Oversight point of contact - to include command representative/name, phone number, fax number and e-mail address, if available.)

Y.R. SIGNATURE

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MEMORANDUM OF UNDERSTANDING:  
REPORTING OF INFORMATION CONCERNING FEDERAL CRIMES

**I. Introduction**

Section 1.7(a) of Executive Order (E.O.) 12333 requires senior officials of the Intelligence Community to -

report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures.

Title 28, United States Code, Section 535(b) requires that

[a]ny information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless -

(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

This Memorandum of Understanding (MOU) sets forth the procedures by which each agency and organization within the Intelligence Community shall report to the Attorney General and to federal investigative agencies information concerning possible federal crimes by employees of an intelligence agency or organization, or violations of specified federal criminal laws by any other person, which information was collected by it during the performance of its designated intelligence activities, as those activities are defined in E.O. 12333, §§ 1.8-1.13.

**II. Definitions**

A. "Agency," as that term is used herein, refers to those agencies and organizations within the Intelligence Community as defined in E.O. 12333, § 3.4(f), but excluding the intelligence elements of the Federal Bureau of Investigation and the Department of the Treasury.

B. "Employee," as that term is used herein, means:

1. a staff employee, contract employee, asset, or other person or entity providing service to or acting on behalf of any agency within the intelligence community;
2. a former officer or employee of any agency within the

Enclosure (3)

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intelligence community for purposes of an offense committed during such person's employment, and for purposes of an offense involving a violation of 18 U.S.C. § 207 (Conflict of interest); and

3. any other Government employee on detail to the Agency.

- C. "General Counsel" means the general counsel of the Agency or of the Department of which it is a component or an oversight person designated by such person to act on his/her behalf, and for purposes of these procedures may include an Inspector General or equivalent official if agency or departmental procedures so require or if designated by the agency or department head.
- D. "Inspector General" or "IG" means the inspector general of the Agency or of the department of which the Agency is a component.
- E. "Reasonable basis" exists when there are facts and circumstances, either personally known or of which knowledge is acquired from a source believed to be reasonably trustworthy, that would cause a person of reasonable caution to believe that a crime has been, is being, or will be committed. The question of which federal law enforcement or judicial entity has jurisdiction over the alleged criminal acts shall have no bearing upon the issue of whether a reasonable basis exists.

### III. Scope

- A. This MOU shall not be construed to authorize or require the Agency, or any person or entity acting on behalf of the Agency, to conduct any investigation not otherwise authorized by law, or to collect any information in a manner not authorized by law.
- B. This MOU ordinarily does not require an intelligence agency or organization to report crimes information that was collected and disseminated to it by another department, agency, or organization. Where, however, the receiving agency is the primary or sole recipient of that information, or if analysis by the receiving agency reveals additional crimes information, the receiving agency shall be responsible for reporting all such crimes information in accordance with the provisions of this MOU.
- C. This MOU does not in any way alter or supersede the obligation of an employee of an intelligence agency to report potential criminal behavior by other employees of that agency to an IG, as required either by statute or by agency regulations, nor affect any protections afforded any persons reporting such behavior to an IG. Nor does this MOU affect any crimes reporting procedures between the IG Offices and the Department of Justice.
- D. This MOU does not in any way alter or supersede any obligation of a department or agency to report to the Attorney General criminal behavior by Government employees not employed by the intelligence community, as required by 28 USC §535.

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- E. This MOU does not affect the obligation to report to the Federal Bureau of Investigation alleged or suspected espionage activities as required under Section 811(c) of the Intelligence Authorization Act of 1995.
- F. The following crimes information is exempted from the application of this memorandum if the specified conditions are met:
1. Crimes information that has been reported to an IG;<sup>1</sup>
  2. Crimes information received by a Department of Defense intelligence component concerning a Defense intelligence component employee who either is subject to the Uniform Code of Military Justice or is a civilian and has been accused of criminal behavior related to his/her assigned duties or position, if (a) the information is submitted to and investigated by the appropriate Defense Criminal Investigative Organization, and (b) in cases involving crimes committed during the performance of intelligence activities, the General Counsel provides to the Department of Justice a report reflecting the nature of the charges and the disposition thereof;
  3. Information regarding non-employee crimes listed in Section VII that is collected by the intelligence component of a Department also having within it a law enforcement organization where (a) the crime is of the type that the Department's law enforcement organization has jurisdiction to investigate; and (b) the Department's intelligence organization submits that crimes information to the Department's law enforcement organization for investigation and further handling in accordance with Department policies and procedures.<sup>2</sup>
  4. Crimes information regarding persons who are not employees of the Agency, as those terms are defined in Section II, that involve crimes against property in an amount of \$1,000 or less, or, in the case of Agency employees, crimes against property in an amount of \$500 or less. As to other relatively minor offenses to which this MOU would ordinarily apply, but which, in the General Counsel's opinion, do not warrant reporting pursuant to this MOU, the General Counsel may

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<sup>1</sup> If, however, the IG determines that the reported information is not properly subject to that office's jurisdiction, but that such information may be reportable pursuant to this MOU, the IG may forward the information to the DOJ in compliance with these procedures. Alternatively, the IG may transmit the information to the Agency's General Counsel for a determination of what response, if any, is required by this MOU.

<sup>2</sup> This MOU does not affect the crimes reporting obligations of any law enforcement and other non-intelligence components of a department, agency, or organization.

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orally contact the Assistant Attorney General, Criminal Division, or his/her designee. If the Department of Justice concurs with that opinion, no further reporting under these procedures is required. The General Counsel shall maintain an appropriate record of such contacts with the Department. If deemed appropriate by the General Counsel, he/she may take necessary steps to pass such information to the appropriate law enforcement authorities; or

5. Information, other than that relating to homicide or espionage, regarding crimes that were completed more than ten years prior to the date such allegations became known to the Agency. If, however, the Agency has a reasonable basis to believe that the alleged criminal activities occurring ten or more years previously relate to, or are a part of, a pattern of criminal activities that continued within that ten year interval, the reporting procedures herein will apply to those activities.
- F. The procedures set forth herein are not intended to affect whether an intelligence agency reports to state or local authorities activity that appears to constitute a crime under state law. In the event that an intelligence agency considers it appropriate to report to state or local authorities possible criminal activity that may implicate classified information or intelligence sources or methods, it should inform the AAG, or the designated Deputy AAG, Criminal Division, in accordance with paragraph VIII.C, below; the Criminal Division will consult with the intelligence agency regarding appropriate methods for conveying the information to state or local authorities. In the event that an intelligence agency considers it appropriate to report to state or local authorities possible criminal activity that is not expected to implicate classified information or intelligence sources or methods, it should nevertheless provide a copy of such report to the AAG, or to the designated Deputy AAG, Criminal Division.

IV. General Considerations: Allegations of Criminal Acts Committed By Agency Employees

- A. This Agreement requires each employee of the Agency to report to the General Counsel or IG facts or circumstances that reasonably indicate to the employee that an employee of an intelligence agency has committed, is committing, or will commit a violation of federal criminal law.<sup>3</sup>

<sup>3</sup> When a General Counsel or IG has received information concerning alleged violations of federal law by an employee of another intelligence community agency, and those violations are not exempted under section III.E.4, hereof, the General Counsel shall notify in writing the General Counsel of the accused employee's agency. The latter General Counsel must then determine whether this MOU requires the allegations to be reported to the Department of Justice.



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- B. Except as exempted in Section III, when the General Counsel has received allegations, complaints or information (hereinafter allegations) that an employee of the Agency may have violated, may be violating, or may violate a federal criminal statute, that General Counsel should within a reasonable period of time determine whether there is a reasonable basis to believe that a federal crime has been, is being, or will be committed and that it is a crime which, under this memorandum, must be reported. The General Counsel may, as set forth in Section V, below, conduct a preliminary inquiry for this purpose. If a preliminary inquiry reveals that there is a reasonable basis for the allegations, the General Counsel will follow the reporting procedures set forth in Section VIII, below. If a preliminary inquiry reveals that the allegations are without a reasonable basis, the General Counsel will make a record, as appropriate, of that finding and no reporting under these procedures is required.
- V. Preliminary Inquiry Into Allegations Against an Agency Employee
- A. The General Counsel's preliminary inquiry regarding allegations against an Agency employee will ordinarily be limited to the following:
1. review of materials submitted in support of the allegations;
  2. review of Agency indices, records, documents, and files;
  3. examination of premises occupied by the Agency;
  4. examination of publicly available federal, state, and local government records and other publicly available records and information;
  5. interview of the complainant; and
  6. interview of any Agency employee, other than the accused, who, in the opinion of the General Counsel, may be able to corroborate or refute the allegations.
- B. Where criminal allegations against an Agency employee are subject to this MOU, an interview of that employee may only be undertaken in compliance with the following conditions:
1. Where the crime alleged against an Agency employee does not pertain to a serious felony offense,<sup>4</sup> a responsible Agency

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<sup>4</sup> A "serious felony offense" includes any offense listed in Section VII, hereof, violent crimes, and other offenses which, if committed in the presence of a reasonably prudent and law-abiding person, would cause that person immediately to report that conduct directly to the police. For purposes of this MOU, crimes against government property that do not exceed \$5,000 and are not part of a pattern of continuing behavior or of a criminal conspiracy shall not be considered serious felony offenses.

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official may interview the accused employee; however, such interview shall only be conducted with the approval of the General Counsel, the IG, or, as to Defense and military employees, the responsible military Judge Advocate General or the responsible Defense Criminal Investigative Organization.

2. Where the crime alleged against an Agency employee is a serious felony offense, the Agency shall ordinarily not interview the accused employee, except where, in the opinion of the General Counsel, there are exigent circumstances<sup>5</sup> which require that the employee be interviewed. If such exigent circumstances exist, the General Counsel or other attorney in the General Counsel's office may interview the accused employee to the extent reasonably necessary to eliminate or substantially reduce the exigency.
3. In all other cases of alleged serious felonies, the General Counsel, or the General Counsel's designee, may interview the accused employee only after consultation with the Agency's IG, a Defense Criminal Investigative Organization (for Defense and military employees), or with the Department of Justice regarding the procedures to be used during an interview with the accused employee.

Any interview of an accused employee that is undertaken shall be conducted in a manner that does not cause the loss, concealment, destruction, damage or alteration of evidence of the alleged crime, nor result in the immunization of any statements made by the accused employee during that interview. The Agency shall not otherwise be limited by this MOU either as to the techniques it is otherwise authorized to use, or as to its responsibility to provide for its security functions pursuant to E.O. 12333.

VI. General Considerations: Allegations Of Criminal Acts Committed By Non-Employees

- A. This MOU requires each employee of the Agency to report, to the General Counsel or as otherwise directed by the Department or Agency head, facts or circumstances that reasonably indicate to the employee that a non-employee has committed, is committing, or will commit one or more of the specified crimes in Section VII, below.
- B. When an Agency has received information concerning alleged violations of federal law by a person other than an employee of an intelligence agency, and has determined that the reported information provides a reasonable basis to conclude that a violation of one of the specified crimes in Section VII has occurred, is

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<sup>5</sup> "Exigent circumstances" are circumstances requiring prompt action by the Agency in order to protect life or substantial property interests; to apprehend or identify a fleeing offender; or to prevent the compromise, loss, concealment, destruction, or alteration of evidence of a crime.

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occurring, or may occur, the Agency shall report that information to the Department of Justice in accordance with Sections VIII or IX, below.

VII. Reportable Offenses by Non-Employees

- A. Unless exempted under Section III, above, allegations concerning criminal activities by non-employees are reportable if they pertain to one or more of the following specified violations of federal criminal law:
1. Crimes involving intentional infliction or threat of death or serious physical harm. These include but are not limited to homicide, kidnapping, hostage taking, assault (including sexual assault), or threats or attempts to commit such offenses, against any person in the United States or a U.S. national or internationally protected person (as defined in 18 U.S.C. § 1116(b)(4)), whether in the United States or abroad.
  2. Crimes, including acts of terrorism, that are likely to affect the national security, defense or foreign relations of the United States. These may include but are not limited to:
    - a. Espionage; sabotage; unauthorized disclosure of classified information; seditious conspiracies to overthrow the government of the United States; fund transfers violating the International Emergency Economic Powers Act; providing material or financial support to terrorists; unauthorized traffic in controlled munitions or technology; or unauthorized traffic in, use of, or contamination by nuclear materials, chemical or biological weapons, or chemical or biological agents; whether in the United States or abroad;
    - b. Fraudulent entry of persons into the United States, the violation of immigration restrictions or the failure to register as a foreign agent or an intelligence trained agent;
    - c. Offenses involving interference with foreign governments or interference with the foreign policy of the United States whether occurring in the United States or abroad;
    - d. Acts of terrorism anywhere in the world which target the U. S. government or its property, U.S. persons, or any property in the United States, or in which the perpetrator is a U.S. person; aircraft hijacking; attacks on aircraft or international aviation facilities; or maritime piracy;
    - e. The unauthorized transportation or use of firearms or explosives in interstate or foreign commerce.
  3. Crimes involving foreign interference with the integrity of U.S. governmental institutions or processes. Such crimes may include:

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- a. Activities to defraud the U.S. government or any federally protected financial institution, whether occurring in the United States or abroad;
  - b. Obstruction of justice or bribery of U.S. officials or witnesses in U.S. proceedings, whether occurring in the United States or abroad;
  - c. Interference with U.S. election proceedings or illegal contributions by foreign persons to U.S. candidates or election committees;
  - d. Perjury in connection with U.S. proceedings, or false statements made in connection with formal reports or applications to the U.S. government, or in connection with a formal criminal or administrative investigation, whether committed in the United States or abroad;
  - e. Counterfeiting U.S. obligations or any other governmental currency, security or identification documents used in the United States, whether committed in the United States or abroad; transactions involving stolen governmental securities or identification documents or stolen or counterfeit non-governmental securities.
4. Crimes related to unauthorized electronic surveillance in the United States or to tampering with, or unauthorized access to, computer systems.
  5. Violations of U.S. drug laws including: the cultivation, production, transportation, importation, sale, or possession (other than possession of user quantities) of controlled substances; the production, transportation, importation, and sale of precursor or essential chemicals.
  6. The transmittal, investment and/or laundering of the proceeds of any of the unlawful activities listed in this Section, whether committed in the United States or abroad.
- B. Any conspiracy or attempt to commit a crime reportable under this section shall be reported if the conspiracy or attempt itself meets the applicable reporting criteria.
- C. The Attorney General also encourages the Agency to notify the Department of Justice when the Agency's otherwise routine collection of intelligence in accordance with its authorities results in its acquisition of information about the commission of other serious felony offenses by non-employees, e.g., violations of U.S. environmental laws relating to ocean and inland water discharging or dumping, drinking water contamination, or hazardous waste disposal, and crimes involving interference with the integrity of U.S. governmental institutions or processes that would not otherwise be reportable under Section VII.A.3.

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**VIII. Procedures for Submitting Special Crimes Reports**

- A. Where the Agency determines that a matter must be the subject of a special report to the Department of Justice, it may, consistent with paragraphs VIII.B and VIII.C, below, make such a report (1) by letter or other, similar communication from the General Counsel, or (2) by electronic or courier dissemination of information from operational or analytic units, provided that in all cases, the subject line and the text of such communication or dissemination clearly reflects that it is a report of possible criminal activity. The Department of Justice shall maintain a record of all special crimes reports received from the Agency.
- B. Where the Agency determines that a matter must be the subject of a special report to the Department of Justice, and where the Agency further determines that no public disclosure of classified information or intelligence sources and methods would result from further investigation or prosecution, and the security of ongoing intelligence operations would not be jeopardized thereby, the Agency will report the matter to the federal investigative agency having jurisdiction over the criminal matter. A copy of that report must also be provided to the AAG, or designated Deputy AAG, Criminal Division.
- C. Where the Agency determines that further investigation or prosecution of a matter that must be specially reported may result in a public disclosure of classified information or intelligence sources or methods or would jeopardize the security of ongoing intelligence operations, the Agency shall report the matter to the AAG or designated Deputy AAG, Criminal Division. A copy of that report must also be provided to the Assistant Director, Criminal Investigations or National Security Divisions, Federal Bureau of Investigation, or in the event that the principal investigative responsibility resides with a different federal investigative agency, to an appropriately cleared person of equivalent position in such agency. The Agency's report should explain the security or operational problems that would or might arise from a criminal investigation or prosecution.
- D. Written documents associated with the reports submitted pursuant to this section may refer to persons who are the subjects of the reports by non-identifying terms (such as "John Doe # \_\_\_\_\_"). The Agency shall advise the Department of Justice or relevant federal investigative agency of the true identities of such persons if so requested.
- E. It is agreed that, in acting upon information reported in accordance with these procedures, the Agency, the Department of Justice and the relevant federal investigative agencies will deal with classified information, including sources and methods, in a manner consistent with the provisions of relevant statutes and Executive Orders, including the Classified Information Procedures Act.

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**IX. When Routine Dissemination May be Used in Lieu of A Special Crimes Report**

A. Except as set forth in IX.B, below, the Agency may report crimes information regarding non-employees to the Department of Justice by routine dissemination, provided that:

1. the crimes information is of the type that is routinely disseminated by the Agency to headquarters elements of cognizant federal investigative agencies;
2. the criminal activity is of a kind that is normally collected and disseminated to law enforcement by the Agency (e.g., drug trafficking, money laundering, terrorism or sanctions violations); and
3. the persons or entities involved are members of a class that are routinely the targets or objects of such collection and dissemination.

If all three of these conditions are met, the Agency may satisfy its crimes reporting obligation through routine dissemination to the Department of Justice, Criminal Division, and to all cognizant federal law enforcement agencies, which shall retain primary responsibility for review of disseminated information for evidence of criminal activity. In all other cases, the special reporting procedures in Section VIII shall apply. As requested by the Department of Justice, the Agency will coordinate with the Department to facilitate the Department's analytical capabilities as to the Agency's routine dissemination of crimes information in compliance with this MOU.

B. Routine dissemination, as discussed in IX.A, above, may not be used in lieu of the special reporting requirements set forth herein as to the following categories of criminal activities:

1. Certain crimes involving the intentional infliction or threat of death or serious physical harm (VII.A.1, above);
2. Espionage; sabotage; unauthorized disclosure of classified information; and seditious conspiracies to overthrow the government of the United States (VII.A.2.a, above); and
3. Certain crimes involving foreign interference with the integrity of U.S. governmental institutions or processes (VII.A.3.b and c, above).

**X. Other Agency Responsibilities**

A. The Agency shall develop internal procedures in accordance with the provisions of Sections VIII and IX for the reporting of criminal information by its employees as required under Sections IV.A and VI.A.

B. The Agency shall also establish initial and continuing training to



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ensure that its employees engaged in the review and analysis of collected intelligence are knowledgeable of and in compliance with the provisions of this MOU.

**XI. Relation to Other Procedures and Agreements**

- A. If the Agency desires, for administrative or security reasons, to conduct a more extensive investigation into the activities of an employee relating to any matter reported pursuant to this MOU, it will inform the Department of Justice and the federal investigative agency to which the matter was reported. The Agency may also take appropriate administrative, disciplinary, or other adverse action at any time against any employee whose activities are reported under these procedures. However, such investigations or adverse actions shall be coordinated with the proper investigative or prosecuting officials to avoid prejudice to any criminal investigation or prosecution.
- B. Nothing in these procedures shall be construed to restrict the exchange of information among the Agencies in the Intelligence Community or between those Agencies and law enforcement entities other than the Department of Justice.
- C. This MOU supersedes all prior crimes reporting memoranda of understanding executed pursuant to the requirements of E.O. 12333. To the extent that there exist any conflicts between other Agency policies or directives and the provisions herein, such conflicts shall be resolved in accordance with the provisions of this MOU. However, this MOU shall not be construed to modify in any way the August 1984 Memorandum of Understanding between the Department of Defense and the Department of Justice relating to the investigation and prosecution of certain crimes.
- D. The parties understand and agree that nothing herein shall be construed to alter in any way the current routine dissemination by the Agency of intelligence information, including information regarding alleged criminal activities by any person, to the Department of Justice or to federal law enforcement agencies.

**XII. Miscellaneous**

- A. This MOU shall become effective as to each agency below as of the date signed by the listed representative of that agency.
- B. The Intelligence-Law Enforcement Policy Board, within one year of the date of the effective date hereof, and as it deems appropriate thereafter, will appoint a working group consisting of an equal number of representatives from the intelligence and law enforcement communities, including the Criminal Division. That working group shall do the following:
  - 1. review the Agency's implementation of Sections III.F and IV.B, hereof;

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2. consider whether the crimes reporting requirements of E.O. 12333 and other authorities are being met through the operation of this MOU;
  3. review each of the provisions of this MOU and determine what, if any, modifications thereof should be recommended to the Policy Board, or its successor; and
  4. issue a report to the Policy Board of its findings and recommendations in each of the foregoing categories.
- C. The Policy Board in turn shall make recommendations to the Attorney General, the Director of Central Intelligence, and the heads of the affected agencies concerning any modifications to the MOU that it considers necessary.

*Janet Reno*  
Attorney General  
Date: August 3, 1995

*William J. Perry*  
Secretary of Defense  
Date: 11 AUG 1995

*John Deutch*  
Director of Central  
Intelligence  
Date: 3 August 1995

*James M. McConnell*  
Director, National Security Agency  
Date: 22 AUG 95

*Michael J. Munson*  
Director, Defense  
Intelligence Agency  
Date: 2 Aug 95

*Toby T. Gab*  
Assistant Secretary of State,  
Intelligence and Research  
Date: 8/14/95

*Kenneth E. Baker*  
Director, Office Of Non-Proliferation and National Security,  
Department of Energy  
Date: 15 Aug 95



**Appendix 9-6: SECNAVINST 3850.2C – Dep’t of the Navy  
Counterintelligence**

## APPENDIX 9: INTELLIGENCE LAW

**DEPARTMENT OF THE NAVY**  
OFFICE OF THE  
SECRETARY 1000 NAVY  
PENTAGON WASHINGTON,  
DC 20350-1000

SECNAVINST 3850.2C  
N2E 20 Jul 2005

SECNAV INSTRUCTION 3850.2C

From: Secretary of the Navy To: All Ships and Stations Subj:

DEPARTMENT OF THE NAVY COUNTERINTELLIGENCE Ref: (a)

DOD Directive 5240.2 of 22 May 97

(b) DOD 5240.6 of 09 Aug 04

I

(c) Executive Order 12333

(d) DO Instruction 5240.1R

D

(e) Counterintelligence Enhancement Act of 2002

(Pub.L.

107-306, Title 14, No 27, 2002)

1. Purpose: To implement references (a) and (b), delineate responsibilities for counterintelligence (CI) within the Department of the Navy (DON), ensure DON CI activities are conducted in a coordinated manner and pursuant to references (a) through (g). This instruction is a complete revision and should be reviewed in its entirety.

2. Cancellation: SECNAVINST 3850.2B and SECNAVINST 3875.1A

3. Background: CI is critical to the protection of Navy and Marine Corps forces, operations, information, facilities, equipment and networks from attack and the intelligence activities of foreign governments and international terrorist organizations. Department of Defense (DOD) policy directs CI activities shall be conducted in a comprehensive, integrated and coordinated effort within the department and also integrated into the national CI structure pursuant to reference (e).

4. Definitions

a. Counterintelligence: Information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, foreign persons or international terrorist organizations.

## Appendix 9-7: Policy Guidance for Intel Support in CONUS

UNCLASSIFIED



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
OFFICE OF THE DEPUTY CHIEF OF STAFF FOR INTELLIGENCE  
WASHINGTON, DC 20310-1001



DAMI-CHI (100)

19 Feb 99

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy Guidance for Intelligence Support to Force Protection in CONUS

1. References:

- a. AR 381 -10, U.S. Army Intelligence Activities, 1 Aug 84.
- b. AR 381-12, Subversion and Espionage Directed Against the Army (SAEDA) 15 Jan 93.
- c. AR 381-20, The Army Counterintelligence Program, 15 Nov 93.
- d. AR 525-13, Antiterrorism Force Protection (AT/FP): Security of Personnel, Information, and Critical Resources, 10 Sep 98.
- e. DoD message, ATSD-10, dtg 181700Z Nov 98, subject: Policy Guidance for Intelligence Support to Force Protection (enclosed).

2. Reference 1a governs Military Intelligence (MI) activities that affect United States Persons, and states that authority to employ certain collection techniques is limited to that necessary to perform functions assigned to the intelligence component. References 1b-1d assign more specific functions and responsibilities for intelligence support to force protection. Reference 1e is the most current DoD guidance.

3. This memo implements reference 1e and provides additional guidance:

a. Although reference 1e refers to a DoD list of U.S. Persons and organizations against whom DoD intelligence elements may collect, Army MI elements may not conduct intelligence activities specifically targeting them. Because the Army maintains its law enforcement separately from its intelligence elements, it is inappropriate to collect information on these persons and organizations through intelligence activities. The Army designated law enforcement as the responsible agency, per reference 1d.

b. MI elements will no longer report U.S. criminal threat information as intelligence or SAEDA incident reports. This change is being included in the revision of references 1b and 1c. Note that this does not pertain to national security crimes (treason, spying, espionage, sedition, subversion, etc.) which are within MI responsibility per reference 1c.

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SUBJECT: Policy Guidance for Intelligence Support to Force Protection in CONUS

c. MI personnel will pass, via the most expedient method, U.S. criminal and U.S. terrorist threat information received through normal assigned activities ("incidentally acquired") to the Provost Marshal/Director of Security and the U.S. Army Criminal Investigation Command (USACIDC). Receiving and passing the information fully complies with references 1a and 1e. Do not send copies to the HQDA Antiterrorism Operations and Intelligence Cell or Army Counterintelligence Center, as it could create circular reporting or false confirmation. USACIDC has that reporting responsibility, per reference 1d. A synopsis may be filed in general correspondence files ("administrative purposes"), as needed, for crediting work done.

d. MI personnel will refer requests for U.S. terrorist and U.S. criminal threat information and assessments to USACIDC or the Provost Marshal, in accordance with reference 1d. Local threat assessments are the installation's responsibility; MI may augment the local information with foreign intelligence and counterintelligence information and analysis.

e. MI personnel participating in AT/FP assessment teams per reference 1d are responsible for foreign intelligence and counterintelligence information and analysis. They may provide analytical advice and assistance to other team personnel in developing the overall assessment, but should not be used as the analytical subject matter expert for non-MI functional areas.

f. Any MI element may request a collectability determination through command channels to HQDA (DAMI-CHI), in accordance with references 1a and 1e. Because of the 90-day retention time limit in reference 1a, commanders must ensure speedy transmittal to HQDA.

4. This memo was coordinated with the Office of the Army General Counsel, Office of The Judge Advocate General, Office of The Inspector General, Office of the Deputy Chief of Staff for Operations, USACIDC, and the Intelligence and Security Command.

5. Ensure widest possible dissemination to commanders, operations personnel, installation security officials, provosts marshal, inspectors general, criminal investigative and intelligence elements. MACOM supplements require HQDA prior approval.

End

*Original Signed*  
 CLAUDIA J. KENNEDY  
 Lieutenant General, GS  
 Deputy Chief of Staff  
 for Intelligence

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SUBJECT: Policy Guidance for Intelligence Support to Force Protection in CONUS

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U.S. Army Space and Missile Defense Command  
U.S. Army Special Operations Command  
Third U.S. Army  
U.S. Army Training and Doctrine Command  
U.S. Army Intelligence Center and Fort Huachuca

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DAMO-ODL  
Eighth U.S. Army  
U.S. Army Europe and Seventh Army  
U.S. Army South  
650th Military Intelligence Group

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RUEAHQA/OSAF WASHINGTON DC//SAF-IG//GC//

RUEADWD/CSA WASHINGTON DC//DACS/DAM//DAJA/DAMO/DAAR//

RUEAANA/CNO WASHINGTON DC//N00/N09/N095/N2/N3/N5/NLSC//

RUEAHQA/CSAF WASHINGTON DC//CC/CV/XO/XO//JAG/AF-RE//

RUEACMC/CMC WASHINGTON DC//CMC/ACMC//G/SJA/CL/C4//PP&amp;O/MCRC//

RUFGNOA/USCINCEUR VA//HNGEN GE//G/J2/J3/SJA//

RULYSCC/USACOM NORFOLK VA//G/J2/J3/SJA//

RUCJACC/USCINCCENT MACDILL AFB FL//G/J2/J3/SJA//

RUCJAAA/USSOCOM MACDILL AFB FL//G/J2/J3/SJA//CORB//

RUMIAAA/USCINCSO MIAMI FL//G/J2/J3/SJA//

RUPEUNA/USCINCSpace PETERSON AFB CO//G/J2/J3/SJA//

RHCJAAA/USCINCTRANS SCOTT AFB IL//G/J2/J3/SJA//

RHHMUNA/USCINCPAC HONOLULU HI//G/J2/J3/SJA//

RUCJSTR/USCINCSSTRAT OFFUTT AFB NE//G/J2/J3/SJA//

RUJETIAA/DIRNSA FT GEORGE G MEADE MD//G/GC/NSOC//

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RUEKDIA/DIA WASHINGTON DC//G/J2/GC/DO/DHS/DAC/DA//DIO/MC//

RUEBMJB/NRO WASHINGTON DC//G/GC//

RUEALIU/NIMA WASHINGTON DC//G/GC//

RUEAADN/DTRA WASHINGTON DC//G/GC/C//

RUEAUSA/CNGB WASHINGTON DC//NGC-ZA/NGC-ARZ/NGB-IG//

RUEAUSA/NGB WASHINGTON DC//CF//

INFO RUEKJCS/SECDEF WASHINGTON DC//GC//G/USDP/C3//ATSD-IO//

RUDHAAA/CDRINSCOM FT BELVOIR VA//CDR/CS-IO//G/DCSOPS/SJA//

RUCXNLG/ONI SUTLAND MD//G/GC//

RUDHNIS/DIRNAVCRIMINVSERV WASHINGTON DC//G/GC//

RUQVAIA/AIA KELLY AFB TX//CC/CV//G/INSJA//

RUEDADI/AFOSI BOLLING AFB DC//CC/CV//G/SJA//

RUWMFBA/AFIA KIRTLAND AFB NM//CC//G-IO//

RULSMCA/MCIA QUANTICO VA

BT

UNCLAS SUBJECT: POLICY GUIDANCE FOR INTELLIGENCE SUPPORT TO FORCE PROTECTION

REFERENCES:

A. EXECUTIVE ORDER 12333

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B. DODD 5240.1

C. DODD 5200.27

D. DOD REG 5240.1-R

E. MCM 75-91

F. AR 381-10

G. SECNAVINST 3820.3D

H. AFI 14-104

J. MCO 3800.2A

J. DIRECTOR OF COUNTERINTELLIGENCE MEMO, "AUTHORITY TO COLLECT INFORMATION ON DOMESTIC TERRORIST AND OTHER GROUPS COMMITTING ILLEGAL ACTS THAT POSE A THREAT TO THE DEPARTMENT OF DEFENSE (U)," DATED 27 JAN 98.

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1. THE PURPOSE OF THIS MESSAGE IS TO PROVIDE POLICY GUIDANCE TO COMMANDERS AND SUPPORTING DOD INTELLIGENCE ORGANIZATIONS REGARDING PERMISSIBLE INTELLIGENCE SUPPORT FOR FORCE PROTECTION ACTIVITIES.
2. THIS MESSAGE HAS BEEN COORDINATED WITH THE JOINT STAFF; THE DOD GENERAL COUNSEL; THE INSPECTOR GENERAL, DOD; THE UNDERSECRETARY OF DEFENSE FOR POLICY; AND THE SENIOR CIVILIAN OFFICIAL IN THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE.

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3. FORCE PROTECTION IS A FUNDAMENTAL COMMAND RESPONSIBILITY FOR ALL COMMANDERS WHEREVER LOCATED. DOD INTELLIGENCE AND COUNTERINTELLIGENCE (INTEL/CI) COMPONENTS HAVE AN IMPORTANT ROLE TO PLAY IN SUPPORT OF THE COMMANDERS' FORCE PROTECTION MISSION. EXECUTIVE ORDER 12333 AND DOD 5240.1-R REGULATE THE CONDUCT OF INTEL/CI ACTIVITIES; THE ATTORNEY GENERAL HAS APPROVED THE PROCEDURES IN DOD 5240.1-R. THEIR PURPOSE IS TO ENABLE DOD INTEL/CI COMPONENTS TO CARRY OUT EFFECTIVELY THEIR AUTHORIZED FUNCTIONS WHILE ENSURING THAT THEIR ACTIVITIES THAT AFFECT UNITED STATES PERSONS ARE CARRIED OUT IN A MANNER THAT PROTECTS THE CONSTITUTIONAL RIGHTS AND PRIVACY OF SUCH PERSONS.
4. INTEL/CI COMPONENTS DO NOT HAVE A LAW ENFORCEMENT MISSION. LAW ENFORCEMENT IS THE RESPONSIBILITY OF THOSE AGENCIES SPECIFICALLY CHARTERED TO HANDLE LAW ENFORCEMENT MATTERS, E.G., PROVOST MARSHAL; CID; OSI; AND NCIS. (NOTE: AFOSI AND NCIS HAVE BOTH COUNTERINTELLIGENCE AND LAW ENFORCEMENT MISSIONS, WHICH ARE MANAGED SEPARATELY WITHIN THESE ORGANIZATIONS.) OFF THE INSTALLATION IN CONUS, LAW ENFORCEMENT IS THE RESPONSIBILITY OF LOCAL AND STATE LAW ENFORCEMENT OFFICIALS AND THE FBI AT THE FEDERAL LEVEL, NOT DOD INTEL/CI COMPONENTS.
5. WHEN FOREIGN GROUPS OR PERSONS THREATEN DOD PERSONNEL, RESOURCES,

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- OR ACTIVITIES – WHETHER CONUS OR OCONUS – DOD INTEL/CI COMPONENTS MAY INTENTIONALLY TARGET, COLLECT, RETAIN, AND DISSEMINATE INFORMATION ON THEM (UNLESS THE GROUPS OR PERSONS IN QUESTION MEET THE DEFINITION OF UNITED STATES PERSONS IN EXECUTIVE ORDER 12333/DOD 5240.1-R – SEE PARA 11A BELOW). BOTH CONUS AND OCONUS, INTEL/CI COMPONENTS ARE RESTRICTED IN WHAT AND HOW THEY CAN COLLECT, RETAIN, AND DISSEMINATE INFORMATION WITH RESPECT TO UNITED STATES PERSONS, AS EXPLAINED BELOW.
6. COMMANDERS MAY NOT LEGALLY DIRECT DOD INTEL/CI COMPONENTS TO TARGET OR INTENTIONALLY COLLECT INFORMATION FOR FORCE PROTECTION PURPOSES ON U.S. PERSONS UNLESS SUCH PERSONS HAVE BEEN IDENTIFIED IN REFERENCE J, OR SUBSEQUENT VERSIONS. THE FBI PARTICIPATES IN THE IDENTIFICATION OF THESE PERSONS.
  7. COMMANDERS SHOULD BE COGNIZANT, HOWEVER, OF THE FACT THAT DURING THE CONDUCT OF ROUTINE LIAISON ACTIVITIES, DOD INTEL/CI COMPONENTS OFTEN RECEIVE INFORMATION IDENTIFYING U.S. PERSONS ALLEGED TO THREATEN DOD RESOURCES, INSTALLATIONS, MATERIEL, PERSONNEL, INFORMATION, OR ACTIVITIES. DOD INTEL/CI ACTIVITIES MAY ACT AS A CONDUIT AND MUST PASS ANY THREAT INFORMATION INCIDENTALLY RECEIVED IN THIS MANNER TO THE THREATENED COMMANDER AND THE ENTITY WHICH HAS

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RESPONSIBILITY FOR COUNTERING THAT THREAT (E.G., MILITARY POLICY, PROVOST MARSHAL, OR SECURITY DIRECTOR). THIS TRANSMITTAL OF INFORMATION DOES NOT CONSTITUTE COLLECTION BY THE DOD INTEL/CI ORGANIZATION WITHIN THE MEANING OF DOD REGULATION 5240.1-R (REFERENCE D), AND IS THEREFORE PERMISSIBLE. HOWEVER, ANY FOLLOW-ON INTEL/CI INVESTIGATION, COLLECTION, OR TARGETING OF SUCH U.S.

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PERSONS WOULD BE SUBJECT TO EXISTING PROCEDURES AS SET FORTH IN REFERENCES A THROUGH J.

8. LAW REFERENCE C., DOD LAW ENFORCEMENT AND SECURITY ORGANIZATIONS – AS OPPOSED TO INTEL/CI COMPONENTS – MAY LEGALLY ACCEPT AND RETAIN FOR UP TO 90 DAYS, UNLESS LONGER RETENTION IS REQUIRED BY LAW OR PERMISSION IS SPECIFICALLY GRANTED BY THE SECRETARY OF DEFENSE OR HIS DESIGNEE INFORMATION PERTAINING TO U.S. PERSONS WHICH THREATENS DOD RESOURCES, PERSONNEL, INSTALLATIONS, MATERIEL, INFORMATION, OR ACTIVITIES. COMMANDERS SHOULD TAKE APPROPRIATE ADVANTAGE OF LAW ENFORCEMENT LIAISON ACTIVITIES TO MONITOR CRIMINAL ACTIVITY IN THE VICINITY OF THEIR INSTALLATIONS/ACTIVITIES (ACTS OF TERROR, ASSAULT, THREATS OF HARM, OR DESTRUCTION OF GOVERNMENT PROPERTY ARE CRIMINAL ACTS).
9. TO CLARIFY THE ROLE OF DOD INTEL/CI ORGANIZATIONS IN SUPPORTING

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COMMANDERS' FORCE PROTECTION RESPONSIBILITIES, THE FOLLOWING GUIDANCE IS EFFECTIVE ON RECEIPT.

- A. WHEN DOD INTEL/CI ORGANIZATIONS LEARN OF INFORMATION PRESENTING A REASONABLE BELIEF THAT A U.S. PERSON OTHER THAN A PERSON IDENTIFIED BY THE DOD DIRECTOR OF COUNTERINTELLIGENCE (IN REFERENCE J) POSES A THREAT TO DEPARTMENTAL RESOURCES, PERSONNEL, INSTALLATIONS, MATERIEL, INFORMATION, OR ACTIVITIES, THE ACQUIRING UNIT SHALL IMMEDIATELY ALERT THE APPROPRIATE OFFICIAL OF THE THREATENED ENTITY AND PROVIDE THE INFORMATION TO THE APPROPRIATE LAW ENFORCEMENT AUTHORITY. FOLLOWING SUCH NOTIFICATION, IF THE ACQUIRING UNIT HAS REASON TO PERMANENTLY RETAIN THAT INFORMATION UNDER THE PROVISION OF PROCEDURE 3 OF DOD REGULATION 5240.1-R, IT SHALL REQUEST, BY THE MOST EXPEDITIOUS MEANS AVAILABLE AND THROUGH ITS SERVICE INTELLIGENCE COMPONENT, THAT OASD(C3I) EVALUATE THE ACQUIRED INFORMATION FOR RETENTION ("COLLECTABILITY DETERMINATION"). OASD(C3I) WILL COORDINATE THE REQUEST WITH THE DOD GENERAL COUNSEL AND THE ATSD(IO) PRIOR TO NOTIFYING THE SERVICE INTELLIGENCE COMPONENT OF APPROVAL/DISAPPROVAL OF THE REQUEST. THE MILITARY SERVICES ARE ENJOINED TO PROCESS COLLECTABILITY DETERMINATIONS EXPEDITIOUSLY.
- B. WHILE AWAITING A COLLECTABILITY/RETAINABILITY DETERMINATION, THE ACQUIRING UNIT MAY INDEX THE INFORMATION AND MAINTAIN IT ON FILE FOR A 90 DAY PERIOD. IF, DURING THAT 90 DAY PERIOD, THE ACQUIRING UNIT LEARNS OF ADDITIONAL INFORMATION RELATING TO THE THREAT POSED BY THE U.S. PERSON IN

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QUESTION, THE UNIT SHALL IMMEDIATELY PASS THAT INFORMATION TO THE APPROPRIATE OFFICIAL OR LAW ENFORCEMENT AUTHORITY. (THIS INFORMATION MAY BE DISSEMINATED TO AFFECTED COMMANDERS AND SECURITY OFFICIALS, ONLY.)

- C. IF OASD(C3I) DENIES PERMISSION TO COLLECT OR RETAIN INFORMATION ON THE U.S. PERSON, THE REQUESTING ORGANIZATION WILL REMOVE ALL INFORMATION PERTAINING TO THAT U.S. PERSON FROM ITS FILES AND DESTROY IT OR TRANSFER IT TO A DOD LAW ENFORCEMENT OR SECURITY ACTIVITY WHICH HAS AN OFFICIAL NEED FOR THE INFORMATION. OASD(C3I) WILL PROVIDE TO OATSD(IO) AND THE GENERAL COUNSEL, WITHIN FIVE WORKING DAYS, ONE COPY OF ALL PERMISSIONS TO COLLECT/RETAIN INFORMATION ON U.S. PERSONS NOT LISTED IN REFERENCE J. WITHIN 30 DAYS OF RECEIPT OF THIS MESSAGE, HEADS OF DOD INTEL/CI COMPONENTS WILL PROVIDE TO OATSD(IO) ONE COPY OF ANY INSTRUCTIONS ISSUED WHICH IMPLEMENT THIS MESSAGE.

10. REQUEST HEADS OF DOD INTEL/CI COMPONENTS ENSURE THAT ALL FIELD LOCATIONS PROVIDING INTELLIGENCE SUPPORT TO COMMANDERS RECEIVE A COPY OF THIS MESSAGE.
11. ADDRESSEES ARE INVITED TO VISIT OUR RECENTLY ACTIVATED ATSD(IO) HOMEPAGE ON THE INTERNET AT [WWW.DTIC.MIL/ATSDIO](http://WWW.DTIC.MIL/ATSDIO).

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12. DEFINITIONS:

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A. FROM APPENDIX A, DOD REGULATION 5240.1-R:

(1) THE TERM "U.S. PERSONS" MEANS:

(A) A U.S. CITIZAN;

(B) AN ALIEN KNOWN BY THE DOD INTELLIGENCE COMPONENT CONCERNED TO BE A PERMANENT RESIDENT ALIEN (PRA);

(C) AN UNINCORPORATED ASSOCIATION SUBSTANTIALLY COMPOSED OF U.S. CITIZENS OR PRAS;

(D) A CORPORATION INCORPORATED IN THE U.S., EXCEPT FOR A CORPORATION DIRECTED AND CONTROLLED BY A FOREIGN GOVERNMENT OR GOVERNMENTS. A CORPORATION OR CORPORATE SUBSIDIARY INCORPORATED ABROAD, EVEN IF PARTIALLY OR WHOLLY OWNED BY A CORPORATION INCORPORATED IN THE U.S., IS NOT A U.S. PERSON.

[A PERSON OR ORGANIZATION OUTSIDE THE U.S. SHALL BE PRESUMED NOT TO BE A U.S. PERSON UNLESS SPECIFIC INFORMATION TO THE CONTRARY IS OBTAINED. AN ALIEN IN THE U.S. SHALL BE PRESUMED NOT TO BE A U.S. PERSON UNLESS SPECIFIC INFORMATION TO THE CONTRARY IS OBTAINED.]

[A PERMANENT RESIDENT ALIEN IS A FOREIGN NATIONAL LAWFULLY ADMITTED INTO THE U.S. FOR PERMANENT RESIDENCE AND,

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THEREFORE, IS A U.S. PERSON.]

(2) FOREIGN INTELLIGENCE IS INFORMATION RELATING TO THE CAPABILITIES, INTENTIONS, AND ACTIVITIES OF FOREIGN POWERS, CAPABILITIES, INTENTIONS, AND ACTIVITIES OF FOREIGN POWERS, ORGANIZATIONS, OR PERSONS, BUT NOT INCLUDING COUNTERINTELLIGENCE EXCEPT FOR INFORMATION ON INTERNATIONAL TERRORIST ACTIVITIES.

(3) COUNTERINTELLIGENCE IS INFORMATION GATHERED AND ACTIVITIES CONDUCTED TO PROTECT AGAINST ESPIONAGE, OTHER INTELLIGENCE ACTIVITIES, SABOTAGE, OR ASSASSINATIONS CONDUCTED FOR OR ON BEHALF OF FOREIGN POWERS, ORGANIZATIONS, OR PERSONS, OR INTERNATIONAL TERRORIST ACTIVITIES, BUT NOT INCLUDING PERSONNEL, PHYSICAL, DOCUMENT, OR COMMUNICATIONS SECURITY PROGRAMS.

B. FROM JOINT PUB 2-01, DEPARTMENT OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS, DATED 23 MAR 94: FORCE PROTECTION IS DEFINED AS "SECURITY PROGRAM DESIGNED TO PROTECT SOLDIERS, CIVILIAN EMPLOYEES, FAMILY MEMBERS, FACILITIES, AND EQUIPMENT, IN ALL LOCATIONS AND SITUATIONS, ACCOMPLISHED THROUGH PLANNED AND INTEGRATED APPLICATION OF COMBATING TERRORISM, PHYSICAL SECURITY, OPERATIONS SECURITY, PERSONAL PROTECTIVE SERVICES, AND SUPPORTED BY INTELLIGENCE, COUNTERINTELLIGENCE, AND OTHER SECURITY PROGRAMS."

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**APPENDIX 10.  
RESERVE COMPONENTS**

**APPENDIX 10-1: DoDD 1235.10, ACTIVATION, MOBILIZATION, AND  
DEMOBILIZATION OF THE READY RESERVE**

See next page.



Department of Defense  
**DIRECTIVE**

NUMBER 1235.10  
November 26, 2008

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USD(P&R)

SUBJECT: Activation, Mobilization, and Demobilization of the Ready Reserve

References: See Enclosure 1

1. PURPOSE. This Directive:

a. Reissues DoD Directive (DoDD) 1235.10 (Reference (a)) to update policy and responsibilities for mobilizing the Reserve Component (RC), to include appropriate guidance from Secretary of Defense memorandum, "Utilization of the Total Force," January 19, 2007 (Reference (b)).

b. Implements those provisions of law that pertain to the call or order of units and individual members of the RCs to active duty in support of operational missions, in contingency operations, during a national emergency, or in time of war.

c. Establishes policy and assigns responsibilities for:

(1) The calling or ordering to active duty and the managing of the RCs during periods when members of the RCs involuntarily serve on active duty under sections 12301(a), 12301(b), 12302, 12304, 12406, or 331-335 of title 10, United States Code (Reference (c)).

(2) The ordering to active duty of RC volunteers under section 12301(d) of Reference (c) in support of operational missions, in contingency operations, during national emergencies, or in time of war.

(3) Planning, preparing, and executing the mobilization and demobilization of RC units and members serving on active duty in support of operational missions, in contingency operations, during national emergencies, or in time of war.

2. APPLICABILITY

a. This Directive applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 1235.10, November 26, 2008*

2. Voluntary Service. Volunteers shall be encouraged to the extent possible given operational considerations.

a. The limitations of sections 12302 and 12304 of Reference (c), either in numbers of personnel or period of service, do not apply to individuals volunteering for active duty under section 12301(d) of Reference (c).

b. RC members voluntarily ordered to active duty under section 12301(d) of Reference (c) are accounted for in accordance with DoDI 1215.06 (Reference (h)).

c. Time spent on active duty by an RC member under section 12301(d) of Reference (c) is considered dwell time.

3. Predictable Involuntary Service. Predictability in the use of RC forces shall be maximized.

a. Authorities. RC units may be mobilized for multiple contingencies using either section 12302 or 12304 of Reference (c) or any combination of these authorities. The defined frequency and duration-planning objectives for involuntary mobilizations that are outlined below must be followed. Adherence to these defined frequency and duration planning objectives, however, does not apply for a full mobilization (section 12301(a) of Reference (c)), emergent missions, operations, or national emergencies requirements.

b. Defined Operational Cycles

(1) The involuntary mobilization for members of the RC forces shall be for a maximum of 1 year at any one time. At Service discretion, this period may exclude individual skill training required for deployment and post-mobilization leave.

(2) The planning objective for involuntary mobilization of Guard and Reserve units is 1 year mobilized to 5 years dwell time (1:5). Today's global demands will require a number of selected Guard/Reserve units to be remobilized sooner than this standard. The intention is that such exceptions be temporary and a move to a broad application of the 1:5 goal as soon as possible. Continue to plan force structure on that basis. Exceptions shall be approved by the Secretary of Defense.

(3) Individuals who are involuntarily mobilized with a frequency and duration beyond the established frequency and duration planning objectives for involuntary mobilizations, as stipulated in subparagraph 3.b.(2) of this enclosure, shall be incentivized as described in Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum, "Programs to Support Utilization of the Total Force," (Reference (i)).

(4) The period of dwell time shall be from the demobilization date of one involuntary mobilization until the mobilization date of the subsequent involuntary mobilization.

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*DoDD 1235.10, November 26, 2008*

(5) The Secretary of Defense may modify RC defined frequency and duration planning objectives for involuntary mobilizations within authorized limits imposed by statute and consistent with operational requirements.

c. Train-Mobilize-Deploy. The train-mobilize-deploy model shall be used to provide ready and available forces.

(1) RC pre-mobilization resourcing and training shall reduce post-mobilization training to the shortest time period possible to increase the time available for deployment.

(2) Force generation plans for the RC shall be maintained to provide ready and available forces that are appropriately resourced and trained. Service-specific force generation plans shall support the operational cycles and mobilization frequency and duration planning objectives for involuntary mobilizations established by the Secretary of Defense.

(3) Force generation plans shall be resourced for allocating personnel, training, and equipment to ensure employment readiness.

(4) Mobilization and demobilization processes shall be standardized within the Services to facilitate ready access to the RCs.

(5) Mobilization for training shall only be used after exhausting traditional means to increase individual skill qualification required for deployment.

d. Notification. RC units shall be provided up to 24 months prior to mobilization date.

e. Mobilization Approval

(1) The Department standard for mobilization approval to mobilization date is 90 days, with a goal of 180 days.

(2) The Secretary of Defense may waive this requirement for emerging requirements; crisis response; Defense Support to Civilian Authorities missions; and humanitarian assistances.

f. Mobilization and Demobilization

(1) Mobilization of ground combat, ground combat support, and ground combat service support shall be managed on a unit basis. This will allow cohesion and predictability in how RC units train and deploy.

(2) Individual Augmentee will be managed on an individual basis.

(3) Cross-leveling of personnel shall be minimized. Alternate methods shall be used such as task-organizing at the unit level; the use of volunteers, the Individual Ready Reserve (IRR) and Inactive National Guard (ING); or cross-leveling personnel out of non-deployable units.

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(4) The use of Stop Loss shall be minimized.

(5) Units and member duty locations shall not be restricted to the location specified by the order to active duty. Members of the RC ordered to active duty to supplement the Active forces are also Active Federal forces and may be reassigned once on active duty. They are interchangeable with the AC for any operational commitment.

(6) Units and individuals of the Ready Reserve ordered to active duty without their consent shall be kept on active duty no longer than absolutely necessary. They shall be released from active duty as promptly as possible, consistent with operational requirements. Individuals ordered to active duty as a unit shall be released as a unit whenever practical. This excludes members who must be held on active duty for medical, legal, or other administrative reasons.

(7) Service Secretaries are responsible for the demobilization process for units and individuals under their command.

g. Use of IRR as Personnel Pool. The IRR and ING shall be used as personnel pools. Members in the IRR and ING provide a range of capabilities to support future conflicts and shall be considered viable options. Activations shall be done first with the consent of the members being ordered to active duty. If there is a need to involuntarily activate a member of the IRR or ING, preference shall be given to those not previously ordered or called to duty.

*DoDD 1235.10, November 26, 2008*

ENCLOSURE 3

RESPONSIBILITIES

1. USD(P&R). The USD(P&R) shall:

- a. Develop and oversee personnel policies for the RC.
- b. Develop and maintain mobilization/demobilization personnel and pay policy for RC members ordered to active duty in support of operational missions, in contingency operations, during a national emergency, or in time of war.

2. ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS (ASD(RA)). The ASD(RA), under the authority, direction, and control of the USD(P&R), is the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense and the USD(P&R) for all RC matters. The ASD(RA) shall develop and enforce policy, programs, and guidance for the activation, mobilization, and demobilization of the RCs during periods of national emergency, in time of war, or as otherwise authorized by law, in accordance with DoDD 5125.01 (Reference (j)).

3. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments shall:

- a. Prepare activation, mobilization, and demobilization plans, including all transition and release plans and all home station procedures for activation, in accordance with this Directive. Periodically review and test these plans to ensure that a capability exists to mobilize RC forces and to assimilate them effectively into the Active force, including missions involving homeland defense and defense support to civil authorities.
- b. Ensure the existence of systematic procedures for alerting, ordering, or calling members of the RC units, sub-units, teams, and individuals to active duty. Take appropriate actions to provide resources to bring Service members and organizations to required deployable readiness levels prior to mobilization. Secretaries of the Military Departments' approval are required to allow units to deploy by exception.
- c. Ensure procedures are established for determining the judicious and prudent use of RC forces.
- d. Activate RC forces with the consent of the individuals being called or ordered to active duty to the extent possible given operational considerations, while maintaining the deploying unit's collective training readiness and cohesion.

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- e. Report unit and individual activation, mobilization, and demobilization information through Defense Manpower Data Center, DRRS, and GSORTS. GSORTS is available until DRRS is fully implemented.
- f. Ensure all AC and RC reporting units update their task and mission assessments in the GSORTS and DRRS at least monthly per DoDD 7730.65 (Reference (I)). Assessments are made against the unit's current assigned mission-essential tasks, evaluating the unit's ability to perform their tasks to prescribed standards, under the conditions expected in the theater of operations to which they would be deployed.
- g. Recruiting and retention efforts should target the replenishment of stressed capabilities and procedures to reclassify RC members to meet the skill sets for predictable requirements of future campaigns.
- h. Monetary and non-monetary incentives may be used by the Services to attract volunteers in support of operational requirements.

4. CHAIRMAN OF THE JOINT CHIEFS OF STAFF. The Chairman of the Joint Chiefs of Staff shall:

- a. Advise the Secretary of Defense, after consultation with the USD(P&R), the ASD(RA), the Secretaries of the Military Departments, and the CCDRs, on the need to augment or expand the Active forces with members of the RCs.
- b. Recommend to the Secretary of Defense and the USD(P&R) the period of service for units and members of the RCs ordered to active duty.
- c. Report to the Secretary of Defense and the USD(P&R) the anticipated use of units and members of the RCs ordered to active duty, in coordination with the Secretaries of the Military Departments and the CCDRs.
- d. Ensure CCDRs requests for capabilities are as detailed as possible without specifying which Service or unit shall meet the requirement. When joint requirements are being sourced, utilize all forces available that can provide the required capabilities. This shall further ensure the judicious and prudent use of the RCs.
- e. Assist the Secretaries of the Military Departments in providing 90 days with a goal of 180 days' notice prior to involuntary mobilizations approval to mobilization date for RC members by validating and sourcing the requirements early.

5. CCDRS. The CCDRs, through the Chairman of the Joint Chiefs of Staff, shall:

- a. During planning and execution, identify RC forces requirements as early as operationally feasible, to meet mobilization notification guidance by the Secretary of Defense.



## APPENDIX 10: RESERVE COMPONENTS

*DoDD 1235.10, November 26, 2008*

- b. Ensure the use of military personnel is judicious and prudent, and the feasibility of meeting the requirement with alternate personnel sources has been considered.
- c. Maintain visibility and personnel accountability regarding the capabilities being provided by those RC members involuntarily activated.
- d. Employ RC forces in a manner that maximizes their core capabilities for the duration of their deployment.
- e. Ensure that RC units and individuals are returned to home station in sufficient time to execute accrued leaves and accomplish release from active duty processing in accordance with DoD and individual Service policies.

## APPENDIX 10: RESERVE COMPONENTS

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### GLOSSARY

For the purposes of this Directive, the following definitions apply:

dwelt time. The period of time between the release from involuntary active duty pursuant to section 12302 of Reference (c) and the reporting date for a subsequent tour of active duty pursuant to section 12302 of Reference (c). Such time includes any voluntary active duty performed between two periods of involuntary active duty pursuant to section 12302 of Reference (c).

mobilization for training. Mobilization for training is military occupation specialty/Air Force specialty code/Navy enlisted classification or additional skill identifier producing individual training performed pursuant to section 12302 of Reference (c). The intent of this training duty is to provide a specialty qualified member to a unit for future mobilization, and not to perform common-task-type functional training.

notification. When a unit or individual is notified (verbally or writing) of a pending mobilization.

operational cycle. Includes the period of involuntary mobilization followed by the period of demobilization before the subsequent involuntary mobilization. The lengths of these two elements of the operational cycle shall be set by the Secretary of Defense.

volunteer. A member of the RC who is ordered to active duty with his or her consent.

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Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

b. This Directive applies to those elements of the Coast Guard Reserve when serving as elements of the Department of Navy.

3. DEFINITIONS. Terms used in this Directive are defined in the Glossary.

4. POLICY. It is DoD policy that:

a. The decision to activate RC forces is made only after determining that it is both judicious and prudent to do so. (See Enclosure 2.)

b. To the extent possible given operational considerations, RC forces shall be activated with the consent of the individuals being called or ordered to active duty. (See Enclosure 2.)

c. Predictability of the RC forces is maximized through the use of defined operational cycles and utilizing force generation plans to provide advanced notification that allows the implementation of the train-mobilize-deploy model. (See Enclosure 2.)

d. Units and individuals of the Ready Reserve ordered to active duty without their consent shall be kept on active duty no longer than absolutely necessary. (See Enclosure 2.)

e. DoD Instruction (DoDI) 1235.09, DoDD 1352.1, and DoDI 1235.12 (References (d), (e), and (f), respectively) shall govern the activation of the Standby Reserve and the Retired Reserve.

5. RESPONSIBILITIES. See Enclosure 3.

6. INFORMATION REQUIREMENTS. Services shall report unit and individual activation, mobilization, and demobilization information through Defense Manpower Data Center and Defense Readiness Reporting System (DRRS). This reporting requirement is exempt from licensing in accordance with paragraph C4.4.2. of DoD 8910.1-M (Reference (g)).

7. RELEASABILITY. UNLIMITED. This Directive is approved for public release. Copies may be obtained through the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 1235.10, November 26, 2008*

8. EFFECTIVE DATE. This Directive is effective immediately.



Gordon England  
Deputy Secretary of Defense

Enclosures

1. References
  2. Guidelines
  3. Responsibilities
- Glossary

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 1235.10, November 26, 2008*

### ENCLOSURE 1

#### REFERENCES

- (a) DoD Directive 1235.10, "Activation, Mobilization, and Demobilization of the Ready Reserve," September 23, 2004 (hereby canceled)
- (b) Secretary of Defense Memorandum, "Utilization of the Total Force," January 19, 2007
- (c) Sections 115, 331-335, 10102, 12301, 12302, 12304, and 12406 of title 10, United States Code
- (d) DoD Instruction 1235.09, "Management of the Standby Reserve," April 2, 2007
- (e) DoD Directive 1352.1, "Management and Mobilization of Regular and Reserve Retired Military Members," July 16, 2005
- (f) DoD Instruction 1235.12, "Accessing the Ready Reserves," January 19, 1996
- (g) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
- (h) DoD Instruction 1215.06, "Uniform Reserve, Training, and Retirement Categories," February 7, 2007
- (i) Under Secretary of Defense for Personnel and Readiness Memorandum, "Programs to Support Utilization of the Total Force," April 18, 2007
- (j) DoD Directive 5125.01, "Assistant Secretary of Defense for Reserve Affairs (ASD(RA))," December 27, 2006
- (k) DoD Directive 7730.65, "Department of Defense Readiness Reporting System (DRRS)," June 3, 2002
- (l) Under Secretary of Defense for Personnel & Readiness Memorandum, "Revised Mobilization/Demobilization Personnel and Pay Policy for RC Members Ordered to Active Duty," March 15, 2007<sup>1</sup>

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<sup>1</sup> Availability at [www.defenselink.mil](http://www.defenselink.mil)

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 1235.10, November 26, 2008*

### ENCLOSURE 2

#### GUIDELINES

1. Judicious and Prudent Use. The decision to activate RC forces must be made only after determining that it is both judicious and prudent to do so. The following guidelines shall be used:

a. Support the predictable use of all RC forces by notifying RC members up to 24 months in advance that they are being considered for activation and by issuing mobilization orders as soon as it is operationally feasible to do so. The Department standard for mobilization approval to mobilization date is 90 days, with a goal of 180 days. However, this does not preclude orders being published as close as the same day the RC member is ordered to active duty, should the operational situation warrant it and the Secretary of Defense approve it.

b. Enhance the predictable use of RC forces by establishing rotational-ready forces and by employing RC forces where practical in support of our national defense strategy.

c. Ensure deployment and rotational policies are as flexible as possible to meet combatant command requirements.

d. Maintain an operational RC force that is ready and available to respond in the designated timeframe and can sustain its contribution in a protracted operation.

e. Consider the release of RC members from active duty before completion of the period of service specified by their orders in coordination with the supported CCDR.

f. Ensure early consideration is given to the practical use of alternate workforce sourcing solutions such as Active Component (AC) forces, DoD civilian personnel, coalition forces, host-nation support, civilian contracted labor, technological solutions, other governmental agencies, Non-Government Organization, Private Voluntary Organization, or other means that may be available. Innovative management alternatives, such as using retiree volunteers, civilian auxiliary members, and reach back support, shall be applied whenever operationally appropriate.

g. When activating RC forces that backfill deployed AC forces on their installations, ensure that the critical function or capability the RC unit or individual provides is to augment mission requirements, military families, and/or the military installation community.

h. Ensure that RC forces are employed in a manner that maximizes the use of their core capabilities throughout the ordered duration of active service.

i. Multiple uses of mobilization authorities to involuntarily activate RC units or individuals shall be consistent with the defined frequency and duration planning objectives for involuntary mobilizations as outlined in paragraph 3.b. of this enclosure.

### **Appendix 10-2: DoDD 5125.01, Assistance Secretary of Defense for Reserve Affairs**



Department of Defense  
**DIRECTIVE**

NUMBER 5125.01

December 27, 2006

*Incorporating Change 1, June 4, 2008*

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DA&M

SUBJECT: Assistant Secretary of Defense for Reserve Affairs (ASD(RA))

- References:
- (a) Title 10, United States Code
  - (b) DoD Directive 5125.1, "Assistant Secretary of Defense for Reserve Affairs," March 2, 1994 (hereby canceled)
  - (c) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R)), ~~October 17, 2006~~ June 23, 2008
  - (d) DoDI 5025.01-~~M~~, "~~DoD Directives Program~~," ~~October 28, 2007~~ "~~DoD Directives System Procedures~~," ~~current version~~
  - (e) DoD Directive 8910.1, "Management and Control of Information Requirements," June 11, 1993

1. REISSUANCE AND PURPOSE

This Directive, consistent with section 138 of Reference (a), reissues Reference (b) under the authority of Reference (c) to update the responsibilities, functions, relationships, and authorities of the ASD(RA) under the Under Secretary of Defense for Personnel and Readiness (USD(P&R)).

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments (including the Coast Guard when it is not operating as a Service in the Navy, under agreement with the Department of Homeland Security), 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 Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

3. DEFINITIONS

- 3.1. Reserve Components. Refers collectively to the Army National Guard of the United States, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard

*Change 1, 06/04/2008*

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 5125.01, December 27, 2006*

of the United States, the Air Force Reserve, and the Coast Guard Reserve, when the Coast Guard is operating as a Service of the Department of the Navy.

3.2. Total Force. The organizations, units, and individuals that comprise DoD resources for implementing the National Security Strategy. It includes DoD Active and Reserve military personnel, military retired members, DoD civilian personnel (including foreign national direct- and indirect-hire, as well as nonappropriated fund employees), contractor personnel, and host-nation support personnel.

#### 4. RESPONSIBILITIES AND FUNCTIONS

The ASD(RA) is the principal advisor to the Secretary of Defense and the USD(P&R) for Reserve component matters in the Department of Defense. The ASD(RA) is responsible for overall supervision of all Reserve component affairs in the Department of Defense. In this capacity, the ASD(RA) shall:

4.1. Develop policies, conduct analyses, provide advice, and make recommendations to the USD(P&R) and the Secretary of Defense.

4.2. Issue guidance to the DoD Components on matters pertaining to the Reserve components.

4.3. Develop systems and standards for the administration and management of approved DoD Reserve component plans and programs.

4.4. Develop and promulgate plans, programs, actions, and taskings to ensure adherence to DoD policies and national security objectives to promote the effective integration of Reserve component capabilities into a cohesive Total Force.

4.5. Review and evaluate programs of the DoD Components that impact on the Reserve components; monitor the activities of Reserve component organizations, training facilities, and associations; and undertake other management oversight activities as may be required to ensure that policies, plans, programs, and actions pertaining to the Reserve components:

4.5.1. Adhere to approved DoD policies and standards.

4.5.2. Are compatible and support Total Force objectives and requirements.

4.5.3. Enhance the readiness and capabilities of Reserve component units and personnel.

4.5.4. Promote the integration of Reserve components with Active component forces.

4.5.5. Make the most effective use of Reserve components within the Total Force.

4.6. Participate directly in planning, programming, budgeting, and execution activities that relate to assigned areas of responsibility.



## APPENDIX 10: RESERVE COMPONENTS

*DoDD 5125.01, December 27, 2006*

4.7. Participate, in coordination with the Assistant Secretary of Defense for Legislative Affairs (ASD(LA)), directly in legislative activities that relate to assigned areas of responsibility.

4.8. Promote, with respect to the Reserve components, coordination, cooperation, and mutual understanding within the Department of Defense and among the Department of Defense and other Federal Agencies, State and local governments, the civilian community at large, and the employers of Reserve component personnel.

4.9. Promote family support plans, policies, and programs in line with the Reserve component mission.

4.10. Serve on boards, committees, and other groups pertaining to assigned functional areas and represent the Secretary of Defense on Reserve component matters outside the Department.

4.11. Promote coordination, cooperation, and mutual understanding, consistent with section 10301 of Reference (a), with the Reserve Forces Policy Board (RFPB), and review reports of the RFPB as they are sent through the ASD(RA) to the USD(P&R) and the Secretary of Defense. Provide administrative support to the RFPB.

4.12. Coordinate on the professional staff actions of the RFPB, while carefully preserving the independent voice of the Board.

4.13. Perform such other duties as the USD(P&R) and the Secretary of Defense may prescribe.

### 5. RELATIONSHIPS

5.1. In the performance of assigned responsibilities and functions, the ASD(RA) shall:

5.1.1. Report directly to the USD(P&R) ~~and the Principal Deputy USD(P&R).~~

5.1.2. Exercise authority, direction, and control over the National Committee for Employer Support of the Guard and Reserve.

5.1.3. Coordinate and communicate with the Military Departments, other OSD officials and the Heads of other DoD Components on matters pertaining to the National Guard and Reserve and their entities.

5.1.4. Use existing systems, facilities, and services of the Department of Defense or other Federal Agencies, when possible, to avoid duplication and to achieve maximum efficiency and economy.

5.2. The other OSD officials and the Heads of the DoD Components shall coordinate with the ASD(RA) on all matters related to the responsibilities and functions assigned in this Directive.

*Change 1, 06/04/2008*

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 5125.01, December 27, 2006*

### 6. AUTHORITIES

The ASD(RA) is hereby delegated authority to:

6.1. Act on behalf of the Secretary of Defense, in accordance with section 115 of Reference (a), regarding increasing the authorized end strength for Reserve personnel.

6.2. Issue DoD Instructions, DoD Publications, and one-time directive-type memorandums, consistent with DoD ~~5025.01-M~~ (Reference (d)), which implement policies approved by the Secretary of Defense or the USD(P&R) in areas of assigned responsibilities and functions. Instructions to the Military Departments shall be issued through the Secretaries of the Military Departments. Instructions to the Commanders of the Combatant Commands normally shall be issued through the Chairman of the Joint Chiefs of Staff.

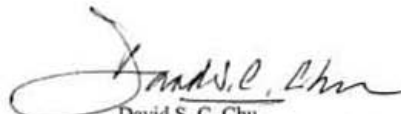
6.3. Obtain reports and information, consistent with DoD Directive 8910.1 (Reference (e)), as necessary, in carrying out assigned responsibilities and functions.

6.4. Communicate with the Heads of the DoD Components, as necessary, to carry out assigned responsibilities and functions, including the transmission of requests for advice and assistance. Communications to the Military Departments shall be transmitted through the Secretaries of the Military Departments, their designees, or as otherwise provided in law or directed by the Secretary of Defense in other DoD issuances. Communications to the Commanders of the Combatant Commands normally shall be transmitted through the Chairman of the Joint Chiefs of Staff.

6.5. Communicate with other Government officials, representatives of the Legislative Branch, members of the public, and representatives of foreign governments, as appropriate, in carrying out assigned responsibilities and functions. Communications with representatives of the Legislative Branch shall be coordinated with the ASD(LA) or the Under Secretary of Defense (Comptroller)/Chief Financial Officer of the Department of Defense, as appropriate, and be consistent with the DoD Legislative Program.

### 7. EFFECTIVE DATE

This Directive is effective immediately.



David S. C. Chu  
Under Secretary of Defense for  
Personnel and Readiness



Department of Defense

## DIRECTIVE

NUMBER 6025.13

May 4, 2004

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ASD(HA)

SUBJECT: Medical Quality Assurance (MQA) in the Military Health System (MHS)

- References:
- (a) DoD Directive 6025.13, "Clinical Quality Management Program (CQMP) in the Military Health Services System (MHSS)," July 20, 1995 (hereby canceled)
  - (b) DoD Directive 6025.14, "Department of Defense Participation in the National Practitioner Data Bank (NPDB)," November 1, 1990 (hereby canceled)
  - (c) DoD Directive 6040.37, "Confidentiality of Medical Quality Assurance (QA) Records," July 9, 1996 (hereby canceled)
  - (d) DoD Instruction 6025.15, "Implementation of Department of Defense participation in the National Practitioner Data Bank (NPDB)," October 12, 2000 (hereby canceled)
  - (e) through (o), see enclosure 1

### 1. REISSUANCE AND PURPOSE

This Directive:

- 1.1. Reissues reference (a) and replaces references (b) through (f).
- 1.2. Establishes policy for the Department of Defense on issues related to MQA programs and activities.
- 1.3. Authorizes the "Medical Quality Assurance (MQA) in the Military Health System (MHS) Regulation" in accordance with DoD 5025.1-M (reference (g)).

### 2. APPLICABILITY

This Directive applies to:

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 6025.13, May 4, 2004*

2.1. The Office of the Secretary of Defense, 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, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

2.2. DoD military treatment facilities (MTFs), medical or dental, and DoD healthcare practitioners who are involved in the delivery of healthcare services to eligible beneficiaries.

2.3. Groups of civilian preferred providers under managed care support contracts to the Department of Defense in health services regions throughout the MHS.

### 3. DEFINITIONS

3.1. Military Health System (MHS). The combination of military and civilian medical systems used to provide healthcare to DoD medical beneficiaries.

3.2. Sentinel Events. An unexpected occurrence involving death or serious physical or psychological injury or risk thereof.

### 4. POLICY

It is DoD policy that:

4.1. MQA Program. The MHS shall maintain active and effective organizational structures, management emphasis, and program activities to assure quality healthcare throughout the MHS.

4.2. MQA Records. MQA records and information created by or for the Department of Defense as part of a MQA program are confidential and privileged in accordance with 10 U.S.C. 1102 (reference (h)). Disclosures of such records and information shall occur only as authorized by that law.

4.3. Medical Management. The Department of Defense shall implement medical management procedures to assure that healthcare services provided in MTFs or paid for from non-DoD providers are necessary and appropriate.

*DoDD 6025.13, May 4, 2004*

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the Under Secretary of Defense for Personnel and Readiness, and consistent with DoD Directive 5136.1 (reference (i)), shall:

5.1.1. Issue the "Medical Quality Assurance (MQA) in the Military Health System (MHS) Regulation" and any other issuances necessary to implement the policies of this Directive.

5.1.2. Exercise oversight of the implementation of this Directive to ensure consistent application across the MHS.

5.1.3. Exercise authority to grant waivers or exceptions, consistent with law, to this Directive in exceptional circumstances.

5.2. The Secretaries of the Military Departments shall comply with this Directive, the MQA in the MHS Regulation, and any other issuances implementing policies established by this Directive, and shall ensure that:

5.2.1. Accreditation. All fixed MTFs, as well as hospitals and other facilities used by managed care support contractors, shall meet or exceed the standards of appropriate external accrediting bodies. This includes accreditation of all hospitals by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and participation, as directed by the ASD(HA), in all JCAHO quality management programs. Operational ambulatory clinics (those treating active duty Service members or Reserve component members on a duty status exclusively) are exempt from this accreditation requirement.

5.2.2. Provider Qualifications. Individual provider qualifications shall be carefully evaluated before allowing involvement in patient care.

5.2.2.1. Staff appointments and clinical privileges shall be granted to healthcare providers only after all pre-selection criteria have been verified through the primary source.

5.2.2.2. Healthcare practitioners shall have and maintain a current, valid, and unrestricted license or other authorizing document, in accordance with the issuing authority, before practicing within the defined scope of practice for like specialties. Licensing shall comply with reference (h). Authority to waive the license requirement is vested with the ASD(HA) and shall be used only to address extraordinary circumstances and in accordance with that law.



## APPENDIX 10: RESERVE COMPONENTS

*DoDD 6025.13, May 4, 2004*

5.2.3. Medical Readiness Certification. Active and Reserve component healthcare providers shall earn medical readiness certification that documents preparation for assignments involving military operations. The certification shall be reviewed and verified by the Medical Commander every 12 months. Noncompliance with the certification requirement may be the basis for personnel actions, such as withholding of special pays, promotions, awards, or actions under the Uniform Code of Military Justice (reference (j)).

5.2.4. Centralized Credentials Quality Assurance System (CCQAS). The CCQAS shall collect, track, and report required provider data for credentialing and the granting of clinical privileges by the Military Services, risk management, and adverse privileging actions. All required data shall be promptly reported and available for review by the ASD(HA). The Defense Practitioner Data Bank (DPDB) shall be part of the CCQAS.

5.2.5. MQA Reviews. MTFs shall conduct regular, systematic, and comprehensive reviews of the quality of healthcare provided in these facilities.

5.2.6. Sentinel Events. MTFs shall actively identify Sentinel Events that occur in these facilities, conduct a root cause analysis and form a corrective action plan for each event. The results of the analysis and plan for each event shall be promptly reported through their Military Department to the Armed Forces Institute of Pathology. In addition, each MTF shall comply with JCAHO Sentinel Event reporting requirements for those Sentinel Events that are reviewed by the JCAHO.

5.2.7. Risk Management. MTFs shall implement active risk management systems and programs to reduce liability risks associated with actual or alleged medical malpractice and use those systems and programs to reinforce other MQA program activities. Risk management programs shall encompass the potential risk of liability for death or disability benefits to members of the Uniformed Services arising from possible substandard medical care, including that provided in a field environment.

5.2.7.1. Every unexpected adverse patient outcome that suggests a potential compensable event shall be reviewed. The MTF shall assess whether the standard of care was met in relation to the adverse patient outcome.

5.2.7.2. Every claim for liability compensation under the Federal Tort Claims Act (reference (k)), Military Claims Act (reference (l)), or Foreign Claims Act (reference (m)), alleging medical malpractice shall be reported by the receiving claims office to the medical office designated by the concerned Secretary. The MTF involved shall, unless previously done, review the healthcare provided and assess whether the standard of care was met in all cases in which sufficient information is provided with the claim to allow identification of the patient and healthcare involved.

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 6025.13, May 4, 2004*

5.2.7.3. Information concerning every potentially compensable event, claim, and standard of care assessment shall be promptly reported to the CCQAS.

5.2.8. Patient Safety. MTFs shall participate in the Military Health System Patient Safety Program (MHSPSP) to identify and report actual and potential problems in medical systems and processes and to implement effective actions to improve patient safety and healthcare quality throughout the MHS. The MHSPSP shall focus on systems and procedures, and complement other MQA program activities.

5.2.9. National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB). MTFs shall query the NPDB and HIPDB for information on all healthcare practitioners before the granting or renewal of clinical privileges, and shall report to the NPDB and HIPDB in accordance with 42 U.S.C. 11131-11152 (reference (n)) and 42 U.S.C. 1320A-7E (reference (o)).

5.2.9.1. Reports to the NPDB shall include a report in the name of a healthcare practitioner each time a malpractice payment is made for the benefit of such practitioner. A payment shall be considered to be made for the benefit of any practitioner significantly involved in the healthcare that was the basis for the malpractice payment unless, within 180 days after the Surgeon General concerned receives notice of such payment, the Surgeon General has made a final, non-delegable determination, following external peer review, that the malpractice payment was not caused by the failure of such practitioner to meet the standard of care. If such determination has not been made within the 180-day time period, a report shall immediately be made to the NPDB.


5.2.9.2. All reports to the NPDB or HIPDB shall also be made to the DPDB. DPDB reports shall also include instances in which a practitioner's failure to meet the standard of care causes or contributes to the death or disability separation of a member of the Uniformed Services under reference (h).

## APPENDIX 10: RESERVE COMPONENTS

*DoDD 6025.13, May 4, 2004*

6. EFFECTIVE DATE

This Directive is effective immediately.



Paul Wolfowitz  
Deputy Secretary of Defense

Enclosures - 1

E1. References, continued



## APPENDIX 10: RESERVE COMPONENTS

*DoDD 6025.13, May 4, 2004*

### E1. ENCLOSURE 1

#### REFERENCES, continued

- (e) DoD Instruction 6025.16, "Portability of State Licensure for Health Care Professionals," August 31, 2000 (hereby canceled)
- (f) DoD Instruction 6025.17, "Military Health System (MHS) Patient Safety Program (PSP) (MHSPSP)," August 16, 2001 (hereby canceled)
- (g) DoD 5025.1-M, "DoD Directive System Procedures," March 5, 2003
- (h) Sections 1094 and 1102 and Chapter 61 of title 10, United States Code
- (i) DoD Directive 5136.1, "Assistant Secretary of Defense for Health Affairs (ASD(HA))," May 27, 1994
- (j) Sections 801 through 940 of title 10, United States Code, "Uniform Code of Military Justice"
- (k) Sections 1346(b) and 2671 through 2680 of title 28, United States Code, "Federal Tort Claims Act"
- (l) Section 2733 of title 10, United States Code, "Military Claims Act"
- (m) Section 2734 of title 10, United States Code, "Foreign Claims Act"
- (n) Public Law 99-660, Title IV, "The Health Care Quality Improvement Act of 1986," November 1986 (Sections 11131 through 11152 of title 42, United States Code)
- (o) Section 1128E of the Social Security Act (Sections 1320A through 7E of title 42, United States Code)

### **Appendix 10-4: DoDI 1215.13, Reserve Component Member Participation Requirements**



Department of Defense  
**INSTRUCTION**

NUMBER 1215.13

May 11, 2009

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USD(P&R)

SUBJECT: Reserve Component (RC) Member Participation Policy

References: See Enclosure 1

1. PURPOSE. This Instruction:

a. Reissues DoD Directive (DoDD) 1215.13 (Reference (a)) as a DoD Instruction (DoDI) in accordance with the authority in DoDD 5124.02 (Reference (b)) and incorporates and cancels DoDI 1215.18 (Reference (c)).

b. Establishes and implements policy, assigns responsibilities, and prescribes procedures that pertain to:

(1) The satisfactory participation by members of the RCs (National Guard (NG) and Reserve) in units and organizations of the Selected Reserve (SELRES) and as members of the Ready Reserve not assigned to SELRES units and organizations.

(2) The processing of those members who do not meet the member participation requirements of the RCs.

2. APPLICABILITY. This Instruction applies to:

a. OSD, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

b. All Ready Reserve members of the total RCs.

3. DEFINITIONS. See Glossary.

## APPENDIX 10: RESERVE COMPONENTS

*DoDI 1215.13, May 11, 2009*

4. POLICY. It is DoD policy that:

- a. Criteria shall be established for satisfactory participation by members of the RCs.
- b. Administrative procedures shall be established for processing those members who do not meet the member participation requirements of the RCs.

5. RESPONSIBILITIES

a. Assistant Secretary of Defense for Reserve Affairs (ASD(RA)). The ASD(RA), under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), shall:

(1) Establish criteria for satisfactory participation by members of the RCs in units and organizations of the SELRES and by members of the Ready Reserve not assigned to the SELRES units and organizations.

(2) Establish administrative procedures for processing members of the RCs who do not meet the member participation requirements.

b. Secretaries of the Military Departments and the Commandant of the Coast Guard. The Secretaries of the Military Departments and the Commandant of the Coast Guard shall:

(1) Ensure all implementing directives or regulations are consistent with this Instruction.

(2) Issue regulations prescribing criteria for satisfactory and unsatisfactory participation by members of their respective RCs under the criteria prescribed by the ASD(RA).

(a) Ensure that applicants and military personnel understand their military service obligation (MSO) and training requirements before assignment to an RC.

(b) Ensure that, upon transfer to the Individual Ready Reserve (IRR), those members shall understand their MSO as a member of the IRR, including the requirement for satisfactory participation in the annual screening program and any training requirements.

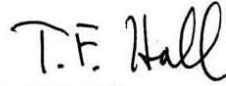
6. PROCEDURES. See Enclosure 2.

7. RELEASABILITY. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

## APPENDIX 10: RESERVE COMPONENTS

*DoDI 1215.13, May 11, 2009*

8. EFFECTIVE DATE. This Instruction is effective immediately.



T. F. Hall  
Performing the Duties of  
the Under Secretary of Defense  
(Personnel and Readiness)

### Enclosures

1. References
  2. Procedures
  3. Criteria for Satisfactory Participation in the RCs
  4. Scheduling IDT Periods for the SELRES
- Glossary

## APPENDIX 10: RESERVE COMPONENTS

*DoDI 1215.13, May 11, 2009*

### ENCLOSURE 1

#### REFERENCES

- (a) DoD Directive 1215.13, "Reserve Component Member Participation Policy," December 14, 1995 (hereby canceled)
- (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (c) DoD Instruction 1215.18, "Reserve Component Member Participation Requirements," July 17, 2002 (hereby canceled)
- (d) Sections 651, 1175a, 10143, 10147, 10148, 10205, 12303, 12319, 12681, 12683 of title 10, United States Code
- (e) DoD Instruction 1215.06, "Uniform Reserve, Training, and Retirement Categories," February 7, 2007
- (f) Section 1295c, Appendix Chapter 27, Subchapter XII of title 46, United States Code
- (g) DoD Instruction 1322.17, "Montgomery GI Bill-Selected Reserve (MGIB-SR)," November 29, 1999
- (h) Executive Order 11366, "Assigning authority to order certain persons in the Ready Reserve to active duty" August 4, 1967 as amended
- (i) DoD Instruction 1332.14, "Enlisted Administrative Separations," August 28, 2008
- (j) DoD Instruction 7730.54, "Reserve Components Common Personnel Data System (RCCPDS)," March 31, 2008
- (k) DoD Instruction 1336.1, "Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)," January 6, 1989
- (l) DoD Directive 1200.7, "Screening the Ready Reserve," November 18, 1999
- (m) DoD Directive 1205.05, "Transfer of Members Between Reserve and Regular Components of the Military Services," April 22, 2004
- (n) DoD Directive 6000.12, "Health Services Operations and Readiness," April 29, 1996
- (o) Section 206 of title 37, United States Code
- (p) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," as amended

# APPENDIX 10: RESERVE COMPONENTS

*DoDI 1215.13, May 11, 2009*

## ENCLOSURE 2

### PROCEDURES

#### 1. RESERVE PARTICIPATION

##### a. Minimum Requirements

(1) Changes in Personal Status. Pursuant to section 10205 of title 10, United States Code (U.S.C.), (Reference (d)) each member of the Ready Reserve shall keep their respective Service Secretary apprised of changes in his/her mailing address, marital status, number of dependents, civilian education, civilian employment, and any physical condition or other factor that may affect the immediate availability of that Ready Reserve member for active military service.

(2) Training. Each individual inducted, enlisted, or appointed in one of the RCs of the United States, who becomes a member of the Ready Reserve (other than through membership in the National Guard of the United States), shall, while assigned in the Ready Reserve, be scheduled to participate as follows, except as provided in DoDI 1215.06 (Reference (e)):

(a) In at least 48 scheduled inactive duty training (IDT) periods and not less than 14 days, exclusive of travel time, of active duty training (ADT) each year; or,

(b) On ADT for no more than 30 days each year, unless otherwise specifically prescribed by the Secretary of Defense.

1. Pursuant to section 1295c of title 46, U.S.C. (Reference (f)), subparagraphs 1.a.(2)(a) and 1.a.(2)(b) of this enclosure do not apply to graduates of the Federal or State Maritime Academies who are commissioned in the Navy Reserve.

2. Members who have completed their MSO and elect to continue to serve in the Ready Reserve as SELRES shall be scheduled to participate as stipulated in subparagraphs 1.a.(2)(a) and 1.a.(2)(b) of this enclosure, except as provided in Reference (e).

(c) A member who has served on active duty (AD) for 1 year or longer may not be required to perform a period of AD for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

(d) Members of the Army and Air National Guard shall, unless excused by the Secretary concerned:

1. Assemble for IDT and instruction at least 48 times each year.

2. Participate in training encampments, maneuvers, or other exercises for not less than 15 days a year.

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(3) Other Training Requirements. Additional training requirements for members of the Ready Reserve are established in Reference (e).

(4) Minimum Periods of Service. All members of the Ready Reserve first appointed, enlisted, or transferred into the SELRES shall agree to serve for a specified period, as determined by the Secretary concerned. In no case shall that service be for a period of less than 1 year. That service shall be agreed to by execution of an enlistment contract or a separate written document. Either document may be used to meet the SELRES service agreement requirements to entitlement for educational assistance pursuant to DoDI 1322.17 (Reference (g)).

b. Discharges and Transfers. Members may be discharged or transferred from the Ready Reserve pursuant to the conditions outlined in subparagraphs 1.c, 1.d, 1.e, and 1.f. of this enclosure.

c. Involuntary Assignment

(1) General. The Secretaries of the Military Departments shall establish procedures to ensure that members of the IRR and members separated from AD are afforded an equal opportunity for participation and assignment in a pay status according to their skills, experience, and desires. Service members are not to be involuntarily assigned or transferred to the SELRES unless the administrative requirements for the respective military service have been met.

(2) SELRES Members with Obligated Service. At the discretion of the Military Services and with the approval of the losing and gaining commanders, members with obligated SELRES service may be involuntarily assigned or transferred to units in the SELRES of their RC if the member resides within the commuting distance, as defined in the glossary.

(3) Select Voluntary Separation Incentive (VSI) Recipients. Pursuant to section 1175a of Reference (d) members serving in the Ready Reserve as a condition of their receipt of VSI shall have an equal opportunity to compete for available SELRES billets as do other members of the Ready Reserve.

d. Unsatisfactory Participation

(1) In the SELRES (Other than Commissioned Officers)

(a) SELRES Members Who Have Not Fulfilled Their MSO. Members of the SELRES who have not fulfilled their statutory MSO pursuant to section 651 of Reference (d) and whose participation has been unsatisfactory may be processed, at the discretion of the Secretary concerned, as follows:

1. Ordered to AD, if those SELRES members have not served on AD or ADT for a total of 24 months, for such period of time as may be deemed necessary by the Secretary concerned pursuant to section 12303 of Reference (d) and so delegated by Executive Order 11366 Reference (h). Such individuals may be required to serve on AD until their total service on AD equals 24 months. To achieve fair treatment among members who are being considered

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for AD under this section, appropriate consideration shall be given to family responsibilities; and employment necessary to maintain the national health, safety, or interest.

2. Ordered to ADT, regardless of the length of prior AD or ADT, for a period of not more than 45 days pursuant to section 10148 of Reference (d). Members of the NG may be ordered to AD under section 10148 of Reference (d) only upon request of the Governor of the state concerned or, in the case of the District of Columbia (DC), the Commanding General of the DC NG.

3. Transferred to the IRR for the balance of their statutory MSO when the Secretary concerned has determined that if mobilized the individual still possesses the potential for useful military service.

4. Discharged, if an enlisted Service member, for unsatisfactory participation, in the Ready Reserves, pursuant to paragraph 7 in Enclosure 3 of DoDI 1332.14 (Reference (i)). Unless the Service member requests a hearing before an Administrative Discharge Board (ADB), the discharge process shall not require convening a board when:

a. The commander has recommended that the Service member be discharged under honorable conditions pursuant to Reference (i).

b. The Secretary concerned has determined that if mobilized the Service member does not possess the potential for useful military service.

(b) SELRES Members Who Have Fulfilled their MSO. Members of the SELRES who have fulfilled their statutory MSO pursuant to section 651 of Reference (d) and whose participation has been unsatisfactory may be processed, at the discretion of the Secretary concerned, as follows:

1. Ordered to AD or ADT, as cited in subparagraphs 1.d.(1)(a) of this enclosure.

2. Transferred to the IRR or the Standby Reserve inactive status for the balance of their current enlistment when the Secretary concerned has determined that if mobilized the Service member still has potential for useful military service.

3. Discharged, if an enlisted Service member, for unsatisfactory participation pursuant to Reference (i), when the Secretary concerned has determined that if mobilized the Service member has no further potential for useful military service.

### (c) ADBs for Enlisted SELRES Members

1. An ADB shall convene, unless waived by the SELRES member, to consider the circumstances and recommend action when:

a. An enlisted member of the SELRES is identified as an unsatisfactory participant, and



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b. The military authority has recommended discharge under other than honorable conditions, or when required by statute.

2. When an enlisted member of the SELRES is identified as an unsatisfactory participant and the military authority has not recommended discharge under other than honorable conditions, that SELRES member may be discharged without the convening of an ADB, unless requested by the Service member, pursuant to Reference (i).

(d) Enlisted SELRES Members Ordered to ADT

1. Individuals assigned to the SELRES who are ordered to ADT pursuant to section 10148 of Reference (d), may be:

a. Returned to their previous unit of assignment upon completion of ADT.

b. Transferred to the IRR (with the consent of the State authority, if a member of the NG) upon completion of ADT.

2. The term of enlistment, or the military service agreement for that SELRES member, who is not a member of the NG, may be extended up to 6 months to permit completion of the designated period of ADT, pursuant to section 10148(a) of Reference (d).

(e) Processing Procedures

1. Transfer Codes. When a member of the SELRES is transferred to the IRR, the transfer code shall be entered in the applicable military service personnel data system for subsequent update to the Reserve Components Common Personnel Data System (RCCPDS), pursuant to DoDI 7730.54 (Reference (j)).

2. Reentry Codes. When a member of the SELRES is transferred to the IRR or separated from an RC, a reentry code shall be entered on the applicable military service separation and/or transfer and/or reassignment documents and also shall be entered in the RCCPDS if the SELRES member is being discharged or released from AD, pursuant to subparagraph 3.2.1. of DoDI 1336.1 (Reference (k)). The information shall be made available, upon request, to the U.S. Military Entrance and Processing Command.

3. Release of Coded Information. The Secretary concerned shall establish procedures to ensure that transfer code and reentry code information are only released to authorized individuals with a need to know. Members of the SELRES concerned may access their own information upon request.

4. Mailing Orders. When members of the SELRES are ordered to ADT or transferred to the IRR because of unsatisfactory participation, copies of the orders shall be furnished to the Service members through personal contact by a member of the command or by

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written transmittal. In either case, a written receipt shall be obtained. When such efforts are unsuccessful, the orders shall be mailed to the Service members, as follows:

a. Send the orders to the SELRES members' most recent mailing addresses, using certified mail with a return receipt requested, and obtain a receipt from the U.S. Postal Service to verify that the orders were mailed. Attach the receipt to a copy of the orders for proof of mailing, and file with the SELRES members' personnel files.

b. Service members ordered to ADT who fail to report shall be processed pursuant to policy and procedures established by the Secretary concerned.

(2) In the SELRES (Officers). Commissioned officers in the SELRES who have unsatisfactory participation, shall be reviewed for discharge by a board of officers when required by sections 12681 and 12683 of Reference (d), or when the military authority has recommended a discharge under other than honorable conditions. Such a discharge may only be done under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned.

(3) In the IRR

(a) Members of the IRR who are ordered to ADT, pursuant to section 10147 of Reference (d), those ordered to muster duty, pursuant to section 12319 of Reference (d) to accomplish annual screening requirements, and to complete other annual screening requirements as prescribed by the Secretary concerned; and fail to perform that duty without producing satisfactory evidence as to why they were unable to perform that duty, shall be designated as unsatisfactory participants.

(b) Members of the IRR who have not fulfilled their MSO, pursuant to section 651 of Reference (d), who were enlisted or appointed under any program where the MSO may be fulfilled by military service in the IRR, and whose participation in such a program has not been satisfactory, shall be designated as unsatisfactory participants. At the discretion of the Secretary concerned, IRR members with participation that is unsatisfactory may be processed, as follows:

1. Ordered to ADT, regardless of the length of the prior AD or ADT, for a period of not more than 45 days pursuant to section 10148 of Reference (d), for failure to perform training prescribed under section 10147 of Reference (d). Members of the NG may be ordered to AD under section 10148 only upon request of the Governor of the state concerned or, in the case of the DC, the Commanding General of the DC NG. A member ordered to AD under this section shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case maybe.

2. Retained in the IRR or transferred to the Standby Reserve inactive status for the balance of their statutory MSO, current enlistment contract, or military service agreement when the Secretary concerned has determined that if mobilized the individual concerned still possesses the potential for useful military service.

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3. Enlisted IRR members shall be processed for separation for unsatisfactory participation, pursuant to Reference (i), when the Secretary concerned has determined that if mobilized the individual has no potential for useful military service.

4. Commissioned officers with participation that has been unsatisfactory may be discharged from an RC. When required by sections 12681 and 12683 of Reference (d), such a discharge may only be affected under an approved recommendation from a board of officers convened by an authority designated by the Secretary concerned.

(c) Orders Affecting Members of the IRR. Orders affecting members of the IRR, which involve ADT that is required by the terms of the enlistment or military service agreement, may be handled by regular U.S. mail.

e. Hardships and Delays

(1) Hardships. Individuals with orders to involuntary AD that may result in extreme community or personal hardship, upon their request, may be transferred to the Standby Reserve, the Retired Reserve, or may be discharged, pursuant to DoDD 1200.7 (Reference (1)).

(2) Delays. Individuals involuntarily ordered to AD or ADT, may be authorized a delay, according to the rules set by the Secretary concerned.

f. Exceptions. Members of the Ready Reserve who are unable to participate for any of the following reasons shall be processed, as indicated:

(1) Unit Inactivation or Relocation. Members of the SELRES who are unable to participate by reason of unit inactivation or relocation, and reside beyond the commuting distance of a Reserve unit, shall be transferred to the IRR and shall be subject to the participation requirements in Reference (d) and subparagraph 1.a. of this enclosure.

(2) Individual Relocation. Members of the SELRES who permanently change their residences, which results in residing beyond a reasonable commuting distance of their assigned unit, may:

(a) Request to retain their position in their unit of assignment.

(b) Lose their billet and be transferred to another paid-drill unit of the same RC, if possible, or be given 90 days from departing their original unit to locate and join another unit before transfer to the IRR.

(c) Request assignment to vacancies that require different specialties than the SELRES members possess. The Secretary concerned may provide for retraining these members (with their consent) by ordering them to ADT to acquire the necessary specialties.

(d) Be accepted in another RC within their Service, regardless of unit vacancies, if established end strength is not exceeded, and subject to the following conditions:

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1. The losing unit certifies that the participation of the RC members has been satisfactory.

2. The grades and specialties of the RC members are usable in the unit, the SELRES members may be retrained by on-the-job training, or members agree to be retrained by being ordered to ADT.

(e) Be authorized to transfer to another RC pursuant to DoDD 1205.05 (Reference (m)).

(f) Not be assigned to a unit beyond a reasonable commuting distance without the SELRES members' consent.

(3) SELRES Billet Not Available. When another pay billet of the same RC is not located, those members of the SELRES shall be transferred to the IRR.

(4) Key Employees. Members of the Ready Reserve, designated by employers and approved by the Secretary concerned as key employees, or any Federal employee occupying a key position in their civilian occupations shall be reassigned to the Standby Reserve (active status), retired, or discharged, pursuant to Reference (l).

(5) Key Position. A Federal position that shall not be vacated during a national emergency or mobilization without SERIOUSLY impairing the capability of the parent Federal agency or office to function effectively. The four categories of Federal key positions are set out in Reference (l). The first three categories are, by definition, key positions. However, the third category, Article III Judges, provides for exceptions on a case-by-case basis.

(6) Individuals Preparing for Ministry. Members of the Ready Reserve preparing for ministry, in an accredited theological or divinity school, shall be transferred to the Standby Reserve (active status) for the duration of their ministerial studies. Ready Reserve members participating in a military Chaplain Candidate or Theological Student Program may continue their Ready Reserve affiliation and engage in AD and IDT.

(7) Individuals Enrolled in Graduate Study for Health Professions. Individuals enrolled in graduate study for health professions shall be screened for Reserve appointments pursuant to DoDD 6000.12 (Reference (n)).

(8) Overseas Residency. Individuals who incur a temporary non-military obligation requiring residency outside the United States that prevents them from performing their required Reserve duties may be assigned to the Inactive National Guard (ING) or the Standby Reserve, during the period of temporary non-military obligation residency outside the United States.

(9) Participation in the Serviceman's Group Life Insurance (SGLI) Program by Members of the IRR. Members of the IRR, authorized to attend IDT for retirement points, with past due SGLI premium payments, and who have not declined SGLI coverage, shall not be permitted to

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perform voluntary inactive duty, annual training (AT), or serve on AD until their SGLI premiums are paid in full.

2. OTHER ACTIONS. This Instruction shall not prevent action against a member of the Ready Reserve, either by:

- a. Courts-martial or review by a board of officers convened by an authority designated by the Secretary concerned.
- b. Any other legal action within title 10 and title 32 under which a member can be separated.

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ENCLOSURE 3

CRITERIA FOR SATISFACTORY PARTICIPATION IN THE RCs

1. General. The minimum annual participation for members of the RCs, prescribed by the Secretaries concerned, and described in paragraph 1 of Enclosure 2 shall be at least 48 drills and 14 days of AT, exclusive of travel time, or, for the Army and the Air National Guard, assemble for drill and instruction, including outdoor target practice, at least 48 times (drill periods) each year; and participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year to maintain the proficiency of the unit and the skills of the individuals. In accordance with the policy in this Instruction, the Secretaries concerned may establish guidance to:

a. Grant exceptions for individuals who are subject to the participation requirements of Reference (e), if the number of unexcused absences shall not exceed nine scheduled IDT periods.

b. Consider the personal circumstances of the RC members and transfer them to another training category in Reference (e), if it is consistent with military service requirements.

2. Absences. Unless excused, members of the SELRES shall be subject to the participation requirements in Reference (e) and this Instruction. Unit commanders may grant excused absences to SELRES members based on their submission of adequate justification within the 30-day period before or 30-day period following the missed IDT.

3. Transfer as a Result of Screening. The transfer of RC members to the Standby Reserve, as a result of the screening process in Reference (I), shall not constitute unsatisfactory participation.

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ENCLOSURE 4

SCHEDULING IDT PERIODS FOR THE SELRES

1. General. The Secretaries concerned shall designate by regulation the level of command or supervision authorized to schedule IDT periods. Unit IDT schedules shall be prepared and published on an annual basis as far in advance as possible. That advance schedule shall provide adequate notice to Guard or Reserve members, so they may plan their activities to minimize disruptions to their families and employers.

2. Reserve Members Not Assigned to Reserve Units. The commanders or supervisors of Reserve members not assigned to Reserve units, such as the Individual Mobilization Augmentees, shall schedule IDT periods by mutual agreement with the members.

3. IDT Schedules. IDT periods may be scheduled or rescheduled for an individual, unit, or portions of a unit, where necessary, to meet training requirements and performance of missions. Rescheduled IDT periods shall be announced 30 days in advance to allow sufficient time for the Guard and Reserve members to be advised of the change. Primary consideration in reaching a decision on rescheduling IDT periods shall be the availability of the training for the Reserve member or unit, and/or the benefit and convenience of the Government. IDT periods may be scheduled throughout the month, including weekdays, as necessary for training and performance of the unit mission. Documentation requirements for rescheduling IDT periods shall be equal to that required for the normal scheduling of IDT.

a. Equivalent Duty Period (EDP). Reserve members may be allowed to use EDPs to make up an IDT period missed due to illness or emergency situations. There is no obligation for an RC to authorize EDPs. When an EDP is authorized, the approving official shall ensure that the EDP is of equivalent value to the normal training or duty of that member and available on the date(s) scheduled. A Reserve member may not be paid for more than four periods of equivalent training, instruction, duty, or duties performed during any fiscal year pursuant to section 206 of title 37, U.S.C. (Reference (o)).

b. RC Members Attached to Other Units. In the following situations, RC members may be attached to other units for duty to train at a place of duty that is not the duty location of the unit in which the position is authorized:

(1) Division surgeon assigned to a medical battalion, place of duty, or division headquarters.

(2) Member attending U.S. Army Reserve schools, or other special duty.

(3) Member attending college or other civilian schooling at another location. Such assignments shall be for a definite and stated duration.

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## GLOSSARY

### PART I. ABBREVIATIONS AND ACRONYMS

AD	active duty
ADB	Administrative Discharge Board
ADT	active duty training
ASD(RA)	Assistant Secretary of Defense for Reserve Affairs
AT	annual training
DC	District of Columbia
DoDD	DoD Directive
DoDI	DoD Instruction
EDP	equivalent duty period
IDT	inactive duty training
ING	Inactive National Guard
IRR	Individual Ready Reserve
MSO	military service obligation
NG	National Guard
RC	Reserve Component
RCCPDS	Reserve Components Common Personnel Data System
SELRES	Selected Reserve
SGLI	Serviceman's Group Life Insurance
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
VSI	Voluntary Separation Incentive



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### PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Instruction.

commuting distance. The maximum distance an obligated member of an RC may be required to travel involuntarily between residence and IDT site. Allowed distances include:

A 100-mile radius of the IDT site or a distance that may be traveled by automobile under average conditions of traffic, weather, and roads within 3 hours. This applies only to those units that normally do four IDT sessions on 2 consecutive days where Government meals and quarters are at the unit IDT site.

A 50-mile radius of the IDT site or a distance that may be traveled by an automobile under average conditions of traffic, weather, and roads within 1 1/2 hours where Government meals and quarters are not at the unit IDT site.

EDP. An activity performed instead of a scheduled IDT period.

Military Departments. Defined in Joint Publication 1-02 (Reference (p)).

Military Services. Defined in Reference (p).

Individual Mobilization Augmentee. Defined in Reference (p).

IRR. Consists of members of the Ready Reserve not assigned to the SELRES or the ING.

Ready Reserve. Consists of Reserve units and individual Reserve members who are liable for immediate AD during war or national emergency. The Ready Reserve includes the SELRES, the IRR, and the ING.

SELRES. That part of the Ready Reserve consisting of Reserve units, as designated by the Secretary concerned, and of individual Reserve members, in pay status, required to participate in IDT periods and ADT. The SELRES also includes Active Guard and Reserve and Individual Mobilization Augmentee personnel.

Standby Reserve. Defined in Reference (p).

unsatisfactory participation. Failing to fulfill the contractual obligation or military service agreement as a member of the Ready Reserve. Participation is unsatisfactory when:

Members of the SELRES acquire at least nine unexcused absences from scheduled inactive duty training periods within a 12-month period, or fail to perform prescribed ADT, or fail to perform duty to prescribed standards, or engage in misconduct for military offenses.

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Members of the Ready Reserve (other than the SELRES) fail to meet the standards prescribed by the Secretaries concerned for annual screening, or fail to perform prescribed ADT, or fail to perform duty to prescribed standards, or engage in misconduct for military offenses.

**APPENDIX 10-5: DoDI 1215.06, Uniform Reserve, Training, and Retirement  
Category Administration**

See next page.



Department of Defense  
**INSTRUCTION**

NUMBER 1215.06

February 7, 2007

*Incorporating Change 2, December 24, 2008*

ASD(RA)

SUBJECT: Uniform Reserve, Training, and Retirement Categories

- References:
- (a) DoD Directive 1215.6, subject as above, March 14, 1997 (hereby canceled)
  - (b) ~~Acting Deputy Secretary of Defense Memorandum, "DoD Directives Review – Phase II," July 13, 2005~~ DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
  - (c) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," ~~October 17, 2006~~ June 23, 2008
  - (d) USD(P&R) Memorandum, "Operational Support Duty – Update," January 29, 2007 (hereby canceled)
  - (e) through ~~(wy)~~, see Enclosure 1

1. REISSUANCE AND PURPOSE

This Instruction reissues Reference (a) as an Instruction in accordance with the guidance in Reference (b) and the authority in Reference (c), *incorporates and cancels USD(P&R) Memorandum (Reference (d))* and cancels *DoD Instruction 1215.19* (Reference ~~(de)~~). This Instruction implements policy, assigns responsibilities, and prescribes procedures that pertain to:

- 1.1. Prescribing minimum training criteria for each category of the Reserve Components (RCs).
- 1.2. The use of RC duty for both training and mission and operational support purposes.
- 1.3. The use of RC duty to capitalize on RC capabilities and accomplish operational requirements while maintaining RC mission readiness for domestic and overseas operations.
- 1.4. Maintaining and reporting personnel data pursuant to DoD Directive 1205.17 (Reference ~~(ef)~~) and DoD Instruction 7730.54 (Reference ~~(fg)~~).
- 1.5. The use of uniform RC categories (RCCs) and training and retired categories (TRCs) for the Ready Reserve, Standby Reserve, and Retired Reserve of the Armed Forces provided for in

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sections 10141, 10142, 10147, 10149, 10151, 10154, and 12774 of 10 United States Code (U.S.C.) (Reference ~~(g)~~h).

1.6. Categorizing, maintaining, and reporting personnel data pursuant to References ~~(e)~~f) and ~~(f)~~g).

1.7. Participation in Selective Service System (SSS) activities, civil defense activities, and Continental United States (CONUS) Defense programs by members of the Ready and Standby Reserve.

## 2. APPLICABILITY AND SCOPE

This Instruction applies to:

2.1. The Office of the Secretary of Defense, the Military Departments (including the Coast Guard at all times, including when it is a service in the Department of Homeland Security by agreement with that Department), the *Office of the* Chairman of the Joint Chiefs of Staff *and the Joint Staff*, the Combatant Commands, the Defense Agencies, *the Office of the Inspector General of the Department of Defense*, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Departments," as used herein, refers to the Departments of the Army, the Navy, and the Air Force. The term "Secretary concerned" refers to the Secretaries of the Military Departments and the Secretary of Homeland Security for the Coast Guard when it is not operating as a Service in the Navy. The term "Military Services" refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

2.2. The use of all inactive duty (ID), inactive duty training (IDT), active duty (AD), and full-time National Guard duty (FTNGD) periods performed by all RC members not counted in Active component (AC) end strengths, or AD for Operational Support (ADOS), pursuant to Reference ~~(g)~~h).

2.3. The requirements for categorizing and recording of RC personnel, and the training requirements for those categories.

2.4. All members of the total RCs to include the Ready Reserve, the Standby Reserve, and the Retired Reserve.

2.5. The designation and official recording of all Reserve force personnel data in the Reserve Component Common Personnel Data System (RCCPDS) pursuant to References ~~(e)~~f) and ~~(f)~~g).

2.6. The participation of RC members in approved programs outside the Department of Defense.

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### 3. DEFINITIONS

Terms used in this Instruction are defined in Enclosure 2.

### 4. POLICY

It is DoD policy that:

4.1. When performing training or support duty, all RC members shall be in an ID, AD, or FTNGD status.

4.2. All RC members not counted in AC end strengths, pursuant to Reference (~~g~~h), shall be placed in one of the RCCs and TRCs described in this Instruction. Individuals shall be assigned to RCCs and TRCs based on their obligations to meet mission requirements and training requirements. All RC members will be reported by Service in the RCCs and TRCs pursuant to References (~~e~~f) and (~~f~~g).

4.3. Terminology used in this Instruction to describe RC training and retirement categories and duty statuses shall apply to all Services.

### 5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Reserve Affairs, under the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), shall:

5.1.1. Establish guidance for the minimum training criteria and the ID, AD, and FTNGD requirements associated with each personnel category.

5.1.2. Establish DoD guidance for RC training and retirement categories.

5.2. The Secretaries of the Military Departments and the Commandant of the Coast Guard shall:

5.2.1. Ensure all implementing directives or regulations are consistent with this Instruction.

5.2.2. Establish necessary criteria and procedures to ensure trained and qualified RC units and individuals are available for AD throughout the entire spectrum of requirements; including war or national emergency; contingency operations; military operations other than war; operational support; humanitarian operations; and at such other times as the national security

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may require, and that funding for RC training and operations is programmed and budgeted to adequately support these requirements. Authorities and duty statuses, arrayed and defined at Enclosures 3 and 4, shall be utilized to facilitate this RC usage.

5.2.3. Approve any additional IDT periods, as necessary and consistent with law. Authorizing and using additional training is subject to the categories, limitations, and controls delineated in this Instruction.

5.2.4. Establish minimum standards for satisfactory participation at required training periods, which shall include the number and percentages of training periods for meeting the minimum standards. Individuals attending IDT periods are required to meet those minimum training standards. Those standards shall contain procedures for accounting for absences and excused IDT periods, as necessary. Individuals may voluntarily attend extra IDT periods for points.

5.2.5. Include in the budget for the AC both military personnel and operations and maintenance funds to provide AD tours for RC members on AD in support of AC programs and operational support.

5.2.6. Ensure, through coordination with supported organizations, that RC members who serve on AD tours funded by AC resources (i.e., ADOS - AC funded) receive full pay, allowances, and entitlements appropriate for the length of the AD tour.

5.2.7. Establish criteria for combining AD training and IDT to achieve desired readiness levels and to meet training requirements, as necessary.

5.2.8. Designate all RC members in a RCC and TRC according to criteria established in Enclosures 5 and 6.

5.2.9. Ensure that RC members perform duty according to the minimum criteria established for each RCC in Enclosure 6.

5.3. The Commanders of the Combatant Commands shall:

5.3.1. Exercise Combatant Command (COCOM) command authority over RC forces when mobilized or ordered to Active Duty Other than for Training (ADOT). Command authority consists of the authority specified in section 164(c) of Reference (~~g~~*h*) except that, unless otherwise directed by the Secretary of Defense, assigned RC forces on ADOT may not be deployed until validated by the parent Service for deployment.

5.3.2. Exercise Training Readiness Oversight (TRO) over assigned RC forces not on AD, or on Active Duty for Training (ADT) not provided under subparagraph 5.3.1. above. TRO is defined as the degree of authority Combatant Commanders have over assigned RC forces

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when not on AD, and when on ADT, unless provided under paragraph 5.3.1. TRO includes specific authority to:

5.3.2.1. Provide guidance to Service component commanders on operational requirements and priorities to be addressed in Military Department training and readiness programs.

5.3.2.2. Comment on Service component program recommendations and budget requests.

5.3.2.3. Coordinate and approve participation by assigned RC forces in joint exercises and other joint training when on ADT or performing IDT.

5.3.2.4. Obtain and review readiness and inspection reports on assigned RC forces.

5.3.2.5. Coordinate and review mobilization plans (including post-mobilization training activities and deployability validation procedures) developed for assigned RC forces.

### 6. PROCEDURES

#### 6.1. Guidelines for RC Duty Categories

6.1.1. Types of Duty. Table 1 at Enclosure 4 shows the legal authorities, in titles 10, 14, and 32 U.S.C. (References ~~(g)~~ through ~~(j)~~), under which RC members may perform military duty and the types of duty that can be performed. The types of duty and their prescribed purpose are provided below.

6.1.2. IDT. Authorized training performed by members of an RC not on AD, and performed in connection with the prescribed activities of the RC of which they are a member. It consists of regularly scheduled unit training periods, additional IDT periods, and equivalent training. The primary purpose of IDT is to provide individual and/or unit readiness training. IDT shall be used to provide structured individual and/or unit training, or educational courses, other than correspondence courses, to RC members. Support to mission requirements, i.e., operational support, may occur as a consequence of performing IDT.

6.1.2.1. Paid IDT periods shall not be less than 4 hours. No more than two IDT periods may be performed in any calendar day. Pursuant to section 206 of 37 U.S.C. (Reference ~~(k)~~) and within the guidelines prescribed below, the Secretary concerned may prescribe additional standards for IDT.

6.1.2.2. IDT periods for retirement points only (without pay) shall not be less than 2 hours, with a maximum of two points authorized in any one calendar day.

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6.1.2.3. One retirement point in any one calendar day may be granted for attendance at a professional or trade convention, with a minimum of 4 hours, pursuant to DoD Instruction 1215.7 (Reference ~~(e)~~).

6.1.2.4. Where practical, multiple IDT periods over consecutive days shall be used to maximize training effectiveness.

6.1.2.5. IDT shall not be performed in designated Imminent Danger Area.

6.1.2.6. Additional IDT Periods. A sub-category of IDT.

6.1.2.6.1. Additional IDT periods improve readiness by providing for individuals and units the required and necessary training to attain and maintain designated readiness levels. The Secretary concerned shall establish guidance for and approve use of additional IDT periods pursuant to limits in paragraphs 6.1.2.6.3.1. through 6.1.2.6.3.3.

6.1.2.6.2. The RC shall identify additional IDT periods separately from normal unit or individual training periods in budget documents and in internal records so that training period costs and training support costs for each type of additional training may be clearly identified, justified, and audited.

6.1.2.6.3. Three categories of additional IDT periods are:

6.1.2.6.3.1. Additional training periods (ATPs). ATPs for units, components of units, and individuals are for accomplishing additional required training, as defined by post-mobilization mission requirements. The number of those training periods shall not exceed 36 each fiscal year (FY) for any member.

6.1.2.6.3.2. Additional flying and flight training periods (AFTPs). AFTPs are authorized for primary aircrew members for conducting aircrew training and combat crew qualification training to attain and maintain aircrew flying proficiency and sustain required readiness. These AFTPs shall not be in addition to the ATPs in paragraph 6.1.2.6.3.1. The number of these training periods shall not exceed 72 each FY for any aircrew member, unless specifically authorized by the Secretary concerned, and subject to the limitations in paragraph 6.1.2.6.4.

6.1.2.6.3.3. Readiness management periods (RMPs). RMPs are intended for use by drilling Reserve members who are not military technicians to support the following functions in preparing their unit for training: the ongoing day-to-day operation of the unit; accomplishing unit administration; training preparation; support activities; and maintenance

functions. The number of RMPs performed in a FY by any members shall not exceed 36, and not more than one RMP shall be performed by an individual in one calendar day. These training periods shall be used only where sufficient full-time support personnel are not available or

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specifically assigned to accomplish those duties. Priority for the performance of RMPs shall be given to unit members who are not military technicians. A military technician may not be placed in a leave status to enable him/her to perform duty in an RMP status. Additionally, a military technician may not perform duty in an RMP status to accomplish activities that are within the normal requirements and workload of the military technician's job description. Not more than one RMP shall be performed by an individual in one calendar day.

6.1.2.6.4. Except for aircrew members, the combination of ATPs and RMPs shall not exceed 72 in each FY for each person. Combinations of ATPs, AFTPs, and RMPs for aircrew members shall not exceed 84 in a FY, with the Secretary concerned authorized to provide a waiver to a maximum of 96 additional IDT periods for an aircrew member in a FY. Training periods authorized in excess of the units presented in paragraph 6.1.2.6.3.2. shall not be used for augmenting missions and must provide bona fide training opportunities required to meet readiness levels. This authority may not be delegated below the Secretary of the Military Department concerned.

6.1.2.7. Reserve component members performing IDT who are covered for an injury, illness or disease incurred or aggravated in line of duty as provided under section 1074a (a)(2), (3) and (4) of Reference (g/h) shall also be subject to:

6.1.2.7.1. Chapter 47 of Reference (g/h) for members performing IDT pursuant to Reference (g/h).

6.1.2.7.2. The applicable state code, if provided under such code, for members performing IDT pursuant to Reference (j).

6.1.3. ID. Authorized duty, other than training, performed by members of a RC not on AD. It consists of Muster Duty (MD) and Funeral Honors Duty (FHD).

6.1.3.1. MD. A special category of ID used to meet the continuous screening requirement established by section 10149 of Reference (g/h). A member of the Ready Reserve may be ordered without his consent to MD one time a year by an authority designated by the Secretary concerned pursuant to section 12319 of Reference (g/h).

6.1.3.1.1. MD shall be considered equivalent to IDT, except for pay, and shall include a minimum of 2 hours at the muster site. MD shall not be performed for more than 1 day, including travel, each calendar year. An allowance for MD shall be paid in accordance with section 433 of Reference (j/k) and Reference (k/l) at the rate determined by the DoD Per Diem Committee and included in the DoD 7000.14-R (Reference (m)).

6.1.3.1.2. In cases where a total of more than 1 day is required to meet the MD requirement, or in other specific circumstances approved under regulations issued by the Secretary concerned, ADT may be used in lieu of MD.

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6.1.3.2. FHD. The rendering of military funeral honors is the ceremonial paying of respect and the final demonstration of the country's gratitude to those who, in times of war and peace, have faithfully defended our Nation. FHD includes both the preparation for and the actual performance of funeral honors functions at the funeral of a veteran as defined in section 1491 of Reference (~~g/h~~).

6.1.3.2.1. Members of the Ready Reserve may perform FHD in a voluntary status pursuant to the provisions of section 12503 of Reference (~~g/h~~) or section 115 of Reference (~~h~~). No more than one FHD period shall be performed in a day. FHD shall include a minimum of 2 hours of duty during a day, including travel, for the performance of duty and/or preparation/training for duty. Service credit for this duty shall be pursuant to section 12732(a)(2)(E) of Reference (~~g/h~~). This duty may be performed in either a pay or non-pay status. If in a pay status, an allowance for FHD shall be paid pursuant to either section 435 of Reference (~~j/k~~) or compensation pursuant to section 206 of Reference (~~j/k~~), as authorized by the Secretary concerned.

6.1.3.2.2. Though other AD categories may be used to provide funeral honors support, the duty category in which funeral honors and the preparation for funeral honors are performed shall be determined by the Secretary concerned, and in no case may the performance of funeral honors or the preparation for such honors be considered a period of IDT.

6.1.4. AD. Full-time duty in the active Military Service of the United States. It includes full-time training duty, annual training duty, and attendance, while in active Military Service, at a school designated as a Service school by law and the Secretary of the Military Department concerned. It does not include FTNGD. At any time, an authority designated by the Secretary concerned may order a member of the RC under his or her jurisdiction to AD or retain the member on AD with the consent of the member under the authority of sections 12301(d), 12301(h), and 12322 of Reference (~~g/h~~). However, a member of the Army National Guard of the United States (ARNGUS) or Air National Guard of the United States (ANGUS) may not be ordered to AD under that authority without the consent of the Governor or other appropriate authority of the State or territory, the Commonwealth of Puerto Rico, or the District of Columbia. For the RC, AD is comprised of the categories ADT and ADOT. The respective authorities for AD for RC members are depicted at Enclosure 4, with specific duty categories described in paragraphs 6.1.4.1., 6.1.4.2., and 6.1.5.

6.1.4.1. ADT. A category of AD that shall be used to provide structured individual and/or unit training, including on-the-job-training, or educational courses to RC members. Included in the ADT category are annual training (AT), initial ADT (IADT), and other training duty (OTD). The primary purpose of ADT is to provide individual and/or unit readiness training. Support to mission requirements, i.e., operational support, may occur as a consequence of performing ADT.

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6.1.4.1.1. IADT. A category of ADT which includes basic military training and technical skill training, is required for all enlisted accessions. Paragraph 6.6.4.1.4. provides specific guidance on IADT.

6.1.4.1.2. AT. The minimum period of ADT that Reserve members must perform each year to satisfy the training requirements associated with their RC assignment. The primary purpose of AT is to provide individual and/or unit readiness training. AT may provide support to AC missions and requirements. AT may be required for all members of the Ready Reserve. Members of the Selected Reserve shall perform AT. For all members of Selected Reserve units, except for those in the National Guard, AT shall be for not less than 14 days (exclusive of travel time) each year pursuant to section 10147 of Reference (~~g~~h), and not less than 12 days (exclusive of travel time) for the Coast Guard Reserve. Individual Mobilization Augmentees (IMAs) are members of the Selected Reserve, not assigned to a Reserve unit organized to serve as a unit. IMAs are required to perform a minimum of 12 days of AT each year pursuant to DoD ~~Directive~~ *Instruction* 1235.11 (Reference (~~m~~n)). Support to mission requirements, i.e., operational support, may occur as a consequence of performing AT.

6.1.4.1.3. OTD. Authorized ADT, other than IADT or AT, that provides all other structured training, to include on the job training, for individuals or units to enhance proficiency. OTD is authorized to provide for full-time attendance at organized and planned specialized skill training, refresher and proficiency training, and professional development education programs. It shall be used to support RC members in obtaining the necessary skills and disciplines to achieve required readiness standards. The primary purpose of OTD is to provide individual and/or unit readiness training. Authorization for ADT shall be managed pursuant to directives established by the Secretaries concerned. National Guard and Reserve personnel who are not employed as military technicians shall receive priority consideration for such training. Support to mission requirements, when it also provides individual and/or unit readiness training, may occur as a consequence of performing OTD.

6.1.4.2. ADOT. A category of AD used to provide RC support to either AC or RC missions. It includes the categories of ADOS (formerly active duty for special work (ADSW)), Active Guard and Reserve (AGR) duty, and involuntary AD pursuant to sections 12301, 12302, and 12304 of Reference (~~g~~h) and section 712 of Reference (~~h~~i). Training may occur as a consequence of performing ADOT.

6.1.4.2.1. ADOS. Authorized voluntary AD for RC personnel funded through applicable military or Reserve personnel appropriations (ADOS-AC funded or ADOS-RC funded) to support AC or RC programs, respectively. The purpose of ADOS is to provide the necessary skilled manpower assets to support existing or emerging requirements. Authorization of ADOS shall be managed pursuant to Issuances established by the Secretary concerned. To assist the Military Departments in managing ADOS tours, the following criteria are provided.

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6.1.4.2.1.1. ADOS includes all voluntary AD performed pursuant to section 12301(d) of Reference (g/h), other than AGR duty. This includes *all 1-year or multi-year voluntary tours of active service by RC members.*

6.1.4.2.1.2. ADOS includes active duty for training performed as a result of a request of an operational commander to provide support.

6.1.4.2.1.3. ADOS includes all AD and ADT performed as a result of reimbursable funding.

6.1.4.2.1.4. ADOS includes FHD performed not in an inactive duty status.

6.1.4.2.1.5. ADOS includes voluntary AD performed by recall of reserve retirees not receiving regular retired pay.

6.1.4.2.1.6. National Guard and Reserve personnel who are not employed as a military technician shall receive priority consideration for these tours.

6.1.4.2.1.7. The cumulative periods of AC and FTNGD performed by the member exceeding 1,095 days in the previous 1,460 days, are accountable against AD strengths (active component, or AGR end strength, consistent with pay appropriations) when the 1,095 day threshold is crossed, pursuant to section 115 of Reference (g/h). A member whose order to AC or FTNGD that specifies a period of greater than 3 years shall be included in the strength authorized, as stated above, commencing on the first day of the orders. Additionally, these members will continue to count against the ceilings prescribed in section 115(b) of Reference (g/h).

6.1.4.2.1.7.1. Each Reserve component is limited to a maximum number of personnel that may be performing Operational Support (OS) duty pursuant to section 115 (b) of Reference (g/h) at any time.

6.1.4.2.1.7.2. General/Flag Officers are included in OS accountability, but are further controlled by section 526 of Reference (g/h) regarding limitations and accountability.

*6.1.4.2.1.7.3. The limits of the period of active duty set out in section 115(b) of Reference (h) shall be calculated from October 28, 2004. Specifically, accountability will begin with orders issued after October 28, 2004.*

6.1.4.2.2. AGR Duty. AD performed by a member of an RC of the Army, the Navy, the Air Force, or the Marine Corps, the Coast Guard, or FTNGD performed by a member of the National Guard under an order to AD or FTNGD for a period of 180 consecutive days or more for organizing, administering, recruiting, instructing, or training the Reserve components, or to perform other duties as prescribed in sections 12310 and 10211 of Reference (g/h).

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Personnel performing such duty are included in the FTS numbers for each RC under the collective title of AGR.

6.1.4.2.3. Funding for personnel in uniform Reserve, training, and retirement categories shall be pursuant to procedures established in this Instruction. The Secretary concerned is authorized to include in the budget for the AC both military personnel and operations and maintenance funds to provide AD tours for RC members on AD in support of AC programs.

6.1.5. FTNGD. "Full-time National Guard duty" means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia pursuant to section 316, 502, 503, 504, or 505 of Reference (f) for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

6.1.5.1. FTNGD-AT. AT is the minimum period of full-time military training that National Guard members must perform each year to satisfy the training requirements associated with their RC assignment. The primary purpose of AT is to provide individual and/or unit readiness training. Support to mission requirements, i.e., operational support, may occur as a consequence of performing AT. National Guard units are required to perform full-time military training (in FTNGD status) for at least 15 days each year including travel time pursuant to section 502 Reference (f).

6.1.5.2. FTNGD-OTD. OTD is authorized full-time military training, other than IADT or AT, that provides all other structured training, to include on the job training, for individuals or units to enhance proficiency. OTD is authorized to provide for full-time attendance at organized and planned specialized skill training, refresher and proficiency training, and professional development education programs. It shall be used to support RC members in obtaining the necessary skills and disciplines to achieve required readiness standards. National Guard personnel who are not employed as military technicians shall receive priority consideration for such training.

6.1.5.3. FTNGD-OT. A category of FTNGD used to provide RC (National Guard) support to either AC or RC missions. It includes the categories of FTNGD for operational support (FTNGD-OS) (formerly FTNGD for special work (FTNGD-SW), AGR duty, and involuntary FTNGD pursuant to section 502(f)(1) of Reference (f). Training may occur as a consequence of performing FTNGD-OT.

6.1.5.3.1 FTNGD-for OS. The purpose of FTNGD-OS is to provide the necessary skilled manpower assets to support existing or emerging requirements pursuant to section 502(f) of Reference (f). Authorization of FTNGD-OS shall be managed pursuant to Directives established by the Secretaries of the Army and Air Force. To assist the Military Departments in managing these tours, the following criteria are provided.

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6.1.5.3.1.1. FTNGD-OS includes all voluntary FTNGD performed pursuant to section 502(f) of Reference (i), other than AGR duty.

6.1.5.3.1.2. FTNGD-OS includes FTNGD duty for training performed as a result of a request of an operational commander to provide support.

6.1.5.3.1.3. FTNGD-OS includes all FTNGD performed as a result of reimbursable funding.

6.1.5.3.1.4. FTNGD-OS includes FHD performed not in an inactive duty or active duty status.

6.1.5.3.1.5. National Guard personnel who are not employed as a military technician shall receive priority consideration for these tours.

6.1.5.3.1.6. The cumulative periods of AC and FTNGD performed by the member exceeding 1,095 days in the previous 1,460 days, are accountable against AD strengths (active component, or AGR end strength, consistent with pay appropriations) when the 1,095 day threshold is crossed, pursuant to section 115 of Reference (g/h). A member whose order to AC or FTNGD that specifies a period of greater than 3 years shall be included in the strength authorized, as stated above, commencing on the first day of the orders. Additionally, these members will continue to count against the ceilings prescribed in section 115(b) of Reference (g/h). Each Reserve component is limited to a maximum number of personnel that may be performing OS duty pursuant to section 115(b) of Reference (g/h) at any time.

6.2. Maximize RC Utilization. All training duty planned and performed by RC members shall capitalize on RC capabilities to accomplish operational requirements while maintaining their mission readiness for domestic and overseas operations. RC members may be employed to support AC mission requirements as part of conducting training duty.

### 6.3. RC Utilization Authorities

6.3.1. Enclosure 4 depicts the structure and relationships of RC duty categories for ID, AD, and FTNGD under specific authorities. The training and support categories provide the Secretaries concerned the flexibility of developing policies to maximize RC utilization as stated in paragraph 6.2.

6.3.1.1. Training. All RC members shall receive training pursuant to assignments and required readiness levels. Required training shall provide for the minimum training time or number of training periods required for attaining the prescribed unit readiness status and maintaining individual proficiency. The primary purpose of all training is the enhancement of individual skills and/or unit effectiveness. Training may be conducted in ID, AD, or FTNGD status. Mission support may be a key element in developing training programs, but training shall be the paramount consideration and documented for budgetary allocations. Mission and

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operational support may occur as a consequence of training. Required training is further delineated in section 6.6.

6.3.1.2. Support. Voluntary Duty (AD and FTNGD) may be used to achieve desired readiness levels and meet mission requirements.

6.3.1.3. Mobilization. Involuntary AD is used in support of military operations when the President or the Congress determines that RC forces are required to augment the AC. It is provided for within the provisions of sections 12301 and 12302 of Reference (g/h) for full and partial mobilization, respectively, section 12304 of Reference (g/h) for Presidential Reserve Call-Up authority, and section 712 of Reference (h/i) for Secretary of Homeland Security Coast Guard Reserve call-ups for domestic emergencies. For other purposes, the Secretaries concerned may order members involuntarily to AD pursuant to provisions of sections 12301(b) or 12303 of Reference (g/h) and section 712 of Reference (h/i).

6.3.1.4. Other. Includes FHD, a voluntary status pursuant to the provisions of section 12503 of Reference (g/h) or section 115 of Reference (i/j), that shall be considered a special category of ID, and MD, established in section 12319 of Reference (g/h). It also includes voluntary AD for the purposes of medical evaluation and treatment pursuant to sections 12301(h) and 12322 of Reference (g/h); special circumstances to include: voluntary AD at National Guard Bureau pursuant to section 12402 of Reference (g/h); members ordered to AD for unsatisfactory participation pursuant to sections 10148 and 12303 of Reference (g/h); RC members in a captive status, pursuant to section 12301(g) of Reference (g/h); members ordered to AD for disciplinary purposes pursuant to section 802(d) of Reference (g/h); and for Federal service due to insurrection pursuant to sections 331, 332 and 12406 of Reference (g/h).

### 6.4. Assignment Restrictions Outside the United States

6.4.1. A member of the RCs shall not be assigned to AD on land outside the United States, its territories and possessions, until the member has completed the basic training requirements of the member's Armed Force pursuant to section 671(a) of Reference (g/h).

6.4.2. FTNGD shall not be performed on land outside the United States, its territories or possessions, because a member of the RCs must be in a status provided for in Reference (g/h).

### 6.5. Placement of RC Members in RCCs and TRCs

6.5.1. The uniform reserve training and retirement categories are defined in Enclosure 6.

6.5.2. Pursuant to section 115(e) of Reference (g/h), each unit and member of the RCs not counted in AD end strengths pursuant to section 115 of Reference (g/h) shall be placed in one of the RCCs and TRCs identified. Individuals shall be assigned to RCCs and TRCs based on their RC obligations to meet mission requirements and training requirements.

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6.5.3. Table 1 at Enclosure 6 establishes authorized RCCs and TRCs in the RCs for training and accountability purposes. Enclosure 5 describes those categories.

### 6.6. Training Participation Requirements

6.6.1. The Secretaries concerned shall establish standards for satisfactory participation at required training periods, which shall include the number and percentages of training periods for meeting the minimum standards, pursuant to DoD Directive 1215.13 (Reference ~~(h)~~)). Individuals attending IDT periods are required to meet those minimum training standards. Those standards shall contain procedures for accounting for absences and excused training periods, as necessary. Individuals may voluntarily attend additional IDT periods for points, if authorized by the Secretary concerned.

6.6.2. There is no statutory maximum annual limit on required training for members of the National Guard.

6.6.3. To ensure that trained and qualified RC units and individuals are available for AD throughout the entire spectrum of requirements, including war or national emergency, contingency operations, military operations other than war, operational support, and at such other times as the national security may require, and that funds appropriated annually for RC training and operations are adequate for meeting these requirements, the Secretary concerned shall establish necessary criteria and procedures to:

6.6.3.1. Approve any additional IDT as necessary and consistent with law. Authorizing and utilizing additional training is subject to the categories, limitations, and controls in paragraph 6.1.2.6.

6.6.3.2. Ensure that all RC members receive training according to assignments and required readiness levels. Minimum training requirements are provided for in section 10147 of Reference ~~(g/h)~~, section 502(a) of Reference ~~(h/i)~~, and further prescribed in paragraphs 6.1.2., 6.1.4., 6.1.5., and 6.6.4.

6.6.3.3. Provide for training for the Individual Ready Reserve (IRR), Standby Reserve, and Retired Reserve in a voluntarily status according to the procedures described below.

### 6.6.4. Training Requirements by Personnel Category

#### 6.6.4.1. Selected Reserve

6.6.4.1.1. IDT. Except as specifically provided below, members of the Selected Reserve, excluding AGRs, shall participate in 48 scheduled drills or training periods each year. This requirement applies to all members of Selected Reserve units; however, the Secretary concerned may, except in the case of the ARNGUS or the ANGUS, reallocate the number of

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scheduled drills within a Reserve component where warranted to achieve readiness requirements. The Secretary concerned may reduce the number of scheduled drills of selected lower priority units and increase the scheduled drills of higher priority units by not more than 10 percent, rounded to the nearest whole number. The aggregate number of scheduled drills within a component shall not be reduced by this reallocation (section 10147 of Reference (g/h) and section 502 of Reference (i/j)). IDT requirements for individual Selected Reserve members not assigned to a unit organized to serve as a unit, or IMAs, shall be determined by the organization to which assigned and resourced by the appropriate Service component pursuant to Reference (m/n).

6.6.4.1.2. AT. AT is required for all members of the Selected Reserve, excluding AGRs. For members of the Reserves, ADT for purposes of AT shall be for not less than 14 days, 12 days for the Coast Guard Reserve, (exclusive of travel time) each year, except as provided in paragraph 6.6.4.1.2.1. Units of the National Guard are required to perform full-time military training for at least 15 days each year (including travel) pursuant to section 502 of Reference (i/j).

6.6.4.1.2.1. AT for IMAs or other Selected Reserve members not assigned to a unit organized to serve as a unit, and in training categories ordered to AD for AT at headquarters, support organizations, or to activities not operating on Saturday, Sunday, or Federal holidays, normally is limited to 12 days excluding travel time (i.e., from Monday of the first week through Friday of the second week). Such training may begin on any day of the week to maximize training opportunities, or to support a training event or activity.

6.6.4.1.2.2. When required, members may be ordered to AT for longer periods than those minimum periods established in paragraphs 6.6.4.1.2. and 6.6.4.1.2.1. up to a maximum of 30 days each FY, for activities that enhance readiness or provide support to operational missions that results from the required training. Training may begin on any day of the week to maximize training opportunities, or support a training event or activity.

6.6.4.1.2.3. Annual training normally is performed during one consecutive period. Split tours may be authorized for selected units or individuals, if required to meet training missions or enhance mission support associated with required training. Any additional costs must be fully justified. Authorization for variations in AT lengths shall be managed pursuant to Directives established by the Secretary concerned.

6.6.4.1.3. Periods of AD or FTNGD Performed by Members of the Selected Reserve. AD performed pursuant to sections 12301(d), 12302, 12304, and 12406 of Reference (g/h), or FTNGD performed pursuant to section 502(f) of Reference (i/j) may not be substituted for training required by section 10147 of Reference (g/h) or section 502(a) of Reference (i/j) and by paragraph 6.6.4.1.2. unless in the judgment of the Secretary concerned:

6.6.4.1.3.1. AD performed pursuant to sections 12301(d), 12302, 12304, or 12406 of Reference (g/h) or FTNGD performed pursuant to section 502(f) is equivalent to the

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training that might have been performed under the authority of section 10147 of Reference (e/h) or section 502(a) of Reference (i/j) and paragraph 6.6.4.1.2.

6.6.4.1.3.2. AD performed pursuant to sections 12301(d), 12302, 12304, or 12406 of Reference (e/h) or FTNGD performed pursuant to section 502(f) when combined with training required by section 10147 of Reference (e/h) or section 502(a) of Reference (i/j) and paragraph 6.6.4.1.2. constitutes an undue personal hardship.

6.6.4.1.4. IADT. Initial AD training is a sub-category of ADT used to provide basic military training and technical skill training required for all enlisted accessions. For non-prior service (NPS) persons who are qualified for induction for active duty in an Armed Force (generally male citizens and resident aliens between the ages of 18 1/2 and 26 years of age) and who are not under orders to report for induction under the Military Selective Service Act (50 U.S.C. App 451 et seq., Reference (e/p)), IADT shall be for a period as provided in section 671 of Reference (e/h), to commence, insofar as practical, within 270 days after the date of enlistment pursuant to section 12103 of Reference (e/h). For all other enlistees and inductees, the period of IADT shall be prescribed by the Secretary concerned to commence, insofar as practical, within 360 days after entry into Service, except that in time of war or national emergency declared by Congress or the President, basic training (or its equivalent) shall be for a period of not less than 12 weeks pursuant to section 671(b) of Reference (e/h). Periods of basic training or equivalent training shorter than 12 weeks may also be established by the Secretary concerned for members who have been credentialed in a medical profession or occupation and are serving in a healthcare occupational specialty pursuant to section 671(c) of Reference (e/h). Enlisted members receiving stipends under the Armed Forces Health Professions Scholarship Program (AFHPSP) for Reserve Service are not required to participate in Ready Reserve training until they have completed their educational training pursuant to sections 671(b), 12103, and 16201 of Reference (e/h).

6.6.4.1.5. The Secretaries concerned may require members enlisted for service in the Selected Reserve to participate in IDT periods before completing IADT. Those training periods shall be with pay. Voluntary participation in IDT before completing IADT may be authorized in either a pay or non-pay status.

6.6.4.1.6. Pursuant to section 10147(b) of Reference (e/h), an individual Reservist may not be required to perform a period of ADT if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve if the member has served on AD for one year or longer.

### 6.6.4.2. Individual Ready Reserve and Inactive National Guard (IRR/ING)

6.6.4.2.1. Members of the IRR, not scheduled for mandatory or voluntary training, may be required to serve 1 day of MD each year to accomplish continuous screening requirements pursuant to sections 10149, 10204, 10205, 10206, 12319, and 12644 of Reference (e/h). Exemptions from IRR screening during one FY are authorized for members who served on

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AD during the FY; who reside outside geographical limitations established by the Secretaries concerned or the Commandant of the Coast Guard when not operating as a Service in the Navy; who are in the grade of O-4 or higher, and have no remaining required period of membership in the Ready Reserve; or, who were successfully screened in the preceding FY. Under no circumstances should a member serve an initial period in the IRR of more than 18 months without participating in a screening either during an annual muster day, during a period of training, or through some other means. The Secretaries concerned are required to maintain records on the current status of each member's physical condition, dependency status, military qualifications, civilian occupational skills, availability for service, present address, and other necessary information to facilitate a call-up to active duty, as prescribed.

6.6.4.2.2. Members of the IRR, including individuals enlisting directly into the IRR, may participate voluntarily in IDT, for points only, pursuant to the regulations of the Military Services. Those IRR members participating in approved programs outside the Department of Defense (Enclosure 7) may participate in IDT, with pay, if that pay is reimbursable from the supported non-DoD organization to the Department of Defense.

6.6.4.2.3. Members of the RCs, not subject to mandatory training, shall be encouraged to participate on a voluntary basis to maintain their mobilization readiness. However, the opportunity to participate voluntarily in training, with pay, is subject to manpower and other resource limitations as determined by the Secretary concerned.

6.6.4.2.4. Members of the ING shall muster with their assigned unit once a year to maintain their ING status and unit affiliation. They shall not participate in any training activities in either a pay or points only status, and are not eligible for promotion.

6.6.4.3. Standby Reserve. The Standby Reserve consists of personnel who maintain their military affiliation without being in the Ready Reserve pursuant to sections 10141, 10150, 10151, 10152, and 10153 of Reference (gh) and DoD ~~Directive Instruction~~ 1235.09 (Reference (pq)).

6.6.4.3.1. Active Status List. Members of the Standby Reserve in an active status may participate voluntarily without pay in RC training for retirement points only. This voluntary training shall not be performed in an imminent danger area. These members may be considered for promotion and, if selected, be promoted. The following members of the Standby Reserve are in an active status:

6.6.4.3.1.1. Personnel who have not fulfilled their statutory military service obligation (MSO).

6.6.4.3.1.2. Personnel temporarily assigned to the Standby Reserve because of hardship, or other cogent reason, who intend to return to the Ready Reserve.

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6.6.4.3.1.3. Personnel retained in an active RC status pursuant to section 12646 of Reference (g/h).

6.6.4.3.1.4. Members with a remaining service obligation shall be transferred from the Ready Reserve to the Standby Reserve Active Status List, after being designated as a "key employee" by the employer, and approved as such by the appropriate RC personnel management office. Members shall remain in that Standby Reserve status for the period of time they remain designated and approved as a "key employee." Employers who designate Ready Reserve members as "key employees" must request removal of those members from the Ready Reserve pursuant to DoD Directive 1200.7 (Reference (g/h)).

6.6.4.3.2. Inactive Status List. Members of the Standby Reserve Inactive Status List may not participate for points, pay, or promotion credit and may not be considered for promotion, or be promoted. The following members of the Standby Reserve are in an inactive status:

6.6.4.3.2.1. Members transferred to the Inactive Status List instead of separating pursuant to section 1209 of Reference (g/h).

6.6.4.3.2.2. All other members transferred to the Inactive Status List pursuant to Reference (p/q). Personnel enrolled in a military school course, including correspondence courses, when transferred from the Ready Reserve to the Standby Reserve Inactive Status List may continue voluntary participation in the course until completion. Those personnel shall not be entitled to pay and allowances, travel and transportation, or earn retirement points for that training.

6.6.4.4. Retired Reserve. This category consists of all personnel transferred to the Retired Reserve and are subject to mobilization pursuant to DoD Directive 1352.1 (Reference (r/s)). Retirees may voluntarily train with organizations to which they are properly pre-assigned by orders for recall to AD in a national emergency or declaration of war. Such training shall be limited to that training made available within the resources authorized by the Secretary concerned. The Retired Reserve consists of the following categories:

6.6.4.4.1. Reserve members receiving retired pay pursuant to Chapter 1223 of Reference (g/h).

6.6.4.4.2. Reserve members who have transferred to the Retired Reserve after completing the requisite qualifying years creditable for retired pay pursuant to Chapter 1223 of Reference (g/h), but who ~~are not yet 60 years of age, or are age 60~~ *have not yet reached their eligible retirement age*, and have not applied for retired pay.

6.6.4.4.3. Reserve members retired for physical disability pursuant to sections 1201, 1202, 1204, or 1205 of Reference (g/h). Members who have completed the requisite years of Military Service creditable for non-regular retired pay pursuant to Chapter 1223 of Reference

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(~~g/h~~) or are 30-percent or more disabled and otherwise qualified pursuant to section 1201 of (Reference (~~g/h~~)).

6.6.4.4.4. Reserve officers and enlisted members who have retired after completion of 20 or more years of active Military Service. This does not include Regular enlisted members of the Navy or the Marine Corps, with 20 to 30 years of active Military Service, who are transferred to the Fleet Reserve (Navy) or the Fleet Marine Corps Reserve.

6.6.4.4.5. Reserve personnel drawing retired pay based on retirement for reasons other than age, service requirements, or physical disability. This category is restricted to those who are retired under special conditions, as authorized by the Assistant Secretary of Defense for Reserve Affairs under legislation.

6.7. Voluntary Training. Members of the RCs, not subject to mandatory training, shall be encouraged to participate in voluntary training to maintain their mobilization readiness. The opportunity to participate voluntarily without pay in training shall be limited by the manpower and resources authorized by the Secretary concerned.

6.8. Funds. Funds for personnel in uniform Reserve, training, and retirement categories shall be pursuant to DoD 7000.14-R (Reference (~~st~~)). The Secretary concerned should include in the military personnel and operations and maintenance budgets for the AC funds to provide AD tours for Reserves on AD, including temporary duty, in support of AC and RC programs.

*6.9. Management and Accountability. Controls ensuring the prudent and judicious use of RC members, as well as proper accountability, are the responsibility of the Military Departments.*

*6.9.1. Neither law nor DoD policy requires any RC member to leave voluntary active duty under section 12301(d) (Operational Support Duty) of Reference (h) after 1,095 days. However, consideration is to be given to documenting long-term tours as full-time requirement billets (AC, AGR, or Civilian).*

*6.9.2. For accountability purposes:*

*6.9.2.1. RC members performing Operational Support Duty shall count against the Operational Support ceilings, regardless of the duration of the duty/thresholds.*

*6.9.2.2. RC members who cross either Operational Support Duty threshold (either the 1,095 days out of the previous 1,460 days or at the beginning of a tour when the orders specify a period of active duty greater than 3 years) must be counted against Active Duty end strength (either AC or AGR – consistent with tour funding), and they also count against the Operational Support ceilings.*

*6.9.2.3. RC members performing Operational Support Duty shall not count against AD-controlled grades (E8, E9, O4, O5, O6) at any time.*

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6.9.2.4. RC members performing Operational Support Duty shall continue to be managed as Guard and Reserve members while performing Operational Support Duty. They remain RC members who are performing active duty under section 12301(d) of Reference (h) or full-time National Guard duty under section 502(f)(2) of Reference (j).

6.9.2.5. RC Officers and Warrant Officers performing Operational Support Duty shall not be placed on an Active Duty List (ADL), regardless of the duration of the active duty for operational support. They shall remain on the Reserve Active Status List (RASL) and compete for promotion with other RC officers/warrant officers.

6.9.2.6. RC enlisted members shall continue to execute their RC enlistment/reenlistment contracts.

6.9.3. Strength accounting against AD strengths is a Military Service personnel management function and should be transparent to both members and users.

6.9.4. AD (AC or AGR) strengths that exceed authorizations are waivable pursuant to the following:

6.9.4.1. Section 115 of Reference (h), active strength may be waived up to 3 percent for the AC and up to 2 percent for the AGR.

6.9.4.2. Section 123a of Reference (h), when applicable.

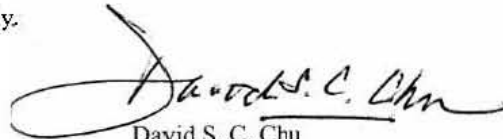
6.9.5. Guidelines regarding the payment of per diem to RC members performing Operational Support Duty shall be based on adherence to section U7150 of the JFTR (Reference (t)).

### 7. RELEASABILITY

UNLIMITED. This Instruction is approved for public release, and is available on ~~Copies may be obtained through~~ the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

### 8. EFFECTIVE DATE

This Instruction is effective immediately.



David S. C. Chu  
Under Secretary of Defense for  
Personnel and Readiness

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### Enclosures - 7

- E1. References, continued
- E2. Definitions
- E3. Duty Statuses
- E4. Table 1, "Reserve Component Utilization Authorities"
- E5. Uniform Reserve, Training, and Retirement Categories
- E6. Table 2, "Authorized Reserve, Training and Retirement Categories"
- E7. Members Participating In Approved Programs Outside the Department of Defense



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## E1. ENCLOSURE 1

### REFERENCES, continued

- (~~de~~) DoD Instruction 1215.19, "Uniform Reserve, Training and Retirement Category Administration," December 12, 2000 (hereby canceled)
- (~~ef~~) DoD Directive 1205.17, "Official National Guard and Reserve Component Personnel Data," April 30, 2004
- (~~eg~~) DoD Instruction 7730.54, "Reserve Components Common Personnel Data System (RCCPDS)," ~~August 6, 2004~~ *March 31, 2008*
- (~~gh~~) Title 10, United States Code, "Armed Forces"
- (~~hi~~) Section 712 of title 14, United States Code, "Coast Guard"
- (~~ij~~) Title 32, United States Code, "National Guard"
- (~~jk~~) Sections 206, 433, and 435 of title 37, United States Code, "Pay and Allowances of the Uniformed Services"
- (~~kl~~) DoD Instruction 1215.7, "Service Credit for Reserve Retirement," September 12, 2002
- (~~lm~~) DoD 7000.14-R, "Department of Defense Financial Management Regulation," Volume 7A, "Military Pay Policy and Procedures for Active Duty and Reserve Pay," February 2002
- (~~mn~~) DoD ~~Directive Instruction~~ 1235.11, "Management of Individual Mobilization Augmentees (IMAs)," ~~May 6, 1996~~ *24, 2007*
- (~~no~~) DoD Directive 1215.13, "Reserve Component Member Participation Policy," December 14, 1995
- (~~op~~) Sections 451 to 500 and the Appendix of title 50, United States Code, "Military Selective Service Act"
- (~~pq~~) DoD ~~Directive Instruction~~ 1235.09, "Management of the Standby Reserve," ~~February 10, 1998~~ *April 2, 2007*
- (~~qr~~) DoD Directive 1200.7, "Screening the Ready Reserve," November 18, 1999
- (~~rs~~) DoD Directive 1352.1, "Management and Mobilization of Regular and Reserve Retired Military Members," July 16, 2005
- (~~st~~) DoD 7000.14-R, "Department of Defense Financial Management Regulation," Volume 2A, "Presentation and Formulation," June 2000
- (~~tu~~) *Section U7150 of the "Joint Federal Travel Regulations"*
- (~~uv~~) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," 12 April 2001
- (~~wx~~) Section 3101 of title 5, United States Code, "Government Organization and Employees"
- (~~xy~~) DoD Directive 1000.17, "Detail of DoD Personnel to Duty Outside the Department of Defense," February 24, 1997
- (~~yz~~) DoD Directive 3025.1, "Military Support to Civil Authorities," January 15, 1993

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## E2. ENCLOSURE 2

### DEFINITIONS

E2.1. Active Component (AC). That portion of the armed forces as identified in annual authorization acts as "active forces," and in section 115 of Reference (g/h) as those active-duty personnel paid from funds appropriated for active-duty personnel.

E2.2. Active Status. For the purpose of this instruction, active status is defined as all National Guard and Reserve component members, except those members who are on an inactive status list, assigned to the Inactive National Guard, or in the Retired Reserve. Reserve members in an active status may train with or without pay, earn retirement points, and may earn credit and be considered for promotion, and promoted.

E2.3. Annual Screening. For the purpose of this instruction, annual screening is defined as one-day ADT or MD each year for certain IRR members that enables the Services to maintain the current status of each IRR member's physical condition, dependency status, military qualifications, civilian occupation skills, availability for service, and other information pursuant to section 10149 of Reference (g/h).

E2.4. Full-Time National Guard Duty (FTNGD). Training or other duty, other than inactive duty, performed by a member of the ARNGUS or the ANGUS in a member's status as a member of the National Guard of a state or territory, the Commonwealth or Puerto Rico, or the District of Columbia pursuant to sections. 316, 502, 503, 504, or 505 of Reference (j) for which the member is entitled to pay from the United States, or for which the member has waived pay from the United States. FTNGD is active service pursuant to section 101(d)(3) of Reference (g/h).

E2.5. Individual Mobilization Augmentee (IMA) Detachments. (See Reference (k/v))

E2.6. Inactive Status. (See Reference (k/v))

E2.7. Key Employee. (See Reference (k/v))

E2.8. Key Position. For the purpose of this instruction, a key position is defined as a civilian position, public or private (designated by the employer pursuant to Reference (q)) that cannot be vacated during war or national emergency without seriously impairing the capability of the parent organization to function effectively.

E2.9. Non-Deployable Account. (See Reference (k/v))

E2.10. Non-Prior Service (NPS) Personnel. For the purpose of this instruction, non-prior service personnel is defined as individuals who have no prior military service, who have not completed IADT or its equivalent, and enlist directly into a U.S. Armed Force.

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E2.11. Operational Support (OS) Duty. A category of voluntary duty used to provide RC support to operations and mission requirements. It includes active duty, other than Active Guard and Reserve duty, pursuant to section 12301(d) of Reference (g~~h~~); full-time National Guard duty, other than Active Guard and Reserve duty, pursuant to section 502(f) of Reference (j~~y~~); and active duty for training performed at the request of an organizational or operational commander, or as a result of reimbursable funding. It does not include AD performed as an AGR, FTNGD performed as an AGR, or FTNGD performed in support of counter-drug operations.

E2.12. Qualifying Years of Creditable Service for Non-Regular Retired Pay. The time National Guard or Reserve members must serve to be eligible for non-regular retired pay at age 60 years. Individuals must have at least 20 years of service, or as otherwise provided for in law, in which they received at least 50 retirement points.

E2.13. Reserve Components (RCs). (See Reference (v~~y~~))

E2.14. Trained Strength in Units. For the purpose of this instruction trained strength in units is defined as all personnel (Reserve or National Guard members, AGR and AC members) assigned to a National Guard or Reserve unit who, in the case of enlisted members, have completed IADT and are eligible for deployment overseas on land when mobilized under proper authority. Personnel in non-deployable accounts or a training pipeline are not part of a unit's trained strength.

E2.15. Training and Retired Categories (TRC). (See Reference (v~~y~~))

E2.16. Training Period. For the purpose of this instruction training period is defined as an authorized and scheduled regular IDT period. A training period must be at least four hours. The term was previously used interchangeably with other common terms such as "drills," "drill period," "assemblies," "periods of instruction," etc.

E2.17. Training Unit. (See Reference (v~~y~~))

E2.18. Unit. (See Reference (v~~y~~))

E2.19. Voluntary Training. For the purpose of this instruction voluntary training is defined as training in a pay or non-pay status, especially applicable to RC members of the IRR, Standby Reserve active status list, and retirees. Participation in voluntary training may be achieved by training with Selected Reserve or voluntary training units; performing ADT; completing authorized military correspondence courses; attending designated courses of instruction; performing equivalent duty; participating in special military and professional events designated by the Military Department; or participating in authorized civil defense activities.

E2.20. Voluntary Training Unit. (See Reference (v~~y~~))

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## E3. ENCLOSURE 3

### DUTY STATUSES

#### E3.1. DUTY STATUSES

E3.1.1. AD. Full-time duty in the active military service of the United States. It includes full-time training duty, annual training duty, and attendance, while in active military service, at a school designated as a Service school by law and the Secretary of the Military Department concerned. It does not include FTNGD. For the RC, AD is comprised of the categories of ADT and ADOT.

E3.1.1.1. ADT. A category of AD that shall be used to provide structured individual and/or unit training, including on-the-job-training, or educational courses to RC members. Included in the ADT category are AT, IADT, OTD.

E3.1.1.1.1. AT. It is the minimum period of ADT that Reserve members must perform each year to satisfy the training requirements associated with their RCs assignment.

E3.1.1.1.2. IADT. A category of ADT which includes basic military training and technical skill training, is required for all enlisted accessions.

E3.1.1.1.3. OTD. Authorized ADT, other than IADT or AT, that provides all other structured training, to include on the job training, for individuals or units to enhance proficiency. OTD is authorized to provide for full-time attendance at organized and planned specialized skill training, refresher and proficiency training, and professional development education programs. It shall be used to support RC members in obtaining the necessary skills and disciplines to achieve required readiness standards.

E3.1.1.2. ADOT. A category of AD used to provide RC support to either AC or RC missions. It includes the categories of ADOS (formerly known as ADSW), AGR duty, and involuntary AD pursuant to sections 12301, 12302, and 12304 of Reference (~~g~~*h*) and section 712 of Reference (~~h~~*i*).

E3.1.1.2.1. ADOS. AD for Operational Support (ADOS) is an authorized voluntary tour of AD, other than AGR duty, performed pursuant to section 12301(d) of Reference (~~g~~*h*) and ADT performed at the request of an organizational or operational commander, or as a result of reimbursable funding. ADOS is funded through applicable military or Reserve personnel appropriations (ADOS-AC funded or ADOS-RC funded) to support AC or RC programs, respectively. The purpose of ADOS is to provide the necessary skilled manpower assets to support existing or emerging requirements.

E3.1.1.2.2. AGR Duty. AD performed by a member of an RC of the Army, the Navy, the Air Force, or the Marine Corps, the Coast Guard, or FTNGD performed by a member

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of the National Guard under an order to AD or FTNGD for a period of 180 consecutive days or more for organizing, administering, recruiting, instructing, or training the Reserve components, or to perform other duties as prescribed in sections 12310 and 10211 of Reference (g/h). Personnel performing such duty are included in the FTS numbers for each RC under the collective title of AGR.

E3.1.1.2.3 Involuntary Active Duty. AD used in support of military operations when it is determined by the President or the Congress that RC forces are required to augment the AC. It is provided for within the provisions of sections 12301 and 12302 of Reference (g/h) for full and partial mobilization, respectively, section 12304 of Reference (g/h) for Presidential Reserve Call-Up authority, and section 712 of Reference (h/i) under which the Secretary of Homeland Security may call up the Coast Guard Reserve for domestic emergencies. For other purposes, Secretaries concerned may order members involuntarily to AD pursuant to provisions of sections 802(d), 12301(b), 10148, or 12303 of Reference (g/h).

E3.1.2. FTNGD. Training or other duty, other than ID, performed by a member of the ARNGUS or the ANGUS in a member's status as a member of the National Guard of a state or territory, the Commonwealth or Puerto Rico, or the District of Columbia pursuant to sections 316, 502, 503, 504, or 505 of Reference (j/k) for which the member is entitled to pay from the United States, or for which the member has waived pay from the United States. FTNGD is active service pursuant to section 101(d)(3) of Reference (g/h).

E3.1.2.1. FTNGD for Operational Support (FTNGD(OS)). FTNGD(OS) is an authorized voluntary tour of FTNGD, other than AGR duty, performed pursuant to section 502(f)(2) of Reference (j/k) and FTNGD for training performed at the request of an organizational or operational commander, or as a result of reimbursable funding. The purpose of FTNGD(OS) is to provide the necessary skilled manpower assets to support existing or emerging requirements pursuant to section 502(f)(2) of Reference (j/k). Authorization of FTNGD(OS) shall be managed pursuant to Directives established by the Secretaries of the Army and Air Force.

### E3.1.3. ID

E3.1.3.1. IDT. Authorized training performed by members of an RC not on AD or FTNGD, and performed in connection with the prescribed activities of the RC, of which they are a member. It consists of regularly scheduled unit training periods, ATPs, and equivalent training as defined in this Instruction.

E3.1.3.1.1. Regularly Scheduled IDT. The regularly scheduled 48 annual periods of IDT authorized for National Guard members and RC members pursuant to section 10147 of Reference (g/h) or section 502(a) of Reference (j/k).

E3.1.3.1.2. Equivalent Training (ET). A sub-category of IDT. It is IDT performed instead of regularly scheduled IDT.

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E3.1.3.1.3. Additional IDT Periods. There are three categories of additional IDT periods:

E3.1.3.1.3.1. Additional training periods (ATPs). ATPs for units, components of units, and individuals are for accomplishing additional required training, as defined by post-mobilization mission requirements.

E3.1.3.1.3.2. Additional flying and flight training periods (AFTPs). AFTPs are authorized for primary aircrew members for conducting aircrew training and combat crew qualification training to attain and maintain aircrew flying proficiency and sustain required readiness.

E3.1.3.1.3.3. Readiness management periods (RMPs). RMPs are used to support the following functions in preparing units for training: the ongoing day-to-day operation of the unit, accomplishing unit administration, training preparation, support activities, and maintenance functions.

E3.1.3.2. MD. A special category of ID used to meet the continuous screening requirement established by section 10149 of Reference (g/h). A member of the Ready Reserve may be ordered without his consent to MD one time a year by an authority designated by the Secretary concerned pursuant to section 12319 of Reference (g/h).

E3.1.3.3. FHD. A special category of ID used to prepare for, and provide honors at the funeral of military members and veterans. Members of the Ready Reserve may perform FHD in a voluntary status pursuant to the provisions of section 12503 of Reference (g/h) or section. 115 of Reference (j).

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E4. ENCLOSURE 4

TABLE E4.T1. RESERVE COMPONENT UTILIZATION AUTHORITIES

Utilization Categories	Legal Authority	Purpose of Duty	Applies To	Type of Duty	
<b>Training</b>	10 USC 10147	Annual Training (AT)/Drill Requirement	Reserve Only	AD/IDT	Involuntary
	10 USC 12301(b)	Annual Training	Reserve & National Guard	AD	Involuntary
	10 USC 12301(d)	Additional/Other Training Duty	Reserve & National Guard	AD	Voluntary
	32 USC 502(a)	Annual Training (AT)/Drill Requirement	National Guard Only	FTNGD/IDT	Involuntary
	32 USC 502(f)(1)	Additional Training Duty	National Guard Only	FTNGD	Involuntary
	32 USC 502(f)(2)	Additional/Other Training Duty	National Guard Only	FTNGD	Voluntary
<b>Support</b>	10 USC 12301(d)	AGR Duty/Operational Support/Additional Duty	Reserve & National Guard	AD	Voluntary
	32 USC 502(f)(2)	AGR Duty/Operational Support/Additional Duty	National Guard Only	FTNGD	Voluntary
	32 USC 502(f)(1)	Other Duty	National Guard Only	FTNGD	Involuntary
<b>Mobilization</b>	10 USC 12301(a)	Full Mobilization	Reserve & National Guard	AD	Involuntary
	10 USC 12302	Partial Mobilization	Reserve & National Guard	AD	Involuntary
	10 USC 12304	PRC	Reserve & National Guard	AD	Involuntary
	14 USC 712	Emergencies	USCGR Only	AD	Involuntary
<b>Other</b>	10 USC 12503	Funeral Honors	Reserve & National Guard	ID	Voluntary
	32 USC 115	Funeral Honors	National Guard Only	ID	Voluntary
	10 USC 12319	Muster Duty	Reserve & National Guard	ID	Involuntary
	10 USC 12301(h)	Medical Care	Reserve & National Guard	AD	Voluntary
	10 USC 12322	Medical Evaluation and Treatment	Reserve & National Guard	AD	Voluntary
	10 USC 802(d)	Disciplinary	Reserve & National Guard	AD	Involuntary
	10 USC 10148	Unsat Participation (up to 45 days)	Reserve & National Guard	AD	Involuntary
	10 USC 12301(g)	Captive Status	Reserve & National Guard	AD	Involuntary
	10 USC 12303	Unsat Participation (up to 24 months)	Reserve & National Guard	AD	Involuntary
	10 USC 12402	Duty at National Guard Bureau	National Guard Only	AD	Voluntary
10 USC 331	Insurrection	National Guard Only	FS	Involuntary	
10 USC 332	Insurrection	National Guard Only	FS	Involuntary	
10 USC 12406	Insurrection	National Guard Only	FS	Involuntary	

AD - Active Duty  
 ID - Inactive Duty  
 IDT - Inactive Duty Training  
 FTNGD - Full Time National Guard Duty  
 FS - Federal Service



# APPENDIX 10: RESERVE COMPONENTS

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## E5. ENCLOSURE 5

### UNIFORM RESERVE, TRAINING, AND RETIREMENT CATEGORIES

#### E5.1. RESERVE COMPONENT CATEGORIES (RCCs)

Categories identifying an individual's status in a RC. There are three RCCs: The Ready Reserve, the Standby Reserve, and the Retired Reserve. Each member of the National Guard and Reserve is assigned within one of those categories. (All National Guard members, including those in the ING, are in the Ready Reserve.)

E5.1.1. Ready Reserve Categories. The Ready Reserve is comprised of military members of the Reserve and National Guard, organized in units or as individuals, or both, and liable for involuntary order to AD in time of war or national emergency pursuant to sections 12301 and 12302 of Reference (~~g~~h) and section 712 of Reference (~~h~~i) in the case of members of the Coast Guard Reserve. The Ready Reserve consists of three sub-categories: the Selected Reserve, the IRR, and the ING.

E5.1.1.1. Selected Reserve. The Selected Reserve consists of those units and individuals in the Ready Reserve designated by their respective Service, and approved by the Chairman of the Joint Chiefs of Staff, as so essential to initial wartime missions that they have priority over all other Reserves. All Selected Reservists are in an active status. They are trained as prescribed in section 10147(a)(1) of Reference (~~g~~h) or section 502(a) of Reference (~~h~~i), as appropriate. In addition to the involuntary call up authorities set out in the previous paragraph, members of the Selected Reserve may also be involuntarily called to AD to augment the active forces for any operational mission pursuant to section 12304 of Reference (~~g~~h). The Selected Reserve includes the following:

E5.1.1.1.1. Selected Reserve Units. Units manned and equipped to serve and/or train either as operational or as augmentation units. Operational units train and serve as units. Augmentation units train together, but when mobilized, lose their unit identity and become part of an AC unit or activity. Selected Reserve units include:

E5.1.1.1.1.1. Drilling Unit Reservists. Trained unit members participating in unit training activities on a part-time basis shall have the RCC and TRC designator of "SA."

#### E5.1.1.1.1.2. Unit Full-Time Support (FTS) Personnel

E5.1.1.1.1.2.1. AGR. National Guard or Reserve members of the Selected Reserve serving on AGR duty assigned or attached to Selected Reserve units (to include full-time National Guard duty), as defined in section 101 of Reference (~~g~~h), for the purposes of organizing, administering, recruiting, instructing, or training the RCs, who may also perform other duties as prescribed in section 12310 of Reference (~~g~~h). All such AGR members must be assigned against, or attached to, an authorized mobilization position in the unit they support. They shall have the RCC and TRC designator of "SG."

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E5.1.1.1.1.2.2. Military Technician (Dual Status) (MT). A civilian employee of the Military Department concerned who is required, as a condition of civilian employment, to maintain military membership in a Reserve component and who is assigned to a position as a technician in the administration and training of such Reserve component, or in the maintenance and repair of supplies or equipment issued to such Reserve component. The military and civilian position skills of MTs must be compatible. MTs are not accounted for separately in RCC/TRC categories. Accordingly, these MTs are accounted for in Reserve end strengths as Drilling Unit Reservists (E5.1.1.1.1. of this Enclosure), and, as such, are accountable under the TRC designator of "SA." NOTE: There are certain technicians providing unit FTS who are not required to maintain military membership (i.e., non-dual status technicians) and others who are not required to hold compatible military and civilian positions.

E5.1.1.1.1.2.3. Non-Dual Status Technician (NDST). NDSTs are not accounted for in RCC/TRC categories. A civilian employee employed as a technician before November 18, 1997, pursuant to any of the authorities specified in section 10217(b) of Reference (g/h) and is not a member of the Selected Reserve or after that date has ceased to be a member of the Selected Reserve or is employed pursuant to section 709 of Reference (i) in a position designated pursuant to subsection (c) of that section and when hired was not required to maintain membership in the Selected Reserve. NDST shall encumber only those technician positions identified by the Secretary concerned as NDST positions.

E5.1.1.1.1.2.4. AC. AC personnel are not accounted for in RCC/TRC categories. Members of the active forces of the Military Services, paid from AC military personnel appropriations, assigned or attached to National Guard or Reserve units to provide advice, liaison, management, administration, training, and/or maintenance support in the category of FTS pursuant to section 12501 of Reference (g/h). These members are not part of the Selected Reserve, but may deploy with their assigned unit, should it mobilize. AC members performing FTS are counted as part of trained strength in units, but not in the Selected Reserve strengths.

E5.1.1.1.1.2.5. Civil Service Employees (CIV). CIVs are not accounted for in RCC/TRC categories. Such personnel are hired pursuant to section 3101 of 5 U.S.C. (Reference (u/w)) to provide administrative support to RC units. They are in the category of FTS to the RCs, but are not part of the Selected Reserve. This category is exclusive of dual-status MTs and NDSTs.

E5.1.1.1.2. Full-Time Members (Special Category). Trained Selected Reserve members who are performing AD or FTNGD for more than 180 days in a fiscal year, but who are exempted from counting against the AD strengths pursuant to section 101(d)(6)(B)(ii) and (iii) of (Reference (g/h)). Specifically, this includes U.S. Property and Fiscal Officers and members performing duty for the purpose of interdiction and counterdrug activities. These personnel shall have the RCC and TRC of "SV."

E5.1.1.1.3. Individual Mobilization Augmentees (IMAs). Individual members of the Selected Reserve assigned to an RC billet in an AC or non-DoD organization. They are trained

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individuals pre-assigned to an AC or a Selected Service System (SSS) billet that must be filled to support mobilization (pre- and/or post-mobilization) requirements, contingency operations, operations other than war, or other specialized or technical requirements. IMAs participate in training activities on a part-time basis with an AC unit or SSS preparing for active service, as required. The amount of training required may vary from 0 to 48 IDT periods per year. All IMAs must perform a minimum of 12 days of AT each year. They have the RCC and TRC designator of "TB."

E5.1.1.1.4. Training Pipeline. An RCC designation "U" that identifies Selected Reserve enlisted members who have not yet completed IADT as provided in section 671 of Reference (g/h) and officers who are in training for professional categories or in undergraduate flying training. Pursuant to section 671 of Reference (g/h), all Ready Reservists shall receive training commensurate with their intended wartime assignments, and must complete the basic training requirements of the member's Service before assignment on land outside the United States, its territories or possessions. The training pipeline is synonymous with the term "non-deployable account." Personnel in the training pipeline may be mobilized, but may not always be available for deployment with their units. If otherwise eligible for mobilization and deployment, they shall be considered as mobilization assets. Training pipeline personnel are accounted for separately in the following training categories:

E5.1.1.1.4.1. Members Currently on IADT. Includes the second part of split IADT for enlisted members, which has the RCC and TRC designator of "UF."

E5.1.1.1.4.2. Enlisted Members Awaiting Second Part of Split IADT. Those members shall have the RCC and TRC designator of "UQ."

E5.1.1.1.4.3. Members Awaiting IADT Authorized to Perform IDT. Those members in the Selected Reserve serving with pay. Service performed by members while in that status is creditable toward computation of basic pay. Members in this category shall have the RCC TRC designator of "UP." This category also includes National Guard members awaiting IADT and not authorized to perform IDT. See paragraph 6.6.4.1.4. for specific criteria regarding this category.

E5.1.1.1.4.4. Other Selected Reserve Untrained Personnel in Training Programs. Includes chaplain candidates, health profession students, and early commissioning program participants with the RCC and TRC designator of "UX."

E5.1.1.1.4.5. AGR Enlisted Members Currently on, or Awaiting, IADT. Includes NPS AGR personnel and has the RCC and TRC designator of "US."

E5.1.1.1.4.6. Individuals in a Simultaneous Membership Program. Senior Reserve Officers' Training Corps (ROTC) Cadets, Selected Reserve enlisted members in officer candidate programs, and Marine Corps Platoon Leader Class students who are also permitted to be members of a Selected Reserve unit. These members have the RCC and TRC designator of "UT."

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E5.1.1.1.5. AGR not in Selected Reserve Units. National Guard or Reserve members of the Selected Reserve, serving on AGR duty (to include full-time National Guard duty) as defined in Chapter 1 of Reference (g/h), and Coast Guard Reserve AGRs, but who are not assigned or attached to Selected Reserve units. They occupy positions in organizations, other than Selected Reserve units, for the purposes of organizing, administering, recruiting, instructing, or training the RCs, and may also perform other duties as prescribed in section 12310 of Reference (g/h). They shall have the same RCC and TRC designator as AGRs in units - "SG."

E5.1.1.1.6. Civil Service Employees (CIV) not in Selected Reserve Units. CIVs are not accounted for in RCC/TRC categories. Such personnel hired under section 3101 of Reference (h/w) to provide administrative support to the RCs. They are in the category of FTS to the RCs, but are not part of the Selected Reserve.

E5.1.1.2. IRR The IRR consists of Reservists in the following categories:

E5.1.1.2.1. IRR is a manpower pool comprised principally of individuals who have had training, have previously served in the AC or in the Selected Reserve, and have some period of their military service obligation (MSO) or other contractual obligation remaining. Some individuals volunteer to remain in the IRR beyond their MSO or contractual obligation and participate in programs providing a variety of professional assignments and opportunities for earning retirement points and military benefits. Members may voluntarily participate in training for retirement points and promotion, with or without pay. IRR members are not required to meet the same AT and IDT training requirements as Selected Reserve members. Exceptions to this training requirement restriction shall be approved by the USD(P&R). Required training (involuntary) may not exceed 30 days a year pursuant to section 10147 of Reference (g/h). IRR members may be required to perform MD as described in paragraph 6.6.4.2.1. of the main body of this Instruction. Trained members of the IRR have the RCC and TRC designator of "RE," with the exception of those members in the category described in paragraph E5.1.1.2.2.

E5.1.1.2.2. Within the IRR there is a category of members, as designated by the Secretary concerned, who have volunteered to be called to AD pursuant to the provisions of section 12304 of Reference (g/h) when needed. This category of the IRR is provided for in section 10144(b) of Reference (g/h). Members in this mobilization category shall be eligible for benefits (other than pay and training) as normally available to members of the Selected Reserve, as determined by the Secretary of Defense. IRR members in this category have the RCC and TRC designator of "RM."

E5.1.1.2.3. The IRR also includes some personnel participating in officer training programs or in the Armed Forces Health Professional Scholarship Program (AFHPSP). The RCC and TRC designator "PJ" is used for officers not in the Selected Reserve but participating in officer training programs. Included within this category are cadets of the Merchant Marine Academy. The RCC and TRC designator "PK" is used for officers not in the Selected Reserve, but participating in the AFHPSP. Members in that stipend program are required to perform 45 days of AD for training a year pursuant to section 2121(c) of Reference (g/h).

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E5.1.1.2.4. The IRR also includes enlisted members awaiting IADT (except for members of the National Guard), who are not authorized to perform IDT. These members are assigned to units and are serving without pay. Service performed by members in that status is not creditable toward computation of basic pay and shall have the RCC and TRC designator of "RU." NPS enlistees between the ages of 18 1/2 and 26 years enlisting pursuant to section 12103 of Reference (g/h) shall commence IADT, insofar as practicable, within 270 days after the date of that enlistment. All other enlisted members shall perform IADT, insofar as practicable, within 360 days of their enlistment.

E5.1.1.2.5. The IRR also includes members of the Delayed Entry Program enlisted pursuant to section 513 of Reference (g/h). Currently, there is no requirement to account for those untrained members of the IRR in the RCCPDS. However, these IRR members may be coded with the RCC and TRC designator of "RH."

E5.1.1.3. ING. The ING consists of National Guard personnel in an inactive status in the Ready Reserve, not in the Selected Reserve, attached to a specific National Guard unit. To remain ING members, members must muster once a year with their assigned unit, but they do not participate in training activities. On mobilization, ING members may mobilize with their units. Similar to IRR members, some ING members have legal and contractual obligations. ING members may not train for points or pay and are not eligible for promotion. Currently, the ING category is used only by the ARNG and has the RCC and TRC designator of "IL."

E5.1.2. Standby Reserve Categories. The Standby Reserve consists of those units or members, or both, of the Reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided for in sections 12301 and 12306 of Reference (g/h). The Standby Reserve consists of personnel who are maintaining their military affiliation without being in the Ready Reserve, but have been designated key civilian employees, or have a temporary hardship or disability. Those individuals are not required to perform training and are not part of units. The Standby Reserve is a pool of trained individuals who may be mobilized as needed to fill manpower needs in specific skills. The Standby Reserve consists of the active status list and the inactive status list categories.

E5.1.2.1. Active Status List. The following members of the Standby Reserve are in an active status:

E5.1.2.1.1. Members designated as key employees pursuant to Reference (g/r) and transferred from the Ready Reserve to the Standby Reserve Active Status List for the period they remain designated as a key employee. Key employees may participate voluntarily without pay in RC training for retirement points only and may be considered for promotion. This voluntary training shall not be performed in an imminent danger area. While there is no statutory prohibition against paying active status Standby Reservists for IDT or AD, members of the Standby Reserve who have been screened out of the Ready Reserve as key employees shall not be paid for training. They have the RCC and TRC designator of "YC."

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E5.1.2.1.2. Personnel not having fulfilled their statutory MSO, who are temporarily assigned for a hardship reason but intend to return to the Ready Reserve, or who are retained by a RC in an active status pursuant to section 12646 of Reference (g/h). These members may participate voluntarily with or without pay and may receive credit for, and be considered for, promotion. They have the RCC and TRC designator of "YD."

E5.1.2.2. Inactive Status List. Members in the Standby Reserve who are not required to remain in an active program, but who retain Reserve affiliation in a non-participating status and whose skill may be of future use to the Armed Force concerned. These members cannot participate in prescribed training. While in an inactive status, Reserve members are not eligible for pay or promotion and do not accrue credit for years of service pursuant to provisions of Chapter 1223 of Reference (g/h).

E5.1.2.2.1. Members transferred to the Standby Reserve Inactive Status List pursuant to section 1209 of Reference (g/h) instead of separating. They have the RCC TRC designator of "YL."

E5.1.2.2.2. All other members transferred to the Standby Reserve Inactive Status List pursuant to Reference (p/q). They have the RCC TRC designator of "YN."

### E5.1.3. Retired Reserve Categories

E5.1.3.1. All Reserve personnel transferred to the Retired Reserve. Retired Reservists voluntarily may train, with or without pay. The Retired Reserve consists of the following retired categories:

E5.1.3.1.1. Reserve members who have completed the requisite qualifying years creditable for non-regular retired pay pursuant to Chapter 1223 of Reference (g/h), and who have reached the designated retirement age and are receiving retired pay. Those members shall be assigned the RCC and TRC designator of "V1."

E5.1.3.1.2. Reserve members who have completed the requisite qualifying years creditable for non-regular retired pay but are either not yet eligible to receive retired pay, or are eligible to receive retired pay but have not applied for such pay. Those members shall be assigned the RCC and TRC designator of "V2."

E5.1.3.1.3. Reserve members retired for physical disability pursuant to sections 1201, 1202, 1204, or 1205 of Reference (g/h). Members have completed 20 years of service creditable for regular retired pay, or are 30-percent or more disabled and otherwise qualified pursuant to section 1201 of Reference (g/h). These members shall be assigned the RCC and TRC designator of "V3."

E5.1.3.1.4. Reserve members who have completed the requisite years of active service and are receiving regular retired or retainer pay. These personnel shall be assigned the RCC and TRC designator of "V4." Excluded from this category are Regular (not RC) enlisted

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personnel of the Navy and the Marine Corps with 20 or more, but less than 30, years of active military service who are transferred to the Fleet (Navy) Reserve or the Fleet Marine Corps Reserve upon retirement. They remain in the Fleet Reserve or Fleet Marine Corps Reserve until they have completed a combined total of 30 years of active and retired or retainer service.

E5.1.3.1.5. Reserve personnel drawing retired pay pursuant to other than age, service requirements, or physical disability. This category is restricted for retirement under special conditions, as authorized by the Office of the Assistant Secretary of Defense for Reserve Affairs under legislation. These personnel shall be assigned the RCC and TRC designator of "V5." Also included in this RCC and TRC will be Voluntary Separation Incentive recipients who become ineligible for retention in an active or inactive status in a Reserve component because of age, years of service, failure to select for promotion, or medical disability, and who request to be placed in this category. These individuals shall be tracked separately by the appropriate Reserve personnel management office.

E5.1.3.2. All members retired for having completed the requisite years of active duty service (Regular or Reserve), regardless of the retired list where assigned, may be ordered to AD when required by the Secretary of the Military Department concerned, pursuant to section 688 of Reference (g/h).

E5.1.3.3. Retired Reserve members may be ordered to AD in their status as Retired Reserve members. It is not necessary to place the member in the Ready Reserve for that purpose.

E5.1.3.4. Former members having completed 20 satisfactory years of service creditable for non-regular retirement, but electing to be discharged from the RCs, are not a part of the Retired Reserve and have no military status.

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## E6. ENCLOSURE 6

TABLE E6.T1. AUTHORIZED RESERVE, TRAINING, AND RETIREMENT CATEGORIES

RCC	RCC SUB-CATEGORY	RCC DESIGNATOR	TRC DESIGNATOR	COMPRISED OF	MINIMUM NUMBER OF EBT PERIODS REQUIRED ANNUALLY	MINIMUM NUMBER OF DAYS OF AT REQUIRED ANNUALLY	REMARKS	CURRENTLY USED BY								
								ARNG	USAR	USNR	USMCR	ANG	USAFR	USCGR		
READY RESERVE	SELECTED RESERVE	S TRAINED IN UNITS	A	INDIVIDUALS IN UNITS	48	RESERVE: 14 DAYS USCR: 12 DAYS NATIONAL BOARD: 15 DAYS	10 U.S.C. 10147 (REFERENCE (6)(9)), REQUIRES 14 DAYS AT (EXCLUDE TRAVEL)  32 U.S.C. 502 (REFERENCE (6)), REQUIRES 15 DAYS AT (INCLUDE TRAVEL)		X				X		X	X
			G	AGR	N/A	N/A	AGR MAY BE REQUIRED TO ATTEND DRILLS (INCLUDES USNR <del>4444</del> 4500, USCR REPA (14 U.S.C. 276 (REFERENCE (6)), USMCR AR, AND ALL STATUTORY TOURS)	X	X	X	X	X	X	X	X	
			V	USFPO & RC MEMBERS ON AD IN SUPPORT OF COUNTER-DRUG ACTIVITIES	N/A	N/A	MEMBERS ARE ON AD FOR MORE THAN 180 DAYS AND COUNT AGAINST SELF-DEFENSE STRENGTH, BUT DO NOT COUNT AGAINST AGR STRENGTH	X	X	X	X	X	X	X	X	
		T	TRAINED INDIVIDUALS NON-UNIT	B	IMA	DOT VARIES BETWEEN 0 AND 48 PERIODS EACH YEAR, AS DETERMINED BY DOD POLICY	RESERVE: 12 TO 14 DAYS (EXCLUDE TRAVEL)	UNLESS TRAINING CAN BE ACCOMPLISHED ON WEEKENDS, AT IS LIMITED TO 12 DAYS BY POLICY.		X	X	X		X	X	
		U	TRAINING PIPELINE NON-DEPLOYABLE ACCOUNT	F	PERSONNEL CURRENTLY ON IADT	O	N/A	INCLUDES SECOND PART OF SPLIT TRAINING AND ARMY ONE STATION UNIT TRAINING (APPLIES TO TRCs F, P, AND Q)	X	X	X	X	X	X	X	
		P	PERSONNEL AWAITING IADT AND AUTHORIZED TO PERFORM IADT		MINIMUM IADT TO BE DETERMINED BY DOD COMPONENT POLICY	N/A	INCLUDES PERSONNEL WITH OR WITHOUT PAY	X	X	X	X	X	X	X		
		Q	PERSONNEL AWAITING SECOND PART OF IADT		48	N/A		X	X	X	X	X	X	X		

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TABLE E6.T1. AUTHORIZED RESERVE, TRAINING, AND RETIREMENT CATEGORIES, Cont.

ROC	EC SUB-CATEGORY	ROC DESIGNATOR	TEC DESIGNATOR	COMPREHEND OF	MINIMUM NUMBER OF IDT PERIODS REQUIRED ANNUALLY	MINIMUM NUMBER OF DAYS OF AT-REQUIRED ANNUALLY	REMARKS	CURRENTLY USED BY								
								ARNG	USAR	USNR	USMCR	ANG	USAFR	USCGR		
READY RESERVE	SELECTED RESERVE	U TRAINING FUELLINE, NON-DEPLOYABLE ACCOUNT	S	AGE CURRENTLY ON, OR AWAITING IADT	DETERMINED BY DOD COMPONENT POLICY	N/A	INCLUDES RFS AGR. <del>44444-4444</del> PERSONNEL			X						
			T	INDIVIDUALS IN A SIMULTANEOUS MEMBERSHIP	48	SAME AS TEC A	SENIOR ROTC CADETS OR MARINE CORPS PLATOON LEADER CLASS MEMBERS WHO ARE ALSO PERMITTED BE MEMBERS OF A SELECT RESERVE UNIT.	X	X		X	X	X			
			X	PERSONNEL IN OTHER TRAINING PROGRAMS	48	SAME AS TEC A	SELECTED RESERVE UNTRAINED MEMBER IN OTHER TRAINING PROGRAMS INCLUDING CHAPLAINS, MEDICAL, HEALTH PROFESSIONAL, STEWARD, AND EARLY COMMISSIONING MUST MEET THE SAME TRAINING REQUIREMENTS AS TEC A RESERVISTS	X	X		X					
	IR and ING	R IR	E	E	INDIVIDUAL MEMBERS OF THE READY RESERVE NOT IN SELECTED RESERVE (INCLUDES OFFICERS AWAITING AD OR SELECTED RESERVE ASSIGNMENT)	N/A	1	IR MEMBERS MAY VOLUNTARILY PARTICIPATE IN TRAINING FOR RETIREMENT POINTS AND PROMOTION WITH OR WITHOUT PAY. REQUIRED TRAINING MAY NOT EXCEED 30 DAYS EACH YEAR. (10 U.S.C. 10147, REFERENCE (g)).			X	X	X		X	X
				M	SPECIAL CATEGORY WITHIN THE IR SUBJECT TO INVOLUNTARY CALL TO AD IAW 10 USC 12104 (REFERENCE (g)).	N/A	N/A	MEMBERS MUST VOLUNTEER FOR THIS CATEGORY, AND MAY ONLY REMAIN IN THIS CATEGORY FOR 48 MONTHS AFTER LEAVING ACTIVE SERVICE.			X	X	X		X	X
				H	UNTRAINED MEMBERS OF THE IR. (DEF) 10 U.S.C. 513. REFERENCE (g)).						X	X	X		X	X
U	PERSONNEL AWAITING IADT	NOT AUTHORIZED TO PERFORM IDT	N/A				X	X	X	X	X	X	X			

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TABLE E6.T1. AUTHORIZED RESERVE, TRAINING, AND RETIREMENT CATEGORIES, Cont.

RCC	RC SUB-CATEGORY	RCC DESIGNATOR	TEC DESIGNATOR	COMPREHEND OF	MINIMUM NUMBER OF IDT PERIODS REQUIRED ANNUALLY	MINIMUM NUMBER OF DAYS OF AT-REQUIRED ANNUALLY	REMARKS	CURRENTLY USED BY							
								ARNG	USAR	USNR	USMCR	ANG	USAFR	USCGR	
READY RESERVE	IRR And ING	P	J	PERSONNEL NOT IN THE SELECTED RESERVE - PARTICIPATING IN OFFICER TRAINING PROGRAMS	0	AS REQUIRED BY SPECIFIC PROGRAM	CHAPLAIN AND JUDGE ADVOCATE GENERAL (JAG)/SCHOOLING, EDUCATION DELAY, ROTC ASSIGNMENT DELAY, ARMY EARLY COMMISSIONING PROGRAM, COAST GUARD DIRECT COMMISSION CANDIDATES, MARINE PLATOON LEADER CLASS, MERCHANT MARINE CADETS (USNR)		X	X	X	X		X	X
		F	K	PERSONNEL NOT IN THE SELECTED RESERVE - PARTICIPATING IN THE AFHSF	0	45 DAYS	AFHSF REQUIRES 45 DAYS AD ANNUALLY. 10 U.S.C. 2121(C) (REFERENCE (a)(9))			X	X			X	
		I	I	ING	0	1	MUST MEET ANNUAL MUSTER WITH ASSIGNED UNIT. MAY NOT TRAIN FOR POINTS OR PAY AND ARE NOT ELIGIBLE FOR PROMOTION	X							
STANDBY RESERVE		STANDBY	C	ACTIVE STATUS LIST	0	0	LET EMPLOYER, ONLY, PER DD FORM 1300.7 (REFERENCE (a)(9)). ACTIVE STANDBY MEMBERS MAY VOLUNTARILY TRAIN FOR POINTS WITHOUT PAY AND ARE ELIGIBLE FOR PROMOTION		X	X	X			X	X
			D	ACTIVE STATUS LIST PROGRAMS	0	0	OTHER ACTIVE STATUS MEMBERS		X	X	X			X	X
			L	INACTIVE STATUS LIST	0	0	MEMBERS TRANSFERRED TO INACTIVE STATUS LIST INSTEAD OF SEPARATION UNDER 10 U.S.C. 1209, CHAPTER 61 (REFERENCE (a)(9)). INACTIVE STANDBY MEMBERS MAY NOT TRAIN FOR POINTS WITH OR WITHOUT PAY AND ARE NOT ELIGIBLE FOR PROMOTION		X	X	X			X	X
			N	INACTIVE STATUS LIST	0	0	OTHER INACTIVE STATUS MEMBERS		X	X	X			X	

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## E7. ENCLOSURE 7

### MEMBERS PARTICIPATING IN APPROVED PROGRAMS

#### OUTSIDE THE DEPARTMENT OF DEFENSE

##### E7.1. SELECTIVE SERVICE SYSTEM (SSS)

E7.1.1. The SSS administers the Military Selective Service Act (MSSA) (Reference ~~(op)~~). The MSSA authorizes the Director of Selective Service, by delegation from the President, "...to order to active duty with their consent and to assign to the Selective Service System such officers of the selective-service section of the state headquarters and headquarters detachments and such other officers of the federally recognized National Guard of the United States or other armed forces personnel (including personnel of the reserve components thereof), as may be necessary for the administration of the national and of the several state headquarters of the Selective Service System."

E7.1.2. The Department of Defense and the Office of the Director of Selective Service shall agree on the number of RC members assigned as IMAs to the SSS. The SSS shall reimburse the Department of Defense for total personnel costs for IDT and AT for those members.

E7.1.3. Additionally, agreements between the Department of Defense and the Office of the Director of Selective Service may provide for the use of IRR members of the RCs in an IDT or AD status; with or without pay. The SSS shall reimburse the Department of Defense for all associated costs, including IDT and AT pay, for those members.

E7.1.4. Request for assignment to the SSS in a full-time AD status must be approved pursuant to DoD Directive 1000.17 (Reference ~~(xx)~~). Costs for those members shall be reimbursed to the Department of Defense. Members shall not be assigned to a RCC or TRC, shall not be counted against RC strengths, and shall not be included in the RCCPDS files.

##### E7.2. NATIONAL SECURITY EMERGENCY PREPAREDNESS PROGRAMS

E7.2.1. The National Emergency Preparedness Program (all hazards) is an integral part of U.S. national security. Support of emergency preparedness may be provided through RC members participating with Federal, State, and local civil agencies only when clearly furthering specifically identifiable DoD interests. Participation shall be in an IDT, ADT, or FTNGD status. The primary basis for RC participation is to meet DoD program requirements and therefore costs of the program are paid by the DoD Component, except when the RC members are supporting a presidentially declared emergency or disaster. In those cases, costs are usually on a reimbursable basis from the Federal Emergency Management Agency (FEMA). Subject to priorities and guidance in DoD 3025.1 (Reference ~~(xy)~~), military support of those activities is a proper mission for DoD Components. Military planning and liaison may be provided by RC

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members at selected civil government and military headquarters, and includes such tasks and responsibilities as military support to civil authorities for CONUS defense, coordinating DoD response to domestic emergencies, and physical security of key assets.

E7.2.2. Assigning Emergency Preparedness Liaison Officers (EPLOs) in a full-time AD (other than for training) or FTNGD status in support of Emergency Preparedness Programs outside the Department of Defense must be approved pursuant to Reference (a)(x). The following programs are approved for such participation:

E7.2.2.1. Federal EPLOs. Reserve officers performing planning and liaison responsibilities between DoD Components and Federal Agencies, including interface with the civil sector, as directed by their DoD Component through the Military Service planning agent. Federal EPLOs function primarily in support of DoD missions. All costs are paid by the DoD Component. Each Military Department is authorized to assign one or more Federal EPLOs (below flag or general officer rank) at FEMA national headquarters, at the DoD Director of Military Support, and at military headquarters that serve as the DoD, Military Service, or Regional Planning Agents for domestic emergency support. Federal EPLOs:

E7.2.2.1.1. Provide DoD and Service liaison with Federal Agencies and organizations, and between the Military Services.

E7.2.2.1.2. Facilitate planning, coordination, and training for military support to civil authorities and national security emergency preparedness.

E7.2.2.1.3. Advise Federal Agencies and organizations on DoD and Service capabilities and resources.

E7.2.2.1.4. Advocate mutual support required by the Department of Defense.

E7.2.2.1.5. On order, augment DoD response to domestic emergency operations.

E7.2.2.2. Regional EPLOs. Reserve officers performing planning and liaison responsibilities between DoD Components and Federal regional headquarters, including interface with the civil sector, as directed by their DoD Component through the Military Service planning agent. Regional EPLOs function primarily in support of DoD missions. All costs are paid by the DoD Component. Each Military Department is authorized to assign one or more EPLOs (below flag or general officer rank) at each FEMA region and at military headquarters and locations with key functions as Department of Defense, Military Service, and Regional Planning Agents for domestic emergency support. Regional EPLOs perform the same functions described in paragraphs E7.2.2.1.1. through E7.2.2.1.5. only at the regional level.

E7.2.2.3. State EPLOs. Reserve officers performing planning and liaison responsibilities between their DoD Components and State or U.S. Territory emergency service headquarters including interface with the civil sector, as directed by their DoD Component through the Military Service planning agent. State EPLOs function primarily in support of DoD missions.

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All costs are paid by the DoD Component. Each Military Department is authorized to assign one or more EPLOs (below flag or general officer rank) at each State or U.S. territorial headquarters and shall assign such officers to functions supervised by the State Area Command. State EPLOs provide Service representation and liaison to the military and civil authorities within the State, commonwealth, U.S. possession, and other eligible jurisdiction. State EPLOs perform the same functions described in paragraphs E7.2.2.1.1. through E7.2.2.1.5. only at the State level.

E7.2.3. All EPLOs should attend the DoD Emergency Preparedness Course presented at the FEMA Mount Weather Emergency Assistance Center as soon as possible after assignment. This will help to ensure that DoD representatives performing these vital functions are properly trained in this complex environment.

### E7.3. VOLUNTARY PARTICIPATION IN PROGRAMS OUTSIDE THE DEPARTMENT OF DEFENSE

Members of the IRR may participate voluntarily in programs outside the Department of Defense in an AD or IDT status, with pay or without pay. Any pay provided shall be reimbursed to the Department of Defense by the supported Agency. Members of the Standby Reserve on the Active Status List may voluntarily participate, without pay, in approved civil defense activities and receive retirement points pursuant to Reference (~~k~~).

### E7.4. IRR MEMBERS PARTICIPATING IN DEFENSE SUPPORT TO CIVIL AUTHORITIES

IRR members participating in Defense Support to Civil Authorities (DSCA) training activities may request ADT to attend DSCA courses. If so ordered, those Reservists shall be entitled to pay and allowances including travel allowances for such training.

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**Appendix 10-6: ROLE OF THE NG IN DOMESTIC SUPPORT OPERATIONS**

INFORMATION PAPER

NGB-ARO-OM  
12 February 1997

SUBJECT: Domestic Support Operations

1. Purpose. To provide information on Department of Defense procedures during domestic support operations and the role of the National Guard in this area.

2. Facts.

a. The National Command Authorities (NCA) direct the Army to conduct domestic and international operations. The Secretary of Defense has designated the Secretary of the Army (SA) as the executive agent for most domestic support operations. During these operations, military support supplements, rather than replaces, civil agency responsibilities.

b. In domestic support operations, the Army recognizes that National Guard forces, acting under the command of their respective governor's in a state (non federal) status, have the primary responsibility for providing military assistance to state, territorial, and local governments. States routinely provide mutual support through the use of various interstate compacts.

c. The National Guard Bureau has long emphasized a need for a single national compact that would allow states to provide mutual support during natural or man-made disasters. During Fiscal Year 1996, the Southern Governor's Association submitted the Emergency Management Assistance Compact (EMAC) for U.S. Congressional ratification. The 104th Congress approved the EMAC for national implementation. No further action is required at the National level. Currently 14 states have enacted EMAC with an additional 6 showing interest. Implementation at the state level requires the passing of enabling legislation.

d. When state and National Guard resources need supplementation and the governor requests it, the Army will, after a Presidential Declaration of Disaster, assist civil authorities. As the Department of Defense (DOD) executive agent for domestic support operations, the SA develops necessary planning guidance, plans, and procedures. The SA has the authority to task DOD components to plan for and to commit DOD resources in response to requests for military support from civil authorities. Any commitment of military forces of the unified

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and specified commands must be coordinated with the Chairman, Joint Chiefs of Staff (CJCS). The SA uses the inherent authority of his office to direct Army assistance to domestic support operations.

e. The Director of Military Support (DOMS) is the DOD primary contact for all federal departments and agencies during periods of domestic civil emergencies or disaster response. The DOMS serves as a joint staff, ensuring planning, coordination, and execution of many domestic support operations. DOMS serves as the action agent for domestic support operations involving DOD. The Operating Agents, (supported Commander-in-Chiefs) utilized by DOMS are U.S. Atlantic Command (USACOM) for Continental U.S (CONUS) and the Caribbean, and Pacific Command (PACOM) for the pacific region and Alaska. Forces Command (FORSCOM) is the lead operating authority for USACOM in domestic support operations.

f. The National Guard Bureau is the federal coordination center for the Army and Air National Guard. It serves as the legal channel of communication among the U.S. Army, U.S Air Force, and the National Guards in the 54 states and territories. The Chief, National Guard Bureau has given executive agent responsibility for planning and coordinating the execution of military support operations to the Director, Army National Guard (DARNG). In coordination with DOMS, FORSCOM, and USACOM, the NGB acts as a facilitator to provide augmentation to DOD in federally declared disasters.

g. Reserve Forces of the U.S. participate in domestic support missions but are limited to 15 days under statutory provisions of Service Secretarial call-up authority.

h. The Posse Comitatus Act prescribes criminal penalties for use of the U.S. Army or Air Force to execute the laws of or to perform civilian law enforcement functions within the U.S. DOD policy extends this prohibition to the U.S. Navy and Marine Corps. The Posse Comitatus Act does not apply to members of the National Guard when not in federal service. Components of the U.S. Military, (Active Duty, National Guard, Reserve Component, may be called to federal service to suppress insurrections or enforce federal laws. This is prescribed in Title 10, Chapter 15. The limitations of Posse Comitatus do not apply under these circumstances.

MAJ Michael J. Captain/607-9334  
Approved 

**Appendix 10-7: COMPARISON OF DUTY STATUS FOR NATIONAL GUARD PERSONNEL**

**COMPARISON OF DUTY STATUSES FOR NATIONAL GUARD PERSONNEL**

	<b>State Active Duty</b>	<b>Title 32</b>	<b>Title 10</b>
<b>Command &amp; control</b> <sup>12</sup>	State Governor	State Governor	Federal President
<b>Who performs duty</b>	Federally organized NG	Organized NG in service of US <sup>1</sup>	AC <sup>8</sup> , RC and National Guard of US <sup>1</sup>
<b>Where duty performed</b>	IAW state law	CONUS	Worldwide
<b>Pay</b>	IAW state law	Federal pay & allowances	Federal pay & allowances
<b>Federal reimbursement</b>	IAW Stafford Act <sup>2</sup> or Cooperative Agreement <sup>11</sup>	N/A personnel costs paid by Federal funds	N/A personnel costs paid by Federal funds
<b>Tort immunity</b>	IAW state law	FTCA <sup>6</sup>	FTCA <sup>6</sup>
<b>PCA<sup>3</sup> application</b>	No	No	Yes
<b>USERRA<sup>4</sup></b>	No, IAW state law	Yes	Yes
<b>SSCRA<sup>5</sup></b>	No, IAW state law	No	Yes
<b>Mission types</b>	IAW state law	IDT, AT, state AGR & other Federally authorized	ODT, ADT, AGR & as assigned, subj. to PCA
<b>Discipline</b>	State military code	State military code	UCMJ <sup>7</sup>
<b>Federal retirement points</b>	No	Yes	Yes
<b>Other benefits</b>	IAW state law	Federal	Federal
<b>Medical</b>	IAW state law	Federal	Federal
<b>Disability</b>	IAW state law	Federal	Federal
<b>Involuntary order to duty</b>	IAW state law	Yes <sup>9</sup>	Yes <sup>10</sup>
<b>Voluntary order to duty</b>	IAW state law	Yes	Yes

32 USC § 502(f) provides:

“Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may-

- (1) without his consent, but with the pay and allowances provided by law; or
- (2) with his consent, either with or without pay and allowances;

be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay.”

<sup>1</sup>USC §§ 3062(c) and 8062(c)

<sup>2</sup>Stafford Act (42 USC § 5121) for disaster-related activities

<sup>3</sup>Posse Comitatus Act (18 USC § 1385)



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<sup>4</sup>*Uniformed Services Employment and Reemployment Rights Act (38 USC §§ 4301-4333)*

<sup>5</sup>*Soldiers and Sailors Civil Relief Act (50 USC App. §§ 500-548, 560-591)*

<sup>6</sup>*Federal Tort Claims Act (28 USC §§ 2671-2680)*

<sup>7</sup>*Uniform Code of Military Justice (10 USC §§ 800-946)*

<sup>8</sup>*Active component*

<sup>9</sup>*32 USC §502(f)(1)*

<sup>10</sup>*Under Presidential Reserve Call-up (10 USC § 12304); partial mobilization (10 USC § 12302); or full mobilization (10 USC § 12301(a))*

<sup>11</sup>*Cooperative agreement if to perform an authorized National Guard function*

<sup>12</sup>*See 10 USC § 315, 325*

**APPENDIX 11.  
RULES FOR THE USE OF FORCE  
FOR FEDERAL FORCES**

**Appendix 11-1: Fourth Amendment, US Constitution.**

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Source: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentiv>

**Appendix 11-2: Fifth Amendment, US Constitution.**

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Source: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentiv>

**Appendix 11-3: Eighth Amendment, US Constitution.**

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Source: <http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentiv>

**Appendix 11-4: Article II, Section 1 (Executive Powers Clause), Section 2 (Commander in Chief Clause), and Section 3 (Execution of Laws Clause).**

Article II

Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

## APPENDIX 11: RUF FEDERAL FORCES

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

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The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Source: <http://www.law.cornell.edu/constitution/constitution.articleiii.html#section1>

### **Appendix 11-5: 10 USC § 12301, Reserve Components Generally.**

#### **Sec. 12301. - Reserve components generally**

(a) In time of war or of national emergency declared by Congress, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty (other than for training) for the duration of the war or emergency and for six months thereafter. However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.

(b) At any time, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of that Secretary to active duty for not more than 15 days a year. However, units and members of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor of the State (or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard).

(c) So far as practicable, during any expansion of the active armed forces that requires that units and members of the reserve components be ordered to active duty (other than for training), members of units organized and trained to serve as units who are ordered to that duty without their consent shall be so ordered with their units. However, members of those units may be reassigned after being ordered to active duty (other than for training).

(d) At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State concerned.

(e) The period of time allowed between the date when a Reserve ordered to active duty (other than for training) is alerted for that duty and the date when the Reserve is required to enter upon that duty shall be determined by the Secretary concerned based upon military requirements at that time.

(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.

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**(g) (1)** A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated.

**(2)** The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations.

**(3)** In this section, the term "captive status" means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member's military status.

**(h) (1)** When authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty -

**(A)** to receive authorized medical care;

**(B)** to be medically evaluated for disability or other purposes; or

**(C)** to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

**(2)** A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

**(3)** A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.

**Source:** <http://www4.law.cornell.edu/uscode/10/12301.html>

### Notes on Sec. 12301.

#### SOURCE

Aug. 10, 1956, ch. 1041, 70A Stat. 27, Sec. 672

Pub. L. 85-861, Sec. 1(13), 33(a)(5), Sept. 2, 1958, 72 Stat. 1440, 1564

Pub. L. 96-357, Sec. 6, Sept. 24, 1980, 94 Stat. 1182

Pub. L. 96-584, Sec. 1, Dec. 23, 1980, 94 Stat. 3377

Pub. L. 99-500, Sec. 101(c) (title IX, Sec. 9122), Oct. 18, 1986, 100 Stat. 1783-82, 1783-127, and Pub. L. 99-591, Sec. 101(c) (title IX, Sec. 9122), Oct. 30, 1986, 100 Stat. 3341-82, 3341-127

Pub. L. 99-661, div. A, title V, Sec. 522, 524(a), Nov. 14, 1986, 100 Stat. 3871

Pub. L. 100-456, div. A, title XII, Sec. 1234(a)(1), (2), Sept. 29, 1988, 102 Stat. 2059

renumbered Sec. 12301 and amended Pub. L. 103-337, div. A, title XVI, Sec. 1662(e)(2), 1675(c)(1), Oct. 5, 1994, 108 Stat. 2992, 3017

Pub. L. 106-65, div. A, title V, Sec. 512, Oct. 5, 1999, 113 Stat. 592.

Historical and Revision Notes 1956 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
672(a) 672(b)	50:961(a). 50:961(c). 50:961(g).	July 9, 1952, ch. 608, Sec. 233 (less (b) and (f)), 234
672(c) 672(d)	50:961(d). 50:962 (1st sentence).	(1st sentence), 66 Stat. 489, 490.

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672(e)

50:961(e).

In subsection (a), the word "hereafter" is omitted as surplusage. The words "there are not enough \* \* \* who are" are substituted for the words "adequate numbers of \* \* \* are not". The words "without the consent of the persons affected" and "under the jurisdiction of that Secretary" are inserted for clarity. The words "and the members thereof" are omitted as surplusage.

In subsection (b), the words "without the consent of the persons affected" are substituted for the words "without his consent", since units as well as individuals are covered by the revised subsection. The words "and the members thereof", "and required to perform", "or required to serve on", and "in the service of the United States" are omitted as surplusage.

In subsections (b) and (d), the words "active duty for training" are omitted as covered by the words "active duty".

In subsection (c), the words "to active duty" are substituted for the words "into the active military service of the United States", in 50:961(g) (1st and last sentences). The words "to serve" are substituted for the words "for the purpose of serving". The words "without their consent" are substituted for the word "involuntarily". The words "to that duty" are substituted for the words "into active duty". The last sentence of the revised subsection is substituted for 50:961(g) (last sentence).

In subsection (d), the words "the consent of that member" are substituted for the words "his consent". The words "under his jurisdiction" are inserted for clarity. 50:962 (last 15 words of 1st sentence) is omitted as covered by 50:961(d).

In subsection (e), the words "to active duty (other than for training)" are substituted for the words "into the active military service of the United States". The words "period of" are omitted as surplusage. The word "requirements" is substituted for the word "condition" for clarity.

1958 Act

Revised section Source (U.S. Code)

Source (Statutes at Large)

672(a)

50:961(a).

Aug. 9, 1955, ch. 665, Sec. 2(e), 69 Stat. 599.

The word "hereafter" is omitted as surplusage. The words "there are not enough . . . who are" are substituted for the words "adequate numbers of . . . are not". The words "without the consent of the persons affected" and "under the jurisdiction of that Secretary" are inserted for clarity.

The changes are necessary to reflect section 101(b) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 901(b)), which defines the term "active duty" to exclude active duty for training. This definition applied to the source law for these sections (sections 672 and 673), section 233(a), (b)(1), and (c) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 961(a), (b)(1), (c))

### CODIFICATION

[Pub. L. 99-591](#) is a corrected version of [Pub. L. 99-500](#).

### AMENDMENTS

1999 - Subsec. (h). [Pub. L. 106-65](#) added subsec. (h). 1994 - [Pub. L. 103-337](#), Sec. 1662(e)(2), renumbered section 672 of this title as this section.

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Subsec. (b). [Pub. L. 103-337](#), Sec. 1675(c)(1)(A), substituted "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)" for "or Territory or Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be".

Subsec. (d). [Pub. L. 103-337](#), Sec. 1675(c)(1)(B), struck out "or Territory, Puerto Rico, or the District of Columbia, whichever is" after "authority of the State". 1988 - Subsec. (b). [Pub. L. 100-456](#), Sec. 1234(a)(2), substituted "or Puerto Rico" for ", Puerto Rico, or the Canal Zone,".

Subsec. (d). [Pub. L. 100-456](#), Sec. 1234(a)(1), struck out "the Canal Zone," after "Puerto Rico,". 1986 - Subsec. (f). [Pub. L. 99-500](#) and [Pub. L. 99-591](#), Sec. 101(c) (Sec. 9122), [Pub. L. 99-661](#), Sec. 522, amended section identically adding subsec. (f). Subsec. (g). [Pub. L. 99-661](#), Sec. 524(a), added subsec. (g). 1980 - Subsec. (a). [Pub. L. 96-357](#) struck out cl. (1) designation for second sentence and cl. (2) prohibition against ordering a member of the Standby Reserve to active duty unless the Director of Selective Service determined that the member was available for active duty.

Subsec. (e). [Pub. L. 96-584](#) substituted provisions respecting determination of the allowable time in terms of military requirements for provisions authorizing a reasonable time. 1958 - Subsec. (a). [Pub. L. 85-861](#), Sec. 1(13), 33(a)(5), inserted "(other than for training)" after "active duty", substituted "inactive National Guard" for "inactive Army National Guard or in the inactive Air National Guard", and inserted provisions prohibiting a member of the Standby Reserve from being ordered to active duty under this subsection unless the Director of Selective Service determines that the member is available for active duty.

Subsec. (c). [Pub. L. 85-861](#), Sec. 33(a)(5), inserted "(other than for training)" after "active duty"

### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by [Pub. L. 103-337](#) effective Dec. 1, 1994, except as otherwise provided, see section 1691 of [Pub. L. 103-337](#), set out as an Effective Date note under section [10001](#) of this title

### EFFECTIVE DATE OF 1986 AMENDMENT

Section 524(b) of [Pub. L. 99-661](#) provided that: "Section 672(g) (now 12301(g)) of title [10](#), United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act (Nov. 14, 1986)."

### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(a)(5) of [Pub. L. 85-861](#) effective Aug. 10, 1956, see section 33(g) of [Pub. L. 85-861](#), set out as a note under section [101](#) of this title

### RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99-500, 99-591, AND 99-661

For rule of construction for certain duplicate provisions of Public Laws 99-500, 99-591, and 99-661, see [Pub. L. 100-26](#), Sec. 6, Apr. 21, 1987, 101 Stat. 274, set out as a note under section [2302](#) of this title

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections [101](#), [523](#), [582](#), [641](#), [672](#), [10142](#), [10151](#), [10215](#), [12305](#), [12306](#), [12307](#), [12310](#), [12408](#), [12686](#), [16131](#), [16133](#) of this title; title [5](#) section [6323](#); title [38](#) sections [3011](#), [3013](#), [3103](#), [3105](#), [3231](#), [3511](#), [3512](#), [4211](#), [4312](#); title [50](#) App. section [592](#)

Source: <http://www4.law.cornell.edu/uscode/10/12301.notes.html>

## **Appendix 11-6: 18 USC § 242, Deprivation of Rights Under Color of Law**

Sec. 242. - Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death



**APPENDIX 12.**  
**RULES FOR THE USE OF FORCE FOR THE NATIONAL GUARD**

**Appendix 12-1: 32 USC § 502- Required Drills and Field Exercises**

Sec. 502. - Required drills and field exercises

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall -

- (1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and
- (2) participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required membership in the National Guard.

(b) An assembly for drill and instruction may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the Secretary concerned, a series of ordered formations of parts of those organizations. However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within 90 consecutive days.

(c) The total attendance at the series of formations constituting an assembly shall be counted as the attendance at that assembly for the required period. No member may be counted more than once or receive credit for more than one required period of attendance, regardless of the number of formations that he attends during the series constituting the assembly for the required period.

(d) No organization may receive credit for an assembly for drill or indoor target practice unless -

- (1) the number of members present equals or exceeds the minimum number prescribed by the President;
- (2) the period of military duty or instruction for which a member is credited is at least one and one-half hours; and
- (3) the training is of the type prescribed by the Secretary concerned.

(e) An appropriately rated member of the National Guard who performs an aerial flight under competent orders may receive credit for attending drill for the purposes of this section, if the flight prevented him from attending a regularly scheduled drill.

(f) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may -

- (1) without his consent, but with the pay and allowances provided by law; or
- (2) with his consent, either with or without pay and allowances;

## APPENDIX 12: RUF STATE FORCES

be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay

### **Appendix 12-2: Emergency Management Assistance Compact (EMAC)**

See next page.

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110 STAT. 3877

Public Law 104-321  
104th Congress

Joint Resolution

Granting the consent of Congress to the Emergency Management Assistance Compact.

Oct. 19, 1996  
[H.J. Res. 193]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. CONGRESSIONAL CONSENT.

State listing.

The Congress consents to the Emergency Management Assistance Compact entered into by Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. The compact reads substantially as follows:

**“Emergency Management Assistance Compact**

“ARTICLE I.

“PURPOSE AND AUTHORITIES.

“This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term ‘states’ is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

“The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

“This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states’ National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

## “ARTICLE II.

## “GENERAL IMPLEMENTATION.

“Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

“The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

“On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

## “ARTICLE III.

## “PARTY STATE RESPONSIBILITIES.

“A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

“1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

“2. Review party states’ individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

“3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

“4. Assist in warning communities adjacent to or crossing the state boundaries;

“5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

“6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

“7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

“B. The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

“1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

“2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

“3. The specific place and time for staging of the assisting party’s response and a point of contact at that location.

“C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

#### “ARTICLE IV.

##### “LIMITATIONS.

“Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

“Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

## “ARTICLE V.

## “LICENSES AND PERMITS.

“Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

## “ARTICLE VI.

## “LIABILITY.

“Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

## “ARTICLE VII.

## “SUPPLEMENTARY AGREEMENTS.

“Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

## “ARTICLE VIII.

## “COMPENSATION.

“Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

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## “ARTICLE IX.

## “REIMBURSEMENT.

“Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

## “ARTICLE X.

## “EVACUATION.

“Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

## “ARTICLE XI.

## “IMPLEMENTATION.

“A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

Effective date.

“B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve



the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

“C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

“ARTICLE XII.

“VALIDITY.

“This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

“ARTICLE XIII.

“ADDITIONAL PROVISIONS.

“Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under § 1385 of Title 18 of the United States Code.”.

**SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.**

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall—

(1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;

(2) not be construed as consent to the National Guard Mutual Assistance Compact;

(3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;

(4) not be construed as providing authority in Article III A. 7. that does not otherwise exist for the suspension of statutes or ordinances;

(5) be construed as understanding that Article III C. does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and

(6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by article I of the Constitution and title 10 of the United States Code.

**SEC. 3. CONSTRUCTION AND SEVERABILITY.**

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes



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thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

**SEC. 4. INCONSISTENCY OF LANGUAGE.**

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the States.

Approved October 19, 1996.

### **Appendix 12-3: RUF and State criminal law**

#### **CIVILIAN LAW ENFORCEMENT RULES FOR USE OF FORCE**

During domestic operations, federal military missions may include support to federal, state, or local civilian law enforcement agencies. When deployed in support of such missions, Judge Advocates must be aware of the supported civilian law enforcement agencies' RUF, and the greater or lesser use of force permissible for local, state and federal law enforcement agencies under federal, state, and local statutes, agency regulations, policies, and judicial decisions. The following discussion provides an abbreviated view of typically permissible actions available to civilian law enforcement agencies operating within their jurisdictions. A Judge Advocate's role in domestic operations may be to coordinate and deconflict, when necessary, law enforcement RUF that permit civilian agencies greater use of force than would be permitted for Title 10 military personnel under the same or similar circumstances.

In addition to this Handbook, federal civilian law enforcement resources include the Department of Homeland Security's Federal Law Enforcement Training Center: *Legal Divisions Reference Book*, and the Department of Homeland Security Office of the General Counsel: *Legal Authorities Handbook*.

#### **DEPARTMENT OF HOMELAND SECURITY**

As a result of the 911 terrorist attacks, several autonomous and semi-autonomous federal agencies were consolidated into the newly created Department of Homeland Security. CONUS Judge Advocates deployed in support of civilian law enforcement agencies should become familiar with the Department of Homeland Security (DHLS) law enforcement agencies they may be supporting:

*Transportation Security Administration (TSA)*: Protects U.S. transportation systems and facility; ensures free and secure movement of people and commerce.

*U.S. Citizenship and Immigration Services (USCIS)*: Grants immigration and citizenship status; ensures the integrity of the immigration system.

## APPENDIX 12: RUF STATE FORCES

*U.S. Coast Guard (USCG):* The principal federal agency for maritime safety and security. In wartime, USCG can be consolidated with the U.S. Navy for military missions.

*U.S. Customs and Border Protection (CBP):* The agency responsible for protecting U.S. borders and operating points of entry into the U.S.

*U.S. Immigration and Customs Enforcement (ICE):* Enforces customs laws and regulations to prevent import and export of prohibited or controlled goods and products. Monitors US border crossings to prevent entry of illegal immigrants, criminals, and terrorists.

*U.S. Secret Service (USSS):* Protects the President, the Vice President, dignitaries and designated individuals; investigates crimes involving U.S. currency and federal securities; investigates interstate financial and electronic crimes.

*In addition,* the deployed Judge Advocate supporting law enforcement agencies' missions should also be aware of other agencies within the "Federal law enforcement community", as compiled in 42 U.S. Code Chapter 111, Section 10501, including:

- Federal Bureau of Investigation (FBI)
- Drug Enforcement Administration (DEA)
- Department of Justice, Criminal Division
- Internal Revenue Service (IRS)
- United States Marshal's Service
- National Park Service
- United States Postal Service
- The Secret Service (USSS)
- Department of Justice (DOJ)
  - National Security Division
  - Bureau of Alcohol, Tobacco, Firearms, and Explosives

### **DEVELOPMENT OF RESTRICTIONS ON USE OF FORCE BY CIVILIAN LAW ENFORCEMENT OFFICERS.**

Prior to the U.S. Supreme Court's decision in *Tennessee vs. Garner*, most states' law and decisional authorities permitted the use of deadly force to stop the commission of a crime, stop a fleeing suspect and/or overcome resistance to arrest, without regard to the seriousness of the underlying offense or the reason for the subject's apprehension. In *Garner*, police responded to a night-time residential burglary, chasing the fleeing suspect until he was stopped by a six foot high chain-link fence. Although the officer called out "Police, halt", the suspect began to climb the fence to elude apprehension. The officer then shot and killed the unarmed teenage suspect. In the landmark decision, the Supreme Court held that:

The use of deadly force to prevent the escape of *all* felony suspects, whatever the circumstances, *is constitutionally unreasonable*. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so....*A police officer may not seize an unarmed, non-dangerous suspect by shooting*

*him dead.* [Emphasis added] 471 US 1, 11.

Therefore, the use of deadly force to apprehend *all felony suspects*, without regard to the circumstances of the suspected offense or the particular attempted arrest or apprehension, is constitutionally unreasonable. However, the prohibition on use of deadly force does not apply when the arresting officer has a good-faith, reasonable belief that the suspect poses a serious threat to the safety of the arresting officer, or to others. If feasible, the apprehending officer should give a fleeing suspect a warning of his/her intent to use deadly force (e.g. "Stop or I'll shoot").

If, however, a *motorist* attempts to elude or escape from a pursuing officer, the officer may take whatever actions reasonably necessary to terminate the pursuit. An officer's attempt to terminate a dangerous, high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even if it places the fleeing motorist at risk of serious injury or death. *Scott vs. Harris*, 127 S.Ct. 1769 (2007). See also *County of Sacramento vs. Lewis*, 523 U.S. 833, 118 S.Ct. 1708 (1998).

Ultimately, a reviewing court will apply both objective and subjective tests of reasonableness. However, "...the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application." See *Graham vs. Connor*, 490 U.S. 386 (1989). In assessing reasonableness, *Judge Advocates operating in an inter-agency environment should pay careful attention to the factors enunciated by the Graham v. Connor decision and other recent authorities, including :*

- Severity of the crime;
- Immediate threat to the safety of officers or civilians;
- Whether the suspect is physically resisting apprehension;
- Whether the suspect is fleeing;
- The number of suspects involved in the incident at issue;
- The number of officers involved in the incident;
- The respective age, size, and condition of the suspect(s) and officer(s);
- Duration of the incident at issue;
- Whether the force applied resulted in injury (retrospective factor only);
- Known violent history of the subject;
- Whether alcohol or drugs were involved ;
- The subject's mental or psychiatric history, if known by the officer at the time of the incident;
- Danger to innocent bystanders;
- Availability of non-lethal means of subduing the subject; e.g. Chemical MACE, pepper spray, batons, tazers or stun-guns, handcuffs and other physical restraints.

*Note that the mental state of the officer, alone, does not necessarily establish an officer's reasonable fear for his/her safety or the safety of others.* Although the law enforcement officer's use of force may *seem* necessary at the time, there must be *objective factors* justifying the use. *Seldom* will a law enforcement officer's statement, alone, justify the use of physical force, especially deadly force:

"A simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be *objective factors* to justify such a concern."

*Deorle vs. Rutherford*, 272 F. 3d 1272 (9<sup>th</sup> Cir. 2001), cert. denied, 536 U.S. 958 (2002)

There is *no legal duty for a civilian law enforcement officer to retreat* before using deadly force; indeed, a requirement to retreat “may be inconsistent with police officers’ duty to the public to pursue investigations of criminal activity.”

*Reed vs. Hoy*, 891 F2d 1421 (9<sup>th</sup> Circuit 1989); amended 909 F2d 324 (9<sup>th</sup> Circuit 1990); cert. denied 502 U.S. 1250 (1991).

The following excerpts are, with occasional variations and nuances, typical of states’ law and policy on the use of deadly force:

“A peace officer or any person he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest.”

18 *Pennsylvania Consolidated Statutes*, section 508 (2008)

“It shall be the policy of the Department of Public Safety that deadly force shall be utilized only when other means of successfully resolving an incident cannot be safely undertaken.”

*Vermont State Police Manual*, Sec. IV, Ch. 1, Art. IV

“It shall be the policy of the Department of Safety to authorize the use of deadly force...to effect an arrest only if all other means of apprehension have been exhausted or are unavailable, and where feasible, the member has given notice of his/her identity as such and given a warning that deadly force may be used unless resistance or flight ceases...”

*Tennessee Department of Safety*, General Order 500, 31 May 2007.

“Officers are authorized to use deadly force when Necessary to defend themselves or the public from an imminent or immediate threat of death or serious physical injury....Officers shall give warning of the intent to use deadly force, if *feasible*. [Emphasis added]

*Nevada Department of Public Safety*, Policy number 6.2.002, 25 March 2005

### **HIGH SPEED VEHICLE PURSUIT**

In vehicle pursuit situations, a law enforcement officer’s decision whether to pursue a fleeing motorist at high speed, potentially endangering other innocent motorists, must balance the danger to others against the necessity to apprehend the traffic offender. *County of Sacramento vs. Lewis*, 523 U.S. 833; 118 S.Ct. 1708 (1998).

In some states, a high speed vehicle pursuit requires special reporting by the law enforcement officer(s) involved, and investigation by higher authorities:

Commonwealth of Virginia Department of State Police  
General Order (Vehicle) number 57:

“Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force *other* than the vehicle...Sworn employees will immediately inform their Supervisor under the following circumstances...The sworn employee applies force through the use of a tire deflation device...”

**WARNING SHOTS**

The military Standing Rules for Use of Force (SRUF) emphatically *prohibit* warning shots. CJCSI 3121.01B. Likewise, most civilian local, county, and state law enforcement agencies that the federal military force may be supporting prohibit their personnel from firing warning shots.

See, typically, Vermont State Patrol Rules and Regulations, Section V, Chapter 1 Force, Article I, Use of Deadly Force: “*Warning shots are not permitted under this policy.*”

However, the Department of Homeland Security *Policy on the Use of Deadly Force*, June 25, 2004, permits warning shots under limited circumstances by USSS agents exercising the agency’s executive protective responsibilities. Immigration and Customs Enforcement, Customs and Border Protection, and USCG law enforcement officers may fire warning shots as a signal to an aircraft; and by ICE, CBP, and USCG as a signal for a vessel to stop.

**Appendix 12-4: State Rules for the Use of Force Check**

- I. Format and Approval
  - A. Annex to OPLAN/OPORD
  - B. MOA/MOU
  - C. Soldier pocket card
  - D. Arming orders
  - E. Other
  - F. Approval of amendment by TAG/TF Cdr required/subordinate headquarters may Impose more restrictive RUF
  
- II. Definitions
  - A. Asset inherently/not inherently dangerous to others
  - B. Asset vital/not vital to national security
  - C. Dangerous instrument
  - D. Deadly force, non-deadly force
    - 1. Use of firearm always deadly force
    - 2. Other
  - E. Deadly weapon, non-deadly weapon
  - F. Detention
  - G. Hostile act, hostile intent, hostile force
  - H. Necessary/reasonable force
  - I. Peace officer
  - J. Physical/bodily injury

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- K. Reasonable belief
- L. Self defense
- M. Serious physical/bodily injury
- N. Terrorism

### III. Use of Force

- A. Mission and relationship of RUF to mission
- B. General duty to avoid use of force; preference for use of non-deadly force if at all
- C. General requirement for training and provision for legal protection (see Training Below)
- D. Rules for use of force applicable to both non-deadly and deadly force
  - 1. Apply/don't apply scheme of NGR 500-1, para 4-6 for SAD (must be determined IAW the law and civil and military policies of that state).
  - 2. Employ minimum force necessary/readily available, using escalating/tailored response:
    - a. request civilian peace officer to handle situation
    - b. verbal persuasion/order/warning
    - c. display/use of non-lethal weapon
    - d. display of lethal weapon
    - e. verbal warning for use of lethal weapon
    - f. warning shots allow/not allowed
    - g. use of weapon to injure/stop
    - h. use of weapon to kill
  - 3. Use force options in FM 19-15 and NG Civil Disturbance Handbook as a guide
  - 4. Self Defense using deadly/non-deadly weapon(s) always available (see Self Defense below)
  - 5. Allow surrender, treat humanly, respect private property
- E. Situations requiring/allowing use of force
  - 1. Self defense (see Self Defense below)
  - 2. Mission accomplishment
    - a. Apprehension/detention
    - b. Search, seizure
    - c. Civil disturbance
    - d. Crowd control
    - e. Enforcement of orders of civil authorities
    - f. Detaining
    - g. Apprehending
    - h. Prevent escape of detained or apprehended person
    - i. Pursuit of suspect of crime
    - j. Defense of occupied/unoccupied property
    - k. Prevent specified/unspecified offenses at specified/unspecified times/places
    - l. Specified THREATCON levels (see THREATCON RUF below)
    - m. At direction/request of CLEO
- F. Non-deadly force
  - 1. Use of force authorized/authorized for specific purposes (e.g., apprehension, detention, protection of occupied/unoccupied property)/unauthorized
  - 2. Specific weapons/devices authorized
    - a. Pepper spray, RCA
    - b. Flex cuffs
    - c. Baton
    - d. Other (see Weapons below)
- G. Deadly force
  - 1. General conditions for employment
    - a. Non-deadly force exhausted or self defense requires
    - b. Authorized/authorized for specified purposes (e.g., apprehension, detention, protection of occupied/unoccupied property)/unauthorized
    - c. No danger to others
    - d. Warning required if possible

## APPENDIX 12: RUF STATE FORCES

- e. Warning shots authorized/unauthorized
- 2. Other considerations
  - a. Situs of defender (e.g., residence of person employing force)
  - b. Any conditions for use of particular weapon satisfied (e.g. use of lock plates on M16)
  - c. Status of person employing force
    - (1) armed citizen
    - (2) peace officer
    - (3) armed citizen at direction of/authorization by peace officer/other official
  - d. reasonable belief of person employing force
  - e. assistance to victim(s), Call 911, etc.
  - f. If mission cannot be accomplished without use of deadly force and deadly force not permitted, mission must be changed or delayed (assuming RUF not amended) until sufficient non-deadly force arrives to accomplish the mission.
  - g. Report use of force/discharge of firearm/violations of RUF through chain of command
  - h. Pneumonic devices:
    - (1) R-A-M-P
    - (2) C-P-A
    - (3) L-I-D
    - (4) W-O-C-S

### IV. Self Defense

- A. Defense of Self
- B. Defense of others
- C. Defense of occupied property
- D. Conditions for employment
  - 1. Response to hostile act, hostile intent
  - 2. Use minimum force necessary/available (see Use of Force above)
  - 3. Retreat doctrine v. right to position defense
    - a. Situs of defender (e.g., defender's home)
    - b. Status of defender (same as Use of Force E1e above)
    - c. Reasonable belief of defender
  - 4. Response must be proportional in degree, intensity, and duration
  - 5. Searches for protection of force or incident to lawful apprehension

### V. Powers of Peace Officer

- D. Statutory or other bases
- E. Use of Force
- F. Apprehension/Detention
- G. Search and seizure

### VI. Apprehension/Detention

- A. Clarification of military vs. civilian terms
  - 1. Arrest
  - 2. Apprehension
- B. Detention
- C. Authorized/authorized under stated conditions/unauthorized
- D. Probable cause
- E. Use of force/resisting arrest
- F. Pursuit of suspects, hot pursuit
- G. Reliance on civilian law enforcement (see Civilian Law Enforcement below)
- H. Treatment of persons apprehended/arrested, or detained
- I. Use of flex cuffs (allowed/allowed under specified conditions/not allowed)
- J. Completion of apprehension/arrest or detention record (DA Form 3316-R)
- K. NG forces may/may under specified conditions/may not conduct interrogations (Art. 31 rights would apply)

## APPENDIX 12: RUF STATE FORCES

- L. NG forces may/may under specified circumstances/may not advise individuals of Miranda/Art. 31 rights

### VII. Search and Seizure

- A. Search (including/excluding stop and frisk)
- B. Seizure
- C. Authorized/authorized under specified conditions/not authorized
  - 1. Persons/property
  - 2. Purpose
    - a. Mission accomplishment
    - b. Self defense (see Self Defense above)
  - 3. Probable cause, reasonable suspicion
  - 4. Bases of execution
    - a. Search (no warrant issued)
      - (1) consent
      - (2) incident to lawful apprehension/arrest or detention
      - (3) exigent circumstances
      - (4) probable cause (e.g., plain view)
    - b. Seizure (no warrant issued)
      - (1) consent
      - (2) safety of force
      - (3) evidence of an offense
  - 5. Method of execution
    - a. Special use area
    - b. Pat downs of female suspects
  - 6. Role of/Reliance on civilian authorities (see Civilian Law Enforcement below)
  - 7. Safe keeping of/account for seized property (DA 3316-R)
  - 8. Use of force (see Use of Force above)
  - 9. Notification to civilian law enforcement

### VIII. Weapons

- A. Type
  - 1. Usually allowed
    - a. Rifle
    - b. Pistol
    - c. Bayonet
    - d. Baton
    - e. Pepper spray
  - 2. Allowed only in limited circumstances
    - a. Working dogs
    - b. High pressure water
    - c. M203
    - d. RCAs
    - e. Crew served
  - 3. Usually not allowed
    - a. Privately owned
- B. Conditions for Use
  - 1. Secure storage required
  - 2. Use of force (see Use of Force above)
  - 3. Use only in approved manner (e.g., use of M16 only with lock plate)
  - 4. Tactical control of increasingly deadlier force by NCO or officer
  - 5. Firearms not to be fired from moving vehicles (self defense exception)
  - 6. Discharge of firearm report required
- C. Arming orders
  - 1. Use chart/matrix
  - 2. Use numbered levels



## APPENDIX 12: RUF STATE FORCES

3. To be used/not used sequentially
  4. Soldier card
- IX. THREATCON RUF
- A. THREATCON levels
  - B. RUF for each THREATCON level
  - C. THREATCON Arming orders
  - D. Role of Cdr
- X. Training
- A. Subjects
    1. Mission
    2. Method of execution
    3. Use of force
      - a. General principles
      - b. Self defense
      - c. Mission accomplishment
    4. Apprehension/arrest or detention
    5. Search and seizure
    6. Use of pneumonic device (see Use of Force above)
    7. Use of arming order
    8. Legal authority/protection
      - a. Civil liability
      - b. Criminal liability
    9. Use of protective equipment
    10. Use only approved method of employment of weapons/equipment
    11. Civilian law enforcement
    12. Weapons qualification
  - B. Method
    1. Briefing/hand outs
    2. Vignettes
    3. Pneumonic devices (see Use of Force above)
    4. Testing
  - C. Soldier acknowledges receipt of training
- XI. Command/Commander Responsibility
- A. Exercise Close supervision over operations involving use of force
    1. Lautenberg compliance
    2. Security clearance requirements
    3. Safe storage of weapons
    4. Tactical control/direction at point of mission execution
  - B. Training in use of force, weapons, and equipment (see Training above)
  - C. Direct control of NG forces is/is not given to civilian law enforcement
- XII. Civilian Law Enforcement
- A. Role, location, contacting, relationship with
  - B. NG forces are/are not under direct control of civilian authorities
  - C. Use/reliance on for specified purposes
    1. Apprehension/arrest or detention
    2. Search
    3. Seizure
    4. Operation of detention facility
- XIII. Special Orders/General Orders/Coordinating Instructions
- A. Maintain professional appearance and bearing at all times

## APPENDIX 12: RUF STATE FORCES

- B. Treat all civilians respectfully
- C. Do not discuss operations outside military chain of command
- D. Report accidents and injuries through chain of command
- E. Code of ethics (Do's and don'ts less than RUF while performing duty)
- F. Issuance and accountability of weapons, ammunition, and other equipment
- G. Method/place of deployment at airport
- H. Applicability of state UCMJ
- I. General characteristics of a terrorist

### XIV. Contact With Media Personnel

- A. You may/may not respond to request from the media for interviews or statements.
- B. Refer questions on Army/National Guard policy to military Public Affairs Officer
- C. Do not unnecessarily impede freedom of movement of properly identified media personnel

**APPENDIX 13.  
DOMESTIC SUPPORT OPERATIONS FUNDING**

**APPENDIX 13-1: 10 U.S.C. §2551, EQUIPMENT AND OTHER SERVICES: NATIONAL VETERANS' ORGANIZATIONS.**

Sec. 2551. - Equipment and barracks: national veterans' organizations

(a) The Secretary of a military department, under conditions prescribed by him, may lend cots, blankets, pillows, mattresses, bed sacks, and other supplies under the jurisdiction of that department to any recognized national veterans' organization for use at its national or state convention or national youth athletic or recreation tournament. He may, under conditions prescribed by him, also permit the organization to use unoccupied barracks under the jurisdiction of that department for such an occasion.

(b) Property lent under subsection (a) may be delivered on terms and at times agreed upon by the Secretary of the military department concerned and representatives of the veterans' organization. However, the veterans' organization must defray any expense incurred by the United States in the delivery, return, rehabilitation, or replacement of that property, as determined by the Secretary.

(c) The Secretary of the military department concerned shall require a good and sufficient bond for the return in good condition of property lent or used under subsection (a)

**APPENDIX 13-2: 10 U.S.C. §2552, EQUIPMENT AND OTHER SERVICES: AMERICAN RED CROSS.**

Sec. 2552. - Equipment for instruction and practice: American National Red Cross

The Secretary of a military department, under regulations to be prescribed by him, may lend equipment under the jurisdiction of that department that is on hand, and that can be temporarily spared, to any organization formed by the American National Red Cross that needs it for instruction and practice for the purpose of aiding the Army, Navy, or Air Force in time of war. The Secretary shall by regulation require the immediate return, upon request, of equipment lent under this section. The Secretary shall require a bond, in double the value of the property issued under this section, for the care and safekeeping of that property and for its return when required

**APPENDIX 13-3: 10 U.S.C. §2555, EQUIPMENT AND SERVICES: GIRL SCOUTS OF AMERICA.**

Sec. 2555. - Transportation services: international Girl Scout events

(a) The Secretary of Defense is authorized, under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for

(1) those Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States,

(2) United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and

(3) the equipment and property of such Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations.

(b) Before furnishing any transportation under subsection (a), the Secretary of Defense shall take from the Girl Scouts of the United States of America a good and sufficient bond for the reimbursement to the United States by the Girl Scouts of the United States of America, of the actual costs of transportation furnished under subsection (a).

(c) Amounts paid to the United States to reimburse it for the actual costs of transportation furnished under subsection (a) shall be credited to the current applicable appropriations or funds to which such costs were charged and shall be available for the same purposes as such appropriations or funds

#### **Appendix 13-4: 10 U.S.C. §2556, Equipment and Services: Homeless.**

Sec. 2556. - Shelter for homeless; incidental services

(a)

(1) The Secretary of a military department may make military installations under his jurisdiction available for the furnishing of shelter to persons without adequate shelter. The Secretary may, incidental to the furnishing of such shelter, provide services as described in subsection (b). Shelter and incidental services provided under this section may be provided without reimbursement.

(2) The Secretary concerned shall carry out this section in cooperation with appropriate State and local governmental entities and charitable organizations. The Secretary shall, to the maximum extent practicable, use the services and personnel of such entities and organizations in determining to whom and the circumstances under which shelter is furnished under this section.

(b) Services that may be provided incident to the furnishing of shelter under this section are the following:

(1) Utilities.

(2) Bedding.

(3) Security.

(4) Transportation.

(5) Renovation of facilities.

(6) Minor repairs undertaken specifically to make suitable space available for shelter to be provided under this section.

(7) Property liability insurance.

(c) Shelter and incidental services may only be provided under this section to the extent that the Secretary concerned determines will not interfere with military preparedness or ongoing military functions.

(d) The Secretary concerned may provide bedding for support of shelters for the homeless that are operated by entities other than the Department of Defense. Bedding may be provided under this subsection without reimbursement, but may only be provided to the extent that the Secretary determines that the provision of such bedding will not interfere with military requirements.

(e) The Secretary of Defense shall prescribe regulations for the administration of this section

**Appendix 13-5: 10 U.S.C. §2558, Equipment and Services: National Military Associations: Assistance at National Conventions.**

Sec. 2558. - National military associations: assistance at national conventions

(a) Authority To Provide Services. - The Secretary of a military department may provide services described in subsection (c) in connection with an annual conference or convention of a national military association.

(b) Conditions for Providing Services. - Services may be provided under this section only if -

- (1) the provision of the services in any case is approved in advance by the Secretary concerned;
- (2) the services can be provided in conjunction with training in appropriate military skills; and
- (3) the services can be provided within existing funds otherwise available to the Secretary concerned.

(c) Covered Services. - Services that may be provided under this section are -

- (1) limited air and ground transportation;
- (2) communications;
- (3) medical assistance;
- (4) administrative support; and
- (5) security support.

(d) National Military Associations. - The Secretary of Defense shall designate those organizations which are national military associations for purposes of this section.

(e) Regulations. - The Secretary of Defense shall prescribe regulations to carry out this section.

**APPENDIX 13-6: 10 U.S.C. §2562, PROHIBITION ON TRANSFER OF CONSTRUCTION OF FIREFIGHTING EQUIPMENT IN FMS.**

Sec. 2562. - Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs

(a) Limitation. - Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if -

(1) no department or agency of the Federal Government (other than the Department of Defense), no State, and no other person or entity eligible to receive excess or surplus property under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

(b) Rule of Construction. - Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2557 of this title.

(c) Definition. - In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

### **Appendix 13-7: 10 U.S.C. §2564, Provision of Support for Certain Sporting Events.**

Sec. 2564. - Provision of support for certain sporting events

(a) Security and Safety Assistance. - At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

(b) Other Assistance. - The Secretary of Defense may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only -

(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the armed forces; and

(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of this title and other applicable provisions of law.

(c) Inapplicability to Certain Events. - Subsections (a) and (b) do not apply to the following sporting events:

(1) Sporting events for which funds have been appropriated before September 23, 1996.

(2) The Special Olympics.

(3) The Paralympics.

(d) Terms and Conditions. - The Secretary of Defense may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) Report on Assistance. - Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth -

- (1) a description of the assistance provided;
- (2) the amount expended by the Department in providing the assistance;
- (3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and
- (4) if the assistance was provided under subsection (b) -
  - (A) an explanation why the assistance could not reasonably be met by a source other than the Department; and
  - (B) the amount the Department was reimbursed under that subsection.

(f) Relationship to Other Laws. - Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of this title.

### **APPENDIX 13-8: 10 U.S.C. §2576, SALE OR DONATION OF MILITARY EQUIPMENT.**

Sec. 2576. - Surplus military equipment: sale to State and local law enforcement and firefighting agencies

(a) The Secretary of Defense, under regulations prescribed by him, may sell to State and local law enforcement and firefighting agencies, at fair market value, pistols, revolvers, shotguns, rifles of a caliber not exceeding .30, ammunition for such firearms, gas masks, and protective body armor which

- (1) are suitable for use by such agencies in carrying out law enforcement and firefighting activities, and
- (2) have been determined to be surplus property under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(b) Such surplus military equipment shall not be sold under the provisions of this section to a State or local law enforcement or firefighting agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe, and such request, with respect to the type and amount of equipment so requested, is certified as being necessary and suitable for the operation of such agency by the Governor (or such State official as he may designate) of the State in which such agency is located. Equipment sold to a State or local law enforcement or firefighting agency under this section shall not exceed, in quantity, the amount requested and certified for such agency and shall be for the exclusive use of such agency. Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency

**Appendix 13-9: 31 U.S.C. §3302, Miscellaneous Receipts.**

Sec. 3302. - Custodians of money

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without -

- (1) lending the money;
- (2) using the money;
- (3) depositing the money in a bank; and
- (4) exchanging the money for other amounts.

(b) Except as provided in section 3718(b) <sup>[1]</sup> of this title, an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c)

(1) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay in the Treasury or with a depository designated by the Secretary of the Treasury under law. Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money. The Secretary or a depository receiving a deposit shall issue duplicate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government

**Appendix 13-10: 50 U.S.C. § 2311, Response to Threats of Terrorist Use of Weapons of Mass Destruction.**

Sec. 2311. - Response to threats of terrorist use of weapons of mass destruction



(a) Enhanced response capability

In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action -

- (1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and
- (2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) Report required

Not later than January 31, 1997, the President shall transmit to Congress a report containing -

- (1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;
- (2) requirements for improvements in those capabilities; and
- (3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required

**APPENDIX 13-11: DoDD. 5200.31E DoD MILITARY WORKING DOG (MWD) PROGRAM**

See next page.



Department of Defense  
**DIRECTIVE**

NUMBER 5200.31E  
March 29, 2006

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USD(I)

SUBJECT: DoD Military Working Dog (MWD) Program

- References:
- (a) DoD Directive 5200.31, "Single Manager for DoD Military Working Dog Program," September 7, 1983 (hereby canceled)
  - (b) DoD Directive 5101.1, "DoD Executive Agent," May 9, 2003
  - (c) DoD Directive 6400.4, "DoD Veterinary Services Program," August 22, 2003
  - (d) DoD Directive 8910.1, "Management and Control of Information Requirements," June 11, 1993
  - (e) through (g), see Enclosure 1

1. PURPOSE

This Directive reissues Reference (a), designates the Secretary of the Air Force as the DoD Executive Agent for the DoD Military Working Dog (MWD) Program according to Reference (b), and updates related policy and responsibilities.

2. APPLICABILITY

This Directive applies to:

2.1. The Office of the Secretary of Defense, 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, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

2.2. Other Federal Agencies that elect to participate in the DoD MWD Program.

3. DEFINITION

Military Working Dogs (MWDs). Any dog procured, acquired, or bred by a DoD Component to meet the following MWD requirements within the Department of Defense: enforcement of laws and regulations, suppression of the use of illegal drugs, detection of explosives, protection of installations and resources, force protection operations, and fulfillment of other security tasks.

4. POLICY

It is DoD policy to:

4.1. Operate a DoD MWD Program that provides the DoD Components the capability to enforce laws and regulations, suppress the use of illegal drugs, detect explosives, protect installations and resources, conduct force protection operations, and fulfill other security tasks. These capabilities may be employed by Commanders during peacetime or during operations throughout the spectrum of conflict under the oversight of a DoD Executive Agent and guidance provided in this Directive.

4.2. Within the context of the lawful use of MWD, appropriate rules regarding the use of force shall be promulgated for each specific use of MWD. Commanders shall review these rules and approve their employment in accordance with appropriate operational guidance.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Intelligence (USD(I)) shall:

5.1.1. Provide policy guidance and direction for carrying out the DoD MWD Program.

5.1.2. Adjudicate unresolved issues between the DoD Executive Agent and the Heads of the DoD Components.

5.2. The Secretary of the Air Force as the DoD Executive Agent of the DoD MWD Program shall:

5.2.1. Coordinate with all program participants on the development of uniform procedures and standards.

5.2.2. Designate the Air Force Director of Security Forces and Force Protection to act on the behalf of the Executive Agent and ensure the DoD MWD Program Manager will:

5.2.2.1. Provide management oversight to the development of required training programs for MWD, instructors, and handlers.

5.2.2.2. Develop standard MWD operational guidance and make such guidance available to the DoD Components and other Federal Agencies participating in the DoD MWD Program.

5.2.2.3. Obtain current information from the MWD Component Program Managers regarding MWD authorizations and utilization to ensure the ready availability of MWD assets when needed.

5.2.2.4. Develop servicing agreements with all participants, including Federal Agencies.

5.2.2.5. Chair the Joint Service Military Working Dog Committee (JSMWDC), which will:

5.2.2.5.1. Consist of a representative from each of the DoD Components that use MWDs and the Director, DoD Veterinary Services Program.

5.2.2.5.2. Meet at least annually or at the call of the Chair.

5.2.2.5.3. Review programs, consider changes, and resolve problems as they arise.

5.2.3. Provide oversight of the DoD MWD Program Manager's responsibilities.

5.2.4. Monitor procurement, distribution, inventory management, and final disposition of MWDs by the DoD Dog Center.

5.2.5. Ensure all DoD Components using MWDs establish appropriate operational guidance or standards.

5.2.6. Coordinate with the USD(I) and the Heads of the DoD Components to document funding requirements and identify the appropriate sources of funding to comply with the requirements of the Directive.

5.3. The Secretary of the Army as the DoD Executive Agent for the DoD Veterinary Services Program shall:

5.3.1. Determine veterinary requirements for the Executive Agent, and provide complete veterinary medical care to the DoD Dog Center and the DoD Components participating in the DoD MWD Program according to DoD Directive 6400.4 (Reference (c)).

5.3.2. Serve as the DoD veterinary consultant for MWD health, physical standards, training methods, training standards, kennel design, research, procurement, and acceptance policies as they pertain to the well-being of the MWDs.

5.3.3. Provide training to MWD handlers on first-echelon veterinary medical care of MWDs including nuclear, biological, and chemical protection.

5.3.4. Obtain projected Chairman of the Joint Chiefs of Staff exercise information maintained in the Joint Training Information Management System.

5.4. The Heads of the DoD Components shall:

5.4.1. Plan, program, and budget for their participation in the DoD MWD Program.

5.4.2. Designate Component managers as primary participants in the DoD MWD Program. They will provide the DoD Program Manager with primary and alternate 24-hour contact telephone numbers. The Component manager or designated alternate(s) must be reachable by telephone at all times, or by some other means (e.g., pager, cell phone), without exception, and will serve as the Component representative to the JSMWDC.

5.4.3. Provide copies of MWD operational guidance or standards to the DoD Program Manager.

5.4.4. Provide timely requirements data to the DoD Program Manager to facilitate effective centralized procurement and training actions consistent with the policies of DoD Directive 8910.1 (Reference (d)).

5.4.5. Provide a listing of all activities requiring MWD drug training aids to the DoD Program Manager.

5.4.6. Refer to DoD Instruction 5525.10 (Reference (e)) for MWDs supporting civilian law enforcement counterdrug operations.

5.4.7. Refer to DoD Directive 3115.09 (Reference (f)) for MWDs supporting operations where intelligence interrogations are conducted.

5.4.8. Provide the DoD Veterinary Services Activity, through the Office of the Surgeon General, a list of deployment or mobilization requirements to ensure adequate availability of veterinary support.

5.4.9. Notify the DoD Executive Agent for MWDs, in writing, when the DoD Component procures or acquires canines, canine handlers, or certification training from sources other than the program the Secretary of the Air Force manages as the DoD Executive Agent.

## 6. INFORMATION REQUIREMENTS

The reporting requirements in this Directive have been assigned Report Control Symbol DD-INTEL(AR)2197 according to DoD 8910.1-M (Reference (g)).

7. EFFECTIVE DATE

This Directive is effective immediately.



Gordon England 3/29/06

Enclosures – 1

E1. References, continued

E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Instruction 5525.10, "Using Military Working Dog Teams to Support Law Enforcement Agencies in Counter Drug Missions," September 17, 1990
- (f) DoD Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning," November 3, 2005
- (g) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," June 30, 1998