



August 19, 1971
NUMBER 3025.12

ASD(A)

Department of Defense Directive

SUBJECT Employment of Military Resources in the Event
of Civil Disturbances

- References:**
- (a) DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances," June 8, 1968 (hereby cancelled)
 - (b) DoD Directive 3025.13, "Employment of Department of Defense Resources in Support of the United States Secret Service," July 15, 1968
 - (c) Interdepartmental Action Plan for Civil Disturbances, April 1, 1969
 - (d) DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not affiliated with the Department of Defense," March 1, 1971
 - (e) DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances," January 26, 1970

I. PURPOSE AND SCOPE

This Directive establishes uniform Department of Defense policies, assigns responsibilities, and furnishes general guidance for utilizing DoD military and civilian personnel, facilities, equipment or supplies:

- A. In support of civil authorities during civil disturbances within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof.

- B. In other related instances where military resources may be used to protect life or Federal property or to prevent disruption of Federal functions.

II. CANCELLATION

Reference (a) is hereby superseded and cancelled.

III. APPLICABILITY

This Directive is applicable to all components of the Department of Defense (the Military Departments, Organization of the Joint Chiefs of Staff, Defense Agencies, and the unified and specified commands) having cognizance over military resources which may be utilized in accordance with the policies set forth herein.

IV. DEFINITIONS

- A. Civil Disturbances are group acts of violence and disorders prejudicial to public law and order within the 50 States, District of Columbia, Commonwealth of Puerto Rico, 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 pursuant to the provisions of Chapter 15 of Title 10, United States Code.
- B. Federal Property is that property which is owned, leased, possessed, or occupied by the Federal Government.
- C. Military Resources include military and civilian personnel, facilities, equipment, and supplies under the control of a DoD component.
- D. A Federal Function is any function, operation, or action carried out under the laws of the United States by any department, agency, or instrumentality of the United States or by an officer or employee thereof.

V. LEGAL CONSIDERATIONS

- A. Under the Constitution and laws of the United States, the protection of life and property and the maintenance of public order are primarily the responsibilities of State and local governments, which have the necessary authority to enforce the laws. The Federal Government may assume this responsibility and this authority only in certain limited instances.
- B. Aside from the constitutional limitations of the power of the Federal Government at the local level, there are additional legal limits upon the use of military forces within the United States. The most important of these from a civil disturbance standpoint is the Posse Comitatus Act (18 U.S.C. 1385), which prohibits the use of any part of the Army or the Air Force to execute or enforce the laws, except as authorized by the Constitution or Act of Congress.
- C. The Constitution and Acts of Congress establish six exceptions, generally applicable within the entire territory of the United States, to which the Posse Comitatus Act prohibition does not apply.
 1. The Constitutional exceptions are two in number and are based upon the inherent legal right of the United States Government -- a sovereign national entity under the Federal Constitution -- to insure the preservation of public order and the carrying out of governmental operations within its territorial limits, by force if necessary.
 - 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. Protection of Federal property and functions: Authorizes Federal action, including the use of military forces, to protect Federal property and Federal governmental functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

2. There are four exceptions to the Posse Comitatus Act based on Acts of Congress.

- a. In the cases of each of the first three of those described below, personal Presidential action, including the issuance of a proclamation calling upon insurgents to disperse and retire peaceably within a limited time, is a prerequisite.

(1) 10 U.S.C. 331: Authorizes use of the militia and Armed Forces when a State is unable to control domestic violence, and a request for Federal assistance has been made by the State legislature or governor to the President. Implements Article IV, Section 4, of the Constitution.

(2) 10 U.S.C. 332: Authorizes use of the militia and Armed Forces to enforce Federal law when unlawful obstructions or rebellion against the authority of the United States renders ordinary enforcement means unworkable. Implements Article II, Section 3, of the Constitution.

- (3) 10 U.S.C. 333: Authorizes use of the militia and Armed Forces when domestic violence or conspiracy hinders execution of State or Federal law, and a State cannot or will not protect the Constitutional rights of the citizens. Implements Article II, Section 3, and the 14th Amendment of the Constitution.
- (4) House Joint Resolution 1292, 6 June 1968:* Directs all departments of the Government, upon the request of the Secret Service, to assist that Service in carrying out its statutory duties to protect Government officials and major political candidates from physical harm. Assistance to the Secret Service is governed by DoD Directive 3025.13 (reference (b)).

- b. It should be noted that none of the above authorities, in and of itself, provides sufficient legal basis to order members of the Reserve components to active Federal service.

VI. POLICIES

- A. The employment of DoD military resources for assistance to civil authorities in controlling civil disturbances will normally be predicated upon the issuance of a Presidential Executive Order or Presidential directive authorizing and directing the Secretary of Defense to provide for the restoration of law and order in a specific State or locality. Exceptions to this condition will be limited to:
 1. Cases of sudden and unexpected emergencies as described in V. C. 1. a. above, which require that immediate military action be taken.

*Although this resolution has been placed in the Statutes at Large as Public Law 70-331, 82 Stat. 170, it has not been codified; it is set out in the notes to 18 U. S. C. 3056.

2. Providing military resources to civil authorities as prescribed in Section X. of this Directive.
- B. The Attorney General of the United States is designated by reference (c) to receive and coordinate preliminary requests from States for Federal military assistance authorized by 10 U. S. C. 331 (V. C. 2. a. (1) above). Formal requests from States for such aid will be made to the President, who will determine what Federal action will be taken.
 - C. The Secretary of the Army is delegated any and all of the authority of the President under Chapter 15 of Title 10, U. S. C. (V. C. 2. a. (1), (2), and (3) above) which has been or may be hereafter delegated by the President to the Secretary of Defense.
 - D. The Secretary of the Navy and the Secretary of the Air Force are delegated all that authority which has been or may be hereafter delegated by the President to the Secretary of Defense to order to active duty, units and members of the Reserve Components under their respective jurisdictions, except National Guard units and members, for use pursuant to Chapter 15 of Title 10, U. S. C. (V. C. 2. a. (1), (2), and (3) above).
 - E. DoD components and their subordinate activities will coordinate with local civil authorities or local military commanders as appropriate, to assure mutual understanding of the policies and procedures to be adhered to in an actual or anticipated civil disturbance situation.
 - F. DoD civilian employees generally should not be used to assist civil authorities in connection with civil disturbances, except as provided for in X. B. 3.
 - G. The repositioning of more than a battalion-sized unit, as authorized in VII. A. 6. , will be undertaken only with the approval of the President. Requests for the repositioning of forces will be addressed to the Attorney General.

VII. RESPONSIBILITIES

- A. The Secretary of the Army is designated as the Executive Agent for the Department of Defense in all matters pertaining to the planning for, and the deployment and employment of military resources in the event of civil disturbances. As DoD Executive Agent, the Secretary of the Army (or the Under Secretary of the Army, as his designee) is responsible for:
1. Providing policy and direction concerning plans, procedures, and requirements to all DoD components having cognizance over military resources which may be employed under the provisions of this Directive.
 2. Improving and evaluating the capabilities of the National Guard to deal with civil disturbances.
 3. Establishing DoD policies and procedures for:
 - (a) calling the National Guard to active Federal service and ordering the National Guard and other Reserve components to active duty; and
 - (b) the employment of such forces that may be required to carry out the purposes of this Directive.
 4. Calling to active Federal service:
 - a. The Army National Guard units or members required to carry out the provisions of the Presidential Executive Order or other appropriate authority.
 - b. The Air National Guard units or members required to carry out the provisions of the Presidential Executive Order or other appropriate authority, subject to the provisions of C. 1. a. below.

5. Providing military resources of the United States Army, consistent with defense priorities, to include:
 - a. The military resources of the Army National Guard called to active Federal service under the provisions of A. 4. a. above.
 - b. The military resources of the Army Reserve (other than Army National Guard) ordered to active duty to carry out the purposes of this Directive.
6. Exercising through designated military commanders the direction of military resources committed or assigned for employment in the event of actual or potential civil disturbances. When circumstances warrant, such direction will include: (a) alerting, and, if necessary, prepositioning predesignated ground forces; and (b) directing the Secretary of the Air Force to alert and provide the necessary airlift resources (see VI. G. above).
7. Devising command, control, and communications arrangements to insure effective coordination and responsiveness among Defense agencies, military departments, the Joint Chiefs of Staff, and Commanders-in-Chief (CINCs) of unified and specified commands, under conditions of prepositioning, 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.^{1/} Arrangements and reports affecting commanders of unified and specified commands will be coordinated with the JCS.

^{1/}Copies available from Secretary, Joint Chiefs of Staff (Documents Division), Washington, D. C. 20301.

8. Promulgating in implementation of DoD Directive 5200.27 (reference (d)) strict policy guidelines designed to restrict to the maximum extent consistent with the effective conduct of actual civil disturbance operations the collection and maintenance of intelligence data in support of military civil disturbance planning and operations within the Department of Defense.
9. Keeping the Secretary of Defense informed of unusual military resource requirements (actual or potential) and other significant developments in connection with civil disturbance planning and operations.
10. Establishing procedures for the review and coordination of all DoD components' directives, instructions, and plans affecting civil disturbance planning and operations to assure conformity with DoD policies stated herein and DoD Executive Agent policies.
11. Providing for the establishment of a DoD Civil Disturbance Steering Committee and a Directorate of Military Support (see Section IX. below).
12. Providing the necessary facilities, equipment, and personnel as required by the Assistant Secretary of Defense (Public Affairs) in the accomplishment of his public affairs responsibilities set forth in F. below.
13. Within the restrictions established by DoD Directive 5200.27 (reference (d)) and the implementing guidelines referred to in paragraph 8. above, providing essential planning, operational, and intelligence data to the National Military Command Center (NMCC) and the military service command centers on a timely basis to insure that the National Command Authorities and appropriate military service command authorities are adequately informed.

B. The Joint Chiefs of Staff are responsible for:

1. Establishing procedures that will promptly transfer military resources that are assigned to unified and specified commands (a) to the military departments for civil disturbance operations in the Continental United States (CONUS) or (b) to unified commands for such operations outside the CONUS, as directed by the DoD Executive Agent and consistent with defense priorities.
2. Maintaining an appropriate strategic reserve for world-wide employment and contingency operations.
3. Insuring that directives concerning civil disturbances are issued to the commanders of unified commands, for the employment of military resources outside the CONUS, in accordance with direction and guidance provided by the DoD Executive Agent.

C. The Secretary of the Air Force is responsible for:

1. Providing military resources of the United States Air Force, as required by the DoD Executive Agent and consistent with defense priorities, to include:
 - a. Designating and providing the specific units or members of the Air National Guard to be called to active Federal service under the provisions of paragraph A. 4. b. above.
 - b. Designating and providing the military resources of the Air Force Reserve (other than Air National Guard) ordered to active duty to carry out the purposes of this Directive.
2. Exercising for the DoD Executive Agent, through designated military commanders, coordinating authority over the direction of DoD provided

military and commercial obligated airlift resources used to fulfill civil disturbance airlift requirements.

3. Providing airlift to deploy and redeploy civil disturbance forces and for supply, resupply, and aeromedical evacuation.

D. The Secretary of the Navy is responsible for:

1. Designating and providing military resources of the United States Navy and the United States Marine Corps, as required by the DoD Executive Agent and consistent with defense priorities, to include ordering to active duty and utilizing the resources of the Naval Reserve and the Marine Corps Reserve required to carry out the purposes of this Directive.
2. Insuring that Navy and Marine forces committed in connection with civil disturbances are trained and equipped in accordance with criteria established by the DoD Executive Agent.
3. Making airlift resources available to the Secretary of the Air Force, consistent with defense priorities, as requested by him in the accomplishment of his airlift responsibilities set forth in C. above.

E. The Defense agencies are responsible for providing military resources as required, and advice and assistance on matters within their spheres of responsibility, 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.

F. The Assistant Secretary of Defense (Public Affairs) is responsible for all DoD public affairs matters related to civil disturbances. To assure efficiency and responsiveness in keeping the public fully informed, he will:

1. Provide direction and guidance to the DoD Executive Agent on all aspects of public release of information relating to civil disturbances.
2. Assign Public Affairs representatives, of appropriate rank, to the Directorate of Military Support during civil disturbance operations.
3. Designate as required on-site DoD Public Affairs Chiefs who will furnish appropriate advice and guidance to task force commanders and, upon request or by direction of appropriate authorities, to other representatives of the Federal Government. The on-site Public Affairs Chief is responsible for releasing all military information to the public in the affected area(s). He will be responsible for such other public affairs functions as directed by competent authority. In the event of a disagreement concerning the releasing of military information to the public between a task force commander and the on-site Public Affairs Chief, the issue will be resolved by the ASD(PA) who will coordinate with the DoD Executive Agent to the extent feasible.

VIII. COMMAND RELATIONSHIPS

- A. In the event of civil disturbances within the CONUS:
1. Military resources of the unified or specified commands will be transferred by the JCS to their respective military departments, when directed by the DoD Executive Agent. (Such resources will revert to the unified or specified commands when directed by the DoD Executive Agent.)
 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.

- B. In the event of civil disturbances outside of CONUS, the DoD Executive Agent is delegated the authority to exercise the direction of those forces assigned or committed to the commanders of unified or specified commands through the Chief of Staff, U. S. Army, and Task Force Commanders designated by JCS.
- C. At objective areas, designated task force commanders will exercise operational control over all military forces assigned for employment in the event of civil disturbances.

IX. ORGANIZATION AND ADMINISTRATION

- A. A DoD Civil Disturbance Steering Committee will be established to provide advice and assistance to the DoD Executive Agent concerning civil disturbance matters. The Committee Chairman will be the Under Secretary of the Army. Members will include:

Deputy Attorney General of the United States
Assistant Secretaries of Defense for Administration
and Public Affairs
General Counsel of the DoD
Under Secretaries of the Navy and Air Force
Vice Chiefs of Staff of the Army and Air Force
Vice Chief of Naval Operations and Assistant
Commandant of the Marine Corps
Representative of the JCS

- B. A Directorate of Military Support (DOMs) will be established by the DoD Executive Agent with a joint service staff under the Chief of Staff, U. S. Army. The Department of the Army will provide the Director and the Department of the Air Force will provide the Deputy Director. The DOMs will plan, coordinate, and direct civil disturbance operations.

X. PROVIDING MILITARY RESOURCES TO CIVIL AUTHORITIES

This Section provides general guidance for the handling of requests for DoD facilities, personnel, equipment, or supplies, received from officials of the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof, for use in connection with civil disturbances.

- A. Loan Policy. Civil authorities, National Guard, and Federal agencies will be encouraged to provide sufficient resources of their own, so as to minimize the need to rely on DoD assistance.
1. Classification of Resources. Military resources will be classified into three groups, as follows:
 - a. Group One: Personnel, arms, ammunition, tank-automotive equipment, and aircraft.
 - b. Group Two: Riot control agents, concertina wire, and other like military equipment to be employed in control of civil disturbances which is not included in Group One.
 - c. Group Three: Firefighting resources (to include operating personnel); equipment of a protective nature (such as masks, helmets, body armor vests) and other equipment not included in Group One or Two (such as clothing, communications equipment, searchlights); and the use of DoD facilities.
 2. Requests for personnel to be used in a direct law enforcement role are not within the purview of this Directive and must be made by the legislature or governor of a State in accordance with 10 U.S.C. 331. Pursuant to the Posse Comitatus Act, DoD operating personnel employed in connection with loaned equipment may not be used in a direct law enforcement role.

3. Repair parts and POL items are classified according to the group of the equipment for which the parts or POL are intended.

B. Approval of Requests.

1. Requests for Group One military resources may be granted only with the personal approval of the DoD Executive Agent or, when designated by him for that purpose, the Under Secretary of the Army.
2. Requests for Group Two military resources may be granted only with the personal approval of the DoD Executive Agent, or the following individuals when designated by him for that purpose: (a) the Under Secretary of the Army; (b) the Director and Deputy Director of Military Support; or (c) a Task Force Commander employed at an objective area during a civil disturbance.
3. Requests for Group Three resources may be granted by Secretaries of the military departments, CINCs of unified and specified commands outside CONUS; or commanders of military installations or organizations who have been delegated such authority by the appropriate Service Secretary or CINC.
 - a. Installation commanders are authorized to provide emergency explosive ordnance disposal service in accordance with applicable regulations of respective military departments.
 - b. The Director, Defense Supply Agency, is authorized to approve requests from subordinate agencies for firefighting assistance in connection with civil disturbances. Where installation fire departments have mutual aid agreements with nearby civil communities, the installation commander is authorized to provide emergency civilian or mixed civilian/military firefighting assistance. In the absence of a mutual aid agreement and when it is in the best interest of the United States, a commander with Group

Three approval authority is authorized to provide emergency civilian or mixed civilian/military assistance in extinguishing fires and in preserving life or property from fire, within the vicinity of an installation. In either case, civilian firefighters may be used provided:

- (1) In civil disturbance situations where there is significant danger of physical harm to firefighters, the civilian employees volunteer for the assignment. (DoD civilian employees acting in this volunteer capacity are acting as Federal employees.)
 - (2) Firefighting equipment will not be used for riot control.
 - (3) Civil authorities recognize that prior to the commitment of Federal forces to assist in restoring law and order, the protection of firefighting crews and equipment is the responsibility, in ascending order, of municipal, county, and State officials. Failure on the part of such authorities to recognize this responsibility and/or to provide adequate protection will be grounds for refusal to commit installation resources or for withdrawal of resources already committed.
4. Requests for Groups One, Two, or Three resources, and for renewal of outstanding loans, may be denied at any level in the chain of command down to and including commanders delegated Group Three approval authority.

C. Processing of Requests.

1. All requests will be promptly submitted through channels to the appropriate approving authorities using the format established by the DoD Executive Agent.

2. Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.
3. Requests received by personnel of Defense agencies will be referred to local military commanders for processing, except that DSA subordinate agencies will forward requests for firefighting assistance to DSA.
4. Request from civil law enforcement agencies for training assistance related to the control of civil disturbances will not be approved at the local level. Such requests should be referred to the nearest United States Attorney, Department of Justice.

D. Reporting of Requests.

1. Reports of all requests for military resources (approved, denied, or pending) will be prepared by all appropriate approving authorities, using the format established by the DoD Executive Agent, and forwarded through channels as follows:
 - a. To the military department headquarters, in the case of requests received in the CONUS by the four Services.
 - b. To the DoD Executive Agent, in the case of requests for firefighting assistance received by the Defense Supply Agency.
 - c. To the JCS, in the case of requests received by organizations or installations over which the commanders of the unified and specified commands exercise command authority.

2. Reports received by the military department headquarters and JCS will be transmitted to the DoD Executive Agent, who, in turn, will transmit information copies of all approved requests for Group One and Two military resources to the General Counsel of the DoD and the Deputy Attorney General of the United States.
3. In addition, a weekly summary report of all requests will be compiled by the DoD Executive Agent, showing action taken (approved, denied, or pending) and submitted to the General Counsel of the DoD, the Assistant Secretary of Defense (Installations and Logistics), and the Deputy Attorney General of the United States. Negative summary reports are required.
4. The reporting requirements prescribed herein are assigned Report Control Symbol DD-A(AR)1112.

XI. FUNDING

- A. Reporting requirements to provide for financing costs associated with civil disturbance operations, to include reimbursement of military department expenditures, will be in accordance with DoD Instruction 7200.9 (reference (e)) and DoD Executive Agent implementing instructions.
- B. Military assistance (Group One, Two, and Three military resources) provided to civil authorities, under the provisions of Section X. above, will be on a reimbursable or reclaimable basis as appropriate.

XII. IMPLEMENTATION

- A. Military departments, JCS, and Defense agency directives, instructions, or plans for the use of military resources in the event of civil disturbances will be reviewed and revised

as necessary within 60 days from the date of this Directive: (1) to agree with the provisions of this Directive, and (2) to conform with the policies and guidance promulgated by the DoD Executive Agent.

- B. Implementing directives, instructions, or plans revised or developed by DoD components under assignment herein will be furnished to the DoD Executive Agent for review.
- C. The Secretary of the Army, as DoD Executive Agent will:
 - 1. Review the terms of reference to insure conformity with the DoD policies set forth herein, prescribing responsibilities, functions, and procedures for the DoD Civil Disturbance Steering Committee and the Directorate of Military Support.
 - 2. Submit revised terms of reference to the Secretary of Defense for approval within 60 days from the date of this Directive.

XIII. EFFECTIVE DATE

This Directive is effective immediately.



Deputy Secretary of Defense