CHAPTER III
SUPPORTING CIVILIAN LAW ENFORCEMENT AGENCIES

1. General

   a. When requested, federal forces may provide support to federal, state, territory, tribal, insular areas, and local law enforcement organizations reacting to civil disturbances, conducting border security and counterdrug (CD) missions, preparing for antiterrorism operations, and participating in other related law enforcement activities. The requested support must be consistent with the limits Congress placed on military support to law enforcement through the PCA and other laws.

   b. Upon approval of the governor, state NG forces may support state LEAs within their respective states and within the limits prescribed by state law. State NG forces from another state in state active duty status, or Title 32, USC, operating under the EMAC or a MOA between the states may only support civilian law enforcement as specified in a memorandum approved by both governors. Once federalized, NG forces in Title 10, USC, status have the same restrictions with respect to performing law enforcement functions.

2. The Posse Comitatus Act

   a. The primary restriction on DOD participation in civilian law enforcement activities is the PCA. The United States Navy (USN) and United States Marine Corps (USMC) are included in this prohibition as a result of DOD policy articulated in DODI 3025.21, Defense Support of Civilian Law Enforcement Agencies.

   b. IAW DOD policy, unless specifically authorized by law, no DOD personnel in a Title 10, USC, status will become involved in direct civilian law enforcement activities, including, but not limited to, search, seizure, arrest, apprehension, stop and frisk, surveillance, pursuit, interrogation, investigation, evidence collection, security functions, traffic or crowd control, or similar activities, except in cases and under circumstances expressly authorized by the President, Constitution, or act of Congress.

   “Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or 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.”

   Title 18, United States Code, Section 1385
c. These restrictions also apply to reserve members of the United States Army (USA), USN, United States Air Force (USAF), and USMC who are on active duty, active duty for training, or inactive duty training in a Title 10, USC, duty status.

d. The PCA does not apply to NG forces operating in state active duty or Title 32, USC, status. However, when the NG is operating under a Title 10, USC, status (federal status), they are subject to the PCA. The PCA does not restrict the USCG, even when operating under the USN, due to the USCG having inherent law enforcement authority under Title 14, USC.

e. Since commanders’ initial uncertainty regarding the nature and extent of PCA restrictions may cause delays in what would be appropriate employment of federal forces, it is imperative that commanders likely to be assigned DSCA missions gain familiarity with such provisions.

3. Direct Assistance to Civilian Law Enforcement Agencies

a. Permissible Direct Assistance

   (1) Military Purpose. There are several forms of direct assistance to civilian law enforcement by military personnel that are permitted under the Military Purpose Doctrine. The Military Purpose Doctrine provides that law enforcement actions that are performed primarily for a military purpose, even when incidentally assisting civil authorities, will not violate the PCA. The Military Purpose Doctrine requires a legitimate, independent military purpose for participating in law enforcement activities against civilians. DODI 3025.21, Defense Support of Civilian Law Enforcement Agencies, provides guidance on the type of assistance DOD can provide to local authorities when it is primarily for a military purpose and does not violate the PCA. Support provided to civilian law enforcement must be incidental. DOD cooperation with civilian law enforcement officials includes:

   (a) Investigations and other actions related to the enforcement of the Uniform Code of Military Justice.

   (b) Investigations and other actions related to the commander’s inherent authority to maintain law and order on a military installation or facility.

   (c) Protection of classified military information or equipment.

   (d) Protection of DOD personnel, DOD equipment, and official guests of DOD.

   (e) Other actions that are undertaken primarily for a military or foreign affairs purpose.

   (2) Emergency Authority. Emergency authority should not be confused with immediate response authority. Federal forces acting under immediate response authority are still bound by the PCA and may not participate directly in law enforcement. Emergency
authority and actions taken under the Insurrection Act are expressed exceptions to the PCA. These exceptions allow federal forces to perform actual law enforcement functions within the guidance of DODI 3025.21, *Defense Support of Civilian Law Enforcement Agencies*. This directive states that federal military commanders 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.

(3) Title 10, USC, Chapter 15, Insurrection.

(a) This law authorizes the President to employ the Armed Forces of the United States, including the NG in federal status, within the US to support a request from a state legislature, or its governor if the legislature cannot be convened, to suppress an insurrection; suppress a rebellion against the authority of the US, which makes it impracticable to enforce the laws of the US by the ordinary course of judicial proceedings; and suppress, in any state, any insurrection, domestic violence, unlawful combination, or conspiracy, if it (1) hinders execution of state and US law protecting Constitutional rights and the state is unable, fails, or refuses to protect those rights, thereby denying equal protection of the law secured by the Constitution, or (2) opposes or obstructs execution of US law. Actions under this authority are governed by DODI 3025.21, *Defense Support of Civilian Law Enforcement Agencies*.

(b) The President executes this authority by issuing a proclamation ordering the insurgents to disperse and retire peaceably to their homes within a limited time. Any DOD forces employed in civil disturbance operations shall remain under federal military authority at all times.

(c) Forces deployed to assist federal and local authorities during times of civil disturbance follow the rules for the use-of-force found in CJCSI 3121.01, *(U)* Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces.

b. **Prohibited Direct Assistance.** Direct assistance and participation by military personnel in the execution and enforcement of the law is the heart of the prohibition of the PCA. Impermissible direct assistance by military personnel in civilian law enforcement activities is addressed in DODI 3025.21, *Defense Support of Civilian Law Enforcement Agencies*. Prohibited direct assistance by military personnel includes, among other activities:

(1) Interdiction of a vehicle, vessel, or aircraft.

(2) A search or seizure.

(3) An arrest, apprehension, stop and frisk, interviews and questioning of potential witnesses, or similar activity.

(4) Use of military personnel for surveillance or pursuit of individuals or as undercover agents, informants, investigators, or interrogators.
(5) Using force or physical violence, brandishing a weapon, discharging or using a weapon, or threatening to discharge or use a weapon except in self-defense; in defense of other DOD persons in the vicinity; or in defense of non-DOD persons, including civilian law enforcement personnel, in the vicinity when directly related to an assigned activity or mission.

4. Other Permissible Types of Military Support to Law Enforcement Agencies

a. Training

(1) DODI 3025.21, Defense Support of Civilian Law Enforcement Agencies, allows the Military Departments and DOD agencies to provide training that is not “large scale or elaborate” and does not permit a direct or regular involvement of military personnel in activities that are traditionally civilian law enforcement operations.

(2) Training assistance is limited to situations where the use of non-DOD personnel would be impractical because of time or cost.

(3) Training assistance cannot involve military personnel in a direct role in a law enforcement operation unless otherwise authorized by law, and this assistance will only be rendered at locations where law enforcement confrontations are unlikely.

b. Expert Advice. IAW Title 10, USC, Section 273, and DODI 3025.21, Defense Support of Civilian Law Enforcement Agencies, SecDef has directed that Military Departments and DOD agencies may provide expert advice as long as military personnel are not directly involved in activities that are fundamentally civilian law enforcement operations.

c. Equipment. LEA requests for loans of equipment, maintenance, facilities, or personnel shall be made and approved IAW DOD policy and instructions for requesting DSCA and require SecDef approval.

d. Use of DOD Personnel to Operate or Maintain Equipment. DOD personnel made available under Title 10, USC, Section 274(b), may operate equipment for the following purposes:

(1) Detection, monitoring, and communication of the movement of air and sea traffic.

(2) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the US and within the US not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(3) Aerial reconnaissance.

(4) Interception of vessels or aircraft detected outside the land area of the US for the purposes of communicating with such vessels and aircraft and directing such vessels and aircraft to a location designated by appropriate civilian officials.
(5) Operation of equipment to facilitate communications in connection with law enforcement programs specified in Title 10, USC, Section 274(b).

(6) DOD personnel may also be made available to operate equipment for the following additional purposes subject to joint approval by SecDef and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the US).

(a) 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.

(b) Operation of a base of operations for civilian law enforcement and support personnel.

(c) Transportation of suspected terrorists from foreign countries to the US for trial (so long as the requesting federal LEA provides all security for such transportation and maintains custody of the suspect through the duration of the transportation).

e. Other Permissible Assistance. Under Title 10, USC, Section 271, the transfer of information acquired in the normal course of military operations to civilian LEAs is not a violation of the PCA. Additionally, DODI 3025.21, Defense Support of Civilian Law Enforcement Agencies, provides that other actions that are approved by the Secretaries of the Military Departments or the directors of the DOD agencies that do not subject civilians to the regulatory, prescriptive, proscriptive, or compulsory use of military power are not a violation of the PCA.

(1) Border Security and Immigration Enforcement Support. DOD provides support to other federal agencies in border security and in the event of a mass migration emergency. Historically, this law enforcement support is in the form of technical assistance, services, and facilities and only on a temporary basis. GCCs can expect to be designated as the supported commander for support to DHS in mass migration operations. CDRUSNORTHCOM should expect to be designated as the supported commander for limited support to DHS collection relocation processing centers on DOD installations in CONUS. US Southern Command can be expected to be designated as the supported command for temporary mass migration operations at Guantanamo Bay, Cuba.

(2) Counterterrorism Operations. The US Attorney General, acting through the FBI and in cooperation with the heads of other federal departments, agencies, and military criminal investigative organizations (MCIos), coordinates domestic intelligence collection and the activities of the law enforcement community to prevent, protect against, mitigate, respond to, and recover from terrorist attacks and to identify the perpetrators and bring them to justice in the event of a terrorist incident.

(a) If there is a credible threat, DOD may also be requested to support LEAs with the pre-positioning of forces. NG reaction forces can also be requested to support counterterrorism operations. In the case of an imminent threat to life or severe property
damage, DOD forces may take direct action until responsible authorities (e.g., DOJ, DHS) can respond.

(b) Under this type of support, specific rules for the use of force (RUF) must be established and approved. In the absence of preexisting RUF, requests for RUF for DSCA missions will be sent through the supported CCDR and the Assistant Secretary of Defense (Homeland Defense and Global Security) (ASD[HD&GS]) for development and to SecDef for approval. Mission-specific RUF may be required depending on the situation.

(c) Military responses to a credible threat and acts of terrorism may require incident management operations (that includes responding to the incident itself and law enforcement activities), which often overlap.

(d) The FBI manages counterterrorism operations through the Strategic Information and Operations Center (SIOC) and joint operations centers (JOCs). The SIOC is the FBI’s worldwide operations hub and supports connectivity with other federal operations centers, such as the DHS national operations center, the DOD National Military Command Center, and National Counterterrorism Center, to rapidly gain and disseminate situational awareness and deploy resources as appropriate. This includes C2 of joint interagency investigative and domestic intelligence efforts led by the FBI on-scene commander (OSC) through its JOCs. The SIOC and FBI JOCs ensure effective coordination and liaison with partner agencies, strategic communications, and coordination and information sharing with other leaders, as appropriate and IAW classification and legal requirements, to manage the threat.

(e) An FBI JOC is a multijurisdictional, interagency investigative, and intelligence operations center led by the FBI OSC and supported by a multiagency command group. The FBI JOC is the place from which the FBI leads and coordinates law enforcement investigations, intelligence activities, and counterterrorism in response to terrorist threats or incidents. The FBI OSC establishes the JOC within a regional AOR; the OSC is the designated senior FBI representative responsible for leading and coordinating all law enforcement and investigative operations to prevent or resolve terrorist threats or incidents and for preserving evidence for subsequent criminal prosecution. Additionally, the FBI OSC has primary responsibility to conduct, direct, and oversee crime scenes, their security, and evidence management, including fatalities management, through all phases of the response, managed through an FBI JOC. For national special security events (NSSEs), the JOC is suspended in watch mode and is supported by an intelligence operations center. The intelligence operations center leads and coordinates the law enforcement intelligence activities and analysis to deter, detect, and prevent threats related to the security of an NSSE. The JOC is staffed by federal departments, state and local LEAs, private industry, and other entities as may be appropriate.

For more information on responses to domestic terrorism incidents, see the National Prevention Framework and the Terrorism Incident Law Enforcement and Investigation Annex.
(3) **CD and Counter Transnational Organized Crime Support Operations.**

CD operations in support of LEAs may be conducted under the following authorities:

(a) Title 10, USC, Section 124. This authority specifies that DOD shall serve as the single lead agency for detection and monitoring of aerial and maritime transit of illegal drugs into the US. Since this is a DOD mission, support requests are not required from LEAs.

(b) Title 10, USC, Section 284. DOD may provide support, upon proper request, to any federal LEA or any state, local, territorial, and tribal civil authorities or foreign LEA to combat transnational organized crime and CD activities.

(c) Title 10, USC, Section 274. DOD primarily provides CD/counter transnational organized crime support to an LEA under this authority on a non-reimbursable basis with a valid support request from an LEA. DOD may provide personnel, equipment, facilities, maintenance, training, and advice as outlined under this authority, which is implemented by CJCSI 3710.01, *DOD Counterdrug Support*. DODD 3025.18, *Defense Support of Civil Authorities (DSCA)*, does not apply to counternarcotics operations.

(d) Title 10, USC, Section 271-274. This authority is implemented by DODI 3025.21, *Defense Support of Civilian Law Enforcement Agencies*.

   1. Title 10 USC, Section 271. DOD may provide information to an LEA that is relevant to drug interdiction and collected during the normal course of training or operations. The needs of an LEA should be taken into account in the planning and execution of such DOD training or operations.

   2. Title 10, USC, Sections 272-274. DOD may provide personnel, equipment, facilities, maintenance, training, and advice as outlined under this authority and with a valid support request from an LEA. This support can be provided if reimbursed by an LEA or a waiver of reimbursement is granted by SecDef.

(e) SecDef may provide funds to the governor of a state to execute an approved state drug interdiction and CD activities plan using NG forces in a Title 32, USC, duty status IAW Title 32, USC, Section 112.

*Refer to JP 3-07.4, Counterdrug Operations, and Title 10, USC, Section 124, for additional information.*

(4) **Explosive Ordnance Disposal (EOD).** DOD EOD forces should maintain relationships with local, state, and other federal bomb disposal and/or LEA assets within their geographic locations. These relationships may include conferences and training exercises to increase the interoperability and integration with local EOD agencies, improve the response capabilities to civilian authorities when requested, and enhance the consolidated response capabilities. DOD EOD personnel may also conduct explosive hazards (e.g., improvised explosive devices [IEDs] and unexploded explosive ordnance
[UXO]) awareness and education programs that promote public safety and inform the public of the hazards associated with military munitions and explosive items.

(5) **Title 18, USC.** Under Title 18, USC, Section 831, the Attorney General may request that SecDef provide emergency assistance if civilian law enforcement is inadequate to address certain types of threats involving the release of nuclear materials, such as potential use of a nuclear or radiological weapon. SecDef may provide such assistance IAW Title 10, USC, Chapter 18, providing personnel under the authority of DOD.

5. **Law Enforcement Considerations**

   a. Domestic law enforcement support requires expert legal advice to military leaders at every level. The command staff judge advocate should review plans and orders carefully. To avoid delays, proper preplanning is critical to mission support. Plans and orders should identify measures that require legal consultation, command approval, or both. Supporting commanders should plan for provision of additional liaison personnel and communications to the supported LEA. Commanders should educate their personnel on their chain of command and which LEA they are supporting. Federal military forces and NG forces may operate in proximity although they remain under separate chains of command. On the ground, however, commanders from both forces should co-locate so they can closely coordinate operations.

   b. Just as in the military, civilian law enforcement operations rely on information to ensure success of the mission. Civilian LEAs comply with strict legal limits on information: who provides the information, what information is collected, how the information is collected, and how the information can be used. Military forces providing intelligence support to civilian LEAs must comply with intelligence oversight procedures and policy, as well as civilian LEA constraints. Military personnel performing law enforcement functions must comply with DODD 5200.27, *Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense.* Commanders must ensure laws, military regulatory authorities, and DOD policies are not violated. Employment of intelligence systems domestically remains a sensitive legal area, particularly when used in support of civilian LEAs.

   c. Joint patrols involving NG and local law enforcement officers have proven to be highly effective and efficient in the aftermath of disasters and disturbances. Generally, NG members conduct security patrols in state active duty or Title 32, USC, status. Title 10, USC, members may conduct joint patrols as authorized IAW DODI 3025.21, *Defense Support of Civilian Law Enforcement Agencies.*

   d. Federal military forces supporting law enforcement often have severe restrictions and specific RUF. These rules have been approved by SecDef and are found in CJCSI 3121.01, *(U)* *Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces.*

   e. NG commanders in a Title 32, USC, or state active duty status should also ensure their personnel are briefed on applicable state RUF and issued an appropriate RUF card.
prior to deploying from home station for a DSCA mission. There may also be a difference between the standing rules for the use of force (SRUF) and the RUF for each state’s NG forces. Depending on the state, the state RUF may be more or less restrictive than the SRUF. NG forces serving in a Title 32, USC, duty status must follow state laws.

(1) Commanders should evaluate and plan for the use of nonlethal weapons in domestic operations. Additionally, commanders should plan for and conduct rehearsals of RUF to prepare their personnel for operations that may employ nonlethal weapons.

(2) Each Service has developed nonlethal weapons to address force application and FP requirements. Given the nature of the DSCA operation, nonlethal weapons—and their ability to provide precise and relatively reversible effects—are particularly relevant. Nonlethal weapons span a range of technologies (e.g., acoustic and optical devices to provide enhanced warnings, riot control agents and blunt impact munitions to deny access or move individuals, mechanical systems to deny access to vehicles, or electromagnetic systems to degrade/stop/disable personnel or materiel).

(3) Military personnel must be properly trained in the use of nonlethal weapons. The command staff judge advocate should also review all pertinent orders and instructions for their use. Use of nonlethal weapons, to include use of riot control agents, like the use of all weapons, will require approval from higher headquarters and/or authorization from appropriate authorities (state or federal). Care should be taken to ensure that orders and instructions for the use of nonlethal weapons are not more restrictive than those for lethal weapons or their utility in mitigating civilian casualties and collateral damage will be compromised.