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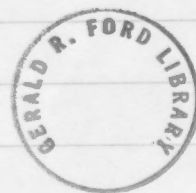
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Alert

Now 9 hrs.  
off Alert  
at least weekend

AG to channel

2000 on 6m alert  
+ 1000 on <sup>one</sup> 76



Have completed primary & secondary training | Yes  
+ 5000 Natl Gnd People | Good sign



genl Counsel  
Martin Hoffman

John -

Can designate <sup>Bob</sup> Berry  
to do the job

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10 USC 331-334

331: Inspection

332:

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acc:

Pres talked w/ Sargent



Civ Dist Plans

Dim think Net's good adequate, better than before

Alert / Re position

Prod requires federalistic

1878 Peace Control Act  
No Fed Troops except Const n Law

Custom  
3 steps + Fed Eyes & Ears + how much nat'l guard

Post Kent state: Wiser Rules of engagement

Justice - Army Pers Lawm offer Asst At6 + Army	Team to go DORR on 48 hrs
--	------------------------------

5 Justice Dept Lays there are  
(FBI papers re Law Enf)

- ① Pre len intel for Justice
- ② Team out: WH → Justice

Justice Dept think they shall be on alert  
(Cole?)

Weekend



82<sup>d</sup> Best disciplined

28% Black (enlisted) infants  
39% Top 3 grades NCO

Rangers (Fut Start)

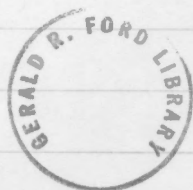
Not live ammunition

Fed. Presence worsen situation  
(IRA mentality)

347 Not good broadcast

No - cap justice

Selkman backtough

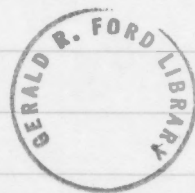


sept (Bill you)

\$333

Don't need to fill 3 cutera

OLC opinion  
Maybe 331 cutera





5/22/74



Office of the Attorney General  
Washington, D. C. 20530

Dear Governor :

In August 1967 one of my predecessors sent a letter to each Governor clarifying Federal/State relationships in the event of civil disturbances. Since many of you were not in Office at that time, I thought it advisable to restate some of the legal principles which are applicable when a State seeks federal assistance with respect to a civil disturbance.

The underlying constitutional authority for providing federal forces, including the military, is the duty of the United States under Article IV, Section 4 to protect each of the states "on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence." This pledge is implemented by Chapter 15 of Title 10, United States Code, particularly 10 U.S.C. 331.

There are three basic prerequisites to the use of Federal troops when domestic violence occurs in a State:

- (1) That a situation of serious "domestic violence" exists within the State. While this conclusion should be supported with a statement of factual details to the extent feasible, there is no prescribed wording.
- (2) That such violence cannot be brought under control by the law enforcement resources available to the State, including local and State police and the National Guard.
- (3) That the Legislature, or the Governor if the Legislature is not in session and cannot be convened, requests the President to employ Federal forces to bring the violence under control. While the question has never been resolved in court, it is our view that a request from the Legislature should take the form of a normal legislative act, i.e. adoption by the entire Legislature and signature by the governor. See Smiley v. Holm, 285 U.S. 355 (1932).



These three elements should be expressed in either the legislative act or resolution or in a written communication from the Governor to the President if the legislature is not in session. This can be communicated to the President by telegram or, in extreme situations, communicated by telephone with a subsequent written confirmation.

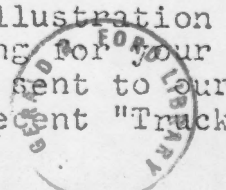
Upon receiving a request for federal assistance, the President must, of course, exercise his own judgment as to whether federal troops will be sent, when they will be sent, how many will be used, and whether the National Guard should be federalized.

Preliminary steps, such as placing troops on alert, can be taken on oral request prior to a formal written request. Because such preliminary steps represent a most serious departure from our traditions of local responsibility for law enforcement, however, they should not be requested unless there is a substantial likelihood that federal assistance on such a scale will be required.

While a formal request for the assistance of federal forces must be addressed to the President, all preliminary communications should be directed to the Attorney General of the United States. My coordinator for all civil disturbance matters is the Deputy Attorney General who can be reached at (202) 739-2101 or through the White House switchboard. He will be happy to counsel with you in further elaboration of this letter at any time and, of course, in the event of a disturbance in your State. It would be extremely helpful to him, and would unquestionably lead to better liaison on such matters, if you would inform the Deputy Attorney General of the identity of the individual or office in your State that serves a like function as civil disturbance coordinator.

Enclosed for your convenience are copies of the relevant constitutional and statutory provisions mentioned above in connection with the use of federal forces.

While the use of federal forces in a disturbance situation represents the ultimate in federal involvement, it is not, of course, the only occasion for federal interest. There may be situations in which a local disturbance also involves violations of federal law which it is the responsibility of this Department to investigate and prosecute. In such instances, it is vital that federal and local personnel cooperate both in their mutual interest in effective law enforcement and in their dedication to the preservation of the proper Federal/State balance. By way of illustration of our approach to such situations. I am enclosing <sup>for your</sup> information a copy of a memorandum I have just sent to our United States Attorneys with relation to the recent "Truckers' Protest."



I look forward to cooperating with you on all matters that touch upon the relationship of the United States Department of Justice and the several states. I hope, as you do, that this specific discussion of civil disturbance matters proves to be of academic interest only.

Very truly yours,

Attorney General

Enclosures





President Ford has said that he deplors the violence that continues to occur in Boston. He has repeatedly called upon the citizens of Boston to reject violence, and the hatred and shrill voices of the violent few.

The President feels the primary responsibility for maintaining order continues to lie with the State and local officials, as Judge Garrity indicated last week in Federal Court when he rejected Mayor White's request for Federal marshals.

Although the Governor has yet to deploy any of the National Guard which he mobilized, the President is confident that both Governor Sargent and Mayor White will use all of the resources at their disposal which they feel necessary to bring order to the situation and to end the violence.

The President feels Federal troops should only be used as a last resort.

Under Federal law, Federal troops should only be called out when all three of the following steps are met:

- a situation of "serious domestic violence" exists;
- the situation cannot be controlled through the use of State resources;
- the State Legislature or the Governor has formally written the President requesting Federal troops.

President Ford is aware of current developments in Boston. The White House and the Department of Justice are in touch with Governor Sargent and have discussed the situation. No formal written request for Federal troops has been received by the President, and none would be in order until the Governor is in a position to say he has utilized the full resources of the State and that despite these efforts he can no longer control the situation.





Article IV, Section 4

Section 4. Republican government

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall 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.

10 U.S.C. 331

Section 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. Aug. 10, 1956, c. 1041, 70A Stat. 15.



THE WHITE HOUSE

WASHINGTON

Alert to end

Martin Hoff

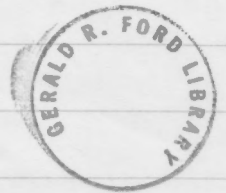
No fears

Tom Latimer //  
Spec Asst

(He knows Bob Berg & will talk to him)

~~Al~~<sup>Ken</sup> Alderlain (

Gen John Wickham  
ml Asst to Sec Def.





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

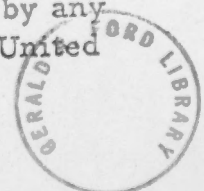
Reference (a) is hereby superseded and cancelled.

## 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.

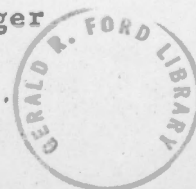
## IV. DEFINITIONS

- 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)).

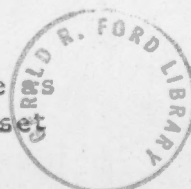
- b. It should be noted that none of the above authorities, in and of itself, provides sufficient legal basis to order members of the Reserve components to active Federal service.

## 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 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, repositioning 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 repositioning, 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.

<sup>1/</sup> Copies available from Secretary, Joint Chiefs of Staff (Documents Division), Washington, D.C. 20301.





- of V.
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~~ <sup>and</sup> direction of DoD provided



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

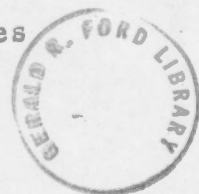
3. Providing airlift to deploy and redeploy civil disturbance forces and for supply, resupply, and aeromedical evacuation.

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.

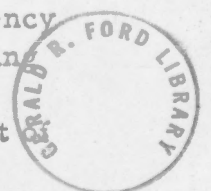
- A. Loan Policy. Civil authorities, National Guard, and Federal agencies will be encouraged to provide sufficient resources of their own, so as to minimize the need to rely on DoD assistance.
1. Classification of Resources. Military resources will be classified into three groups, as follows:
    - a. 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

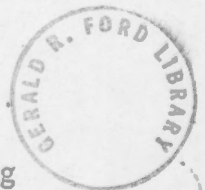


Three approval authority is authorized to provide emergency civilian or mixed civilian/military assistance in extinguishing fires and in preserving life or property from fire, within the vicinity of an installation. In either case, civilian firefighters may be used provided:

- (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.



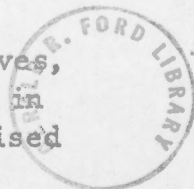
2. Reports received by the military department headquarters and JCS will be transmitted to the DoD Executive Agent, who, in turn, will transmit information copies of all approved requests for Group One and Two military resources to the General Counsel of the DoD and the Deputy Attorney General of the 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

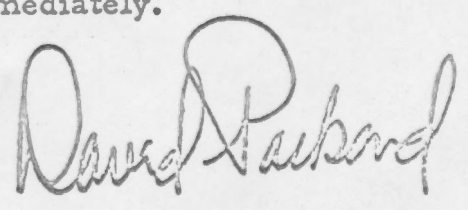


as necessary within 60 days from the date of this Directive: (1) to agree with the provisions of this Directive, and (2) to conform with the policies and guidance promulgated by the DoD Executive Agent.

- 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



Dec 8, 72, Memo - Asst to Fed. Agencies





DEC 8 1972

MEMORANDUM FOR: Secretaries of the Military Departments  
Chairman of the Joint Chiefs of Staff  
Assistant Secretaries of Defense  
Assistants to the Secretary of Defense  
Directors of the Defense Agencies

SUBJECT: Assistance to Federal Agencies in Combatting Terrorism

Reference: Letter, Attorney General to Secretary of Defense,  
November 10, 1972 (copy attached)

The Department of Justice and the Department of Defense have reached broad agreement on the procedures to be followed in the event a terrorist incident leads to requests to the Department of Defense by the Federal Bureau of Investigation. The attached letter of November 10, 1972 contains the understanding.

Support rendered by the Department of Defense to the Department of Justice pursuant to the November 10 letter falls under Section I. B., DoD Directive 3025.12 ("instances where military resources may be used to protect life or Federal property or to prevent disruption of Federal functions"). Consequently, the Secretary of the Army's designation as Executive Agent in that Directive will be deemed to extend to the employment of military resources in response to a request made under the terms of the November 10 letter, subject to the limitations set out in the letter and in the DoD Directive.

Attachment



April 1, 1969

MEMORANDUM FOR THE PRESIDENT

Re: Interdepartmental Action Plan  
for Civil Disturbances

Introduction

This memorandum outlines a plan by which the Departments of Defense and Justice propose (1) to coordinate their preparations for and their responses to any serious civil disturbance that may hereafter occur in a city in the United States, and (2) to assist the President in responding appropriately and effectively to any request he may receive for Federal military forces to aid in suppressing such a disturbance. While the plan is principally geared to situations involving a State request for assistance in controlling urban violence and disorder under section 331 of Title 10, United States Code, the relationships it formalizes are equally applicable to other situations, such as the enforcement of Federal law under 10 U.S.C. 332 or the protection of



April 1, 69 Memo for President

civil rights pursuant to 10 U.S.C. 333, that may require the employment of Federal armed forces.

The Secretary of Defense and the Attorney General join in submitting this plan for your consideration and approval. If you approve it, our Departments will work out the details. We believe that the proposed plan merits your prompt attention because you may have to decide, on short notice, whether to honor a request for military aid to quell a civil disturbance.

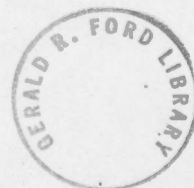
A principal feature of the plan is the designation of the Attorney General as the chief civilian officer in charge of coordinating all Federal Government activities relating to civil disturbances. The Attorney General is the logical choice for this role in view of his responsibilities as chief law enforcement officer of the Federal Government, and as chief legal adviser to the President on the critically important decisions the President must personally make as to whether and when to commit military forces in response to a request.

On the other hand, all essentially military preparations and operations, including especially the employment of military



forces at the scene of a disturbance, will be the primary responsibility of the Secretary of Defense. In discharging these functions, he will observe such law enforcement policies as the Attorney General may determine. To the extent practical, such law enforcement policies will be formulated during the planning stage so that military commanders can familiarize themselves with them and train their personnel to implement them. This will assure that military planning and operations are consistent with Administration policy and the requirements of law.

The responsibilities of the Department of Defense under this plan will be carried out principally through the Department of the Army, inasmuch as the Secretary of the Army is assigned primary responsibility for civil disturbance matters, as Executive Agent, subject to the general supervision of the Secretary of Defense. Within the Department of the Army, a Directorate for Civil Disturbance Planning and Operations serves the Secretary and the Army Chief of Staff as the principal military staff agency for such matters.





Prior to the time a decision has been made to commit Federal armed forces in a locality the White House shall be responsible for all public information activities. Thereafter, the dissemination of all public information in connection with the control of civil disturbance shall be undertaken by or as directed by the White House.

#### I. The Basic Plan

The plan is divided chronologically into four phases:

1. The period of civil disturbance planning and intelligence operations prior to the outbreak of any actual disturbance.
2. The period from the initial outbreak of an actual disturbance to the time at which the President decides to employ Federal military force.
3. The period during which Federal military forces are employed at the scene of the disorder.



4. The portion of the latter period during which the advisability of withdrawing the Federal forces is considered, decided, and acted upon.

The basic plan for each of these phases is as follows:

Phase One--Advance Planning and Intelligence Operations

As in the recent past, the Secretary of Defense will have the primary responsibility for training, equipping, and designating the forces to be used in controlling civil disturbances. He will also retain primary responsibility for preparing operations plans, determining procedures for alerting and moving the forces, and testing command and control arrangements. The Attorney General will be consulted on important questions of law and law enforcement policy arising in connection with these plans and preparations.

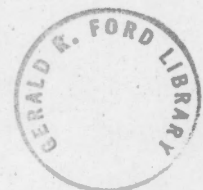
The Attorney General will contact all the State Governors, reminding them of the legal requirements for obtaining Federal military aid pursuant to section 331 of Title 10, United States Code: that a situation of serious domestic violence exists within the State; that such violence cannot be brought under control by the law enforcement resources available to the



INSERT FOR PAGE 6

Request that the paragraph indicated below be incorporated by annotation into all copies of the Interdepartmental Action Plan for Civil Disturbances on page 6 immediately preceding the paragraph concerning intelligence. The paragraph is as follows:

The Attorney General will be responsible for Federal efforts directed toward improving and evaluating the capabilities of civilian local law enforcement authorities to deal with civil disturbances, and the Secretary of Defense will be responsible for improving and evaluating the capabilities of the National Guard. The Attorney General will coordinate Federal law enforcement plans and the Secretary of Defense will coordinate Federal military plans with State and local authorities, in order to facilitate (1) fair and effective administration of justice under emergency conditions caused by civil disturbances; and (2) smooth working relationships between Federal and State forces in any disturbance area.



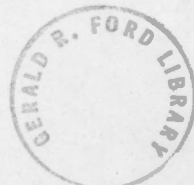
Governor, including local and State police forces and the National Guard; and that the Governor requests the President to employ the Armed Forces to bring the violence under control. The Governors will be advised to direct to the Attorney General all preliminary communications concerning the possible need for Federal military assistance under such circumstances.

\*\*See added paragraph on page II-2-A-32

Under the supervision of the Attorney General, raw intelligence data pertaining to civil disturbances will be acquired from such sources of the Government as may be available. Such data will be transmitted to the Intelligence Unit of the Department of Justice, and it will be evaluated on a continuing basis by representatives from various departments of the Government. After evaluations have been made, the data will be disseminated to the Attorney General, the Secretary of Defense, and the White House.

Phase Two--Responding to Early Phases of a Civil Disturbance

. During the early stages of a crisis in which it appears that a request for Federal military assistance may be forthcoming, the intelligence organization of the Department of



Justice will alert the Attorney General and the Secretary of Defense. It is expected that responsible State and local officials will promptly inform the Attorney General of the situation and will thereafter keep him informed of developments. When advised that a serious disturbance is in the making, the Attorney General will immediately inform the President.

If time permits, the Attorney General and the Secretary of Defense may dispatch their personal representatives to the disturbance area to appraise the situation before any decision is made to commit Federal forces. Such action can help to assure that the Federal Government responds in accordance with the realities of the situation as perceived by its own observers.

Precautionary steps, such as alerting Federal armed forces and prepositioning them relatively near the disturbance area, can be taken by the Federal Government prior to receipt of a formal request from a Governor for Federal military assistance. Prepositioning must, of course, be undertaken with discretion. The prepositioning of more than a battalion-sized unit (approximately 500 men) by order of the Secretary of Defense will be





undertaken only with the informal approval of the President. Such approval will be sought by the Attorney General, and, ordinarily, only if there appears to be a substantial likelihood that such forces will be required.

When the State Governor anticipates that a request for Federal military assistance will shortly become necessary, he will confer with the Attorney General concerning the facts of the situation, so that the Attorney General can review the legal sufficiency of the impending request. After consultation with Department of Defense officials on the gravity of the situation, the Attorney General will advise the President whether the conditions would warrant honoring a request at that particular time.

When the Governor concludes that a formal request for military assistance is necessary, he will address it directly to the President. At such time, the President must exercise his personal judgment as to whether or not to commit Federal armed forces. The decision may be a difficult one, as it involves a weighing of the apparent need for Federal forces



in the circumstances, and the President's responsibility to respond to State requests for such assistance, against the primary responsibility of State and local authorities for maintaining local law and order, and the inadvisability of employing Federal military force for that purpose except in the last resort.

The Attorney General will have furnished the President with an appropriately drawn Proclamation and Executive Order, to be signed by the President in the event that he decides to honor the request. These documents will formalize the decision and state the factual and legal grounds on which it is based. \*/

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\*/ Attached are proposed forms of Proclamation and Executive Order, one set for use in response to a State request, the other for use in connection with a civil disturbance in the Washington metropolitan area.

The Proclamation is essentially a formality which fulfills the requirement of 10 U.S.C. 334. The attached Proclamations are based on the form developed by Attorney General Brownell in the Little Rock disturbance of 1957, and used since that time in a variety of civil disturbance situations. The attached forms of Executive Order, however, embody several improvements over those used in recent incidents, notably in spelling out the respective responsibilities of the Attorney General and the Secretary of Defense in coping with a civil disturbance.



Phase Three--Engagement of Federal Troops

The Executive Order will authorize the Secretary of Defense to conduct the military operation, subject to the law enforcement policies determined by the Attorney General during the planning phase. Guided by such policies, pursuant to established procedures within the Department of Defense the Secretary of Defense is responsible for the necessary military decisions and for issuance of the appropriate orders to the military commanders concerned. Thus the chain of military command running down from the Secretary of Defense will be preserved. The established law enforcement policies may require revision or elaboration during the actual military operations; in that event, the Secretary of Defense will refer such matters, military exigencies permitting, to the Attorney General, together with his recommendations. The Executive Order further authorizes the Secretary of Defense to federalize ~~National Guard units and, if required, to order units of Reserve~~ Components of the Armed Forces to active duty for purposes of the operation.

The Attorney General will have a personal representative located with the military task force commander in each city

where armed forces are committed. Standing military instructions to Task Force Commanders will instruct the commanders to consult with the Attorney General's representative on all significant matters.

By the terms of the Order, the Attorney General will remain responsible (1) for coordinating the activities of all Federal agencies assisting in the suppression of violence and in the administration of justice in the affected area, and (2) for coordinating these activities with those of State and local agencies similarly engaged.

#### Phase Four--Withdrawal of Federal Troops

As the employment of Federal military forces succeeds in bringing the disturbance under control, the military commander and the representative of the Attorney General at the scene of the disturbance will make recommendations to their respective superiors concerning the timing for the withdrawal of Federal units, the defederalization of National Guard units, and the release from active duty of any Reserve units. It is expected that the Secretary of Defense will decide these matters





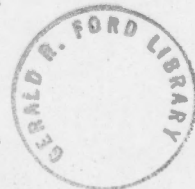
in the light of the Attorney General's recommendations as to the ability of the civil authorities to resume full responsibility for the maintenance of law and order in the affected area.

## II. The Basic Plan for the Washington Metropolitan Area

The respective roles of the Secretary of Defense and the Attorney General in preparing for and responding to a civil disturbance in the Washington metropolitan area are essentially the same as described above with respect to disturbances within a State. Thus the Attorney General will be responsible for coordinating Federal activities and determining Federal law enforcement policies relating to civil disturbances in this area, and the Secretary of Defense will be in charge of military operations to suppress such a disturbance.

There are, however, several supplemental features and variations that characterize the basic plan as applied to the Washington area. These are as follows:

1. The basic plan must include not only provisions for dealing with generalized disturbances, but also provisions for protecting government property, functions, or personnel.



in this area against any form of unlawful interference.

Military operations to suppress such interference will be the responsibility of the Secretary of Defense, subject to the law enforcement policies of the Attorney General.

2. The President will ordinarily look to the Mayor of the District, as he does to the Governor of a State, to make a formal request for military assistance to control a local civil disturbance.

3. In addition to his general authority to employ Federal military forces as described above, the President, as Commander-in-Chief of the D. C. National Guard, is authorized to use that Guard in militia status to suppress a civil disturbance in the District without the necessity for a Proclamation or Executive Order.

To facilitate the practical availability of this option, the outstanding Executive Order of 1949 vesting administrative control over the D. C. Guard in the Secretary of Defense (E. O. 10030) should be amended to establish the Secretary's authority in such cases to call out the Guard in militia status to control



a local civil disturbance. An amended Executive Order will be prepared for the President's approval and signature.

The D. C. National Guard will be used in militia status for the purpose of suppressing a civil disturbance only after the informal approval of the President has been obtained. In a particular civil disturbance situation, the Attorney General, after consulting with the Secretary of Defense, will advise the President as to the choices available to him with respect to utilization of the D. C. National Guard and active armed forces.

4. In addition to actual outbreaks of civil disorder, the D. C. planning takes account of the possibility that peaceful demonstrations in the District may develop into civil disturbances. In order to minimize that risk, provision can be made for the policing of such demonstrations by National Guardsmen in their militia status as well as by District police forces. Moreover, planning provides for the limited use of active armed forces to protect Government property and functions against unlawful interference (as on the occasion of the demonstration at the Pentagon in October of 1967).



If you approve the plan as outlined above, the Departments of Defense and Justice will take all necessary steps to implement it.

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Secretary of Defense

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Attorney General





LAW AND ORDER IN THE STATE OF \_\_\_\_\_

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Governor of the State of \_\_\_\_\_  
has informed me that conditions of domestic violence and  
disorder exist in and about the City of \_\_\_\_\_ in  
that State, endangering life and property and obstructing  
execution of the laws, and that the law enforcement re-  
sources available to the City and State, including the  
National Guard, are unable to suppress such acts of vio-  
lence and to restore law and order; and

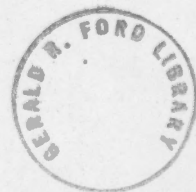
WHEREAS the Governor has requested me to use such of  
the Armed Forces of the United States as may be necessary  
for those purposes; and

WHEREAS such domestic violence and disorder are also  
obstructing the execution of the laws of the United States,  
and endangering the security of Federal property and func-  
tions, in and about the City of \_\_\_\_\_:



NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, do command all persons engaged in such acts of violence to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_, and of the Independence of the United States of America the one hundred and ninety-\_\_\_\_\_.



EXECUTIVE ORDER

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PROVIDING FOR THE RESTORATION OF LAW AND ORDER  
IN THE STATE OF \_\_\_\_\_

WHEREAS I have today issued Proclamation No. \_\_\_\_\_  
pursuant in part to the provisions of Chapter 15 of Title 10  
of the United States Code; and

WHEREAS the conditions of domestic violence and dis-  
order 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 laws of the  
United States, including Chapter 15 of Title 10 of the  
United States Code, and Section 301 of Title 3 of the  
United States Code, it is hereby ordered as follows:

SECTION 1. Units and members of the Armed Forces of  
the United States will be used to suppress the violence  
described in the proclamation and to restore law and order  
in and about the City of \_\_\_\_\_.



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 active military service of the United States units or members of the National Guard and to order to active duty units of the Reserve Components of the Armed Forces, 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 and in the administration of justice in and about the City of \_\_\_\_\_,

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 federalized National Guard and Reserve Component units and personnel shall be released from active Federal service. Such determinations 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.

THE WHITE HOUSE,

, 19\_\_

II-2-A-20



LAW AND ORDER IN THE WASHINGTON METROPOLITAN AREA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS I have been informed that conditions of domestic violence and disorder exist in the Washington metropolitan area, endangering life and property and obstructing execution of the laws, and that local police forces are unable to bring about the prompt cessation of such acts of violence and restoration of law and order; and

WHEREAS I have been requested to use such units of the National Guard and of the Armed Forces of the United States as may be necessary for those purposes; and

WHEREAS in such circumstances it is also my duty as Chief Executive to take care that the property, personnel and functions of the Federal Government, of embassies of foreign governments, and of international organizations in the Washington metropolitan area are protected against violence or other interference:



NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, by virute of the authority vested in me by the Constitution and laws of the United States, do command all persons engaged in such acts of violence to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord nineteen hundred and \_\_\_\_\_, and of the Independence of the United States of America the one hundred and ninety-\_\_\_\_\_.



EXECUTIVE ORDER

-----

PROVIDING FOR THE RESTORATION OF LAW AND ORDER IN  
THE WASHINGTON METROPOLITAN AREA

WHEREAS I have today issued Proclamation No. \_\_\_\_\_,  
prusuant in part to the provisions of Chapter 15 of Title 10  
of the United States Code; and

WHEREAS the conditions of domestic violence and dis-  
order described therein continue, and the persons engaging  
in such acts of violence have not dispersed:

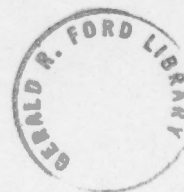
NOW, THEREFORE, by virtue of the authority vested in  
me as President of the United States and Commander in Chief  
of the Armed Forces under the Constitution and laws of the  
United States, including Chapter 15 of Title 10 of the  
United States Code and Section 301 of Title 3 of the United  
States Code, and by virute of the authority vested in me  
as Commander in Chief of the militia of the District of  
Colombia by the Act of March 1, 1889, as amended (D. C. Code,  
Title 39), it is hereby ordered as follows:





SECTION 1. Units and members of the Armed Forces of the United States or of the National Guard of the District of Columbia, or both, will be used to suppress the violence in and about the Washington metropolitan area.

SECTION 2. (a) 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 and to protect against unlawful interference the property, personnel and functions of the Federal and District Governments, of embassies of foreign governments, and of international organizations in the Washington metropolitan area. To these ends, he is authorized to call into the active military service of the United States units or members of the National Guard, and to order to active duty units of the Reserve Components of the Armed Forces, 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.



(b) In addition, in carrying out the provisions of this order, the Secretary of Defense is authorized to exercise any of the powers vested in me by law as Commander in Chief of the militia of the District of Columbia, during such time as units or members of the Army National Guard or Air National Guard of the District shall not have been called into the active military service of the United States.

(c) In carrying out the provisions of this order, the Secretary of Defense shall observe such law enforcement policies as the Attorney General may determine.

SECTION 3. Until such time as military 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 Government agencies assisting in the suppression of violence and in the administration of justice in the Washington metropolitan area, and (2) to coordinate the activities of all such agencies with those of State and District of Columbia agencies similarly engaged.



SECTION 4. The Secretary of Defense is authorized to determine when Federal or District military forces shall be withdrawn from the disturbance area and when federalized National Guard and other Reserve Component units and personnel shall be released from active Federal service. Such determinations shall be made in the light of the Attorney General's recommendations as to the ability of civilian authorities to resume full responsibility for the maintenance of law and order in the affected area.

SECTION 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.

THE WHITE HOUSE,

, 19\_\_.

II-2-A-26



Washington, D. C. 20530

November 10, 1972

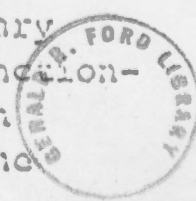
Honorable Melvin R. Laird  
Secretary of Defense  
Washington, D. C.

Dear Mr. Secretary:

As you know, pursuant to the Presidential directive "To Devise Procedures for Reacting Swiftly and Effectively to Acts of Terrorism Which Occur," the Cabinet Committee to Combat Terrorism has decided that the Federal Bureau of Investigation will have primary jurisdiction and overall responsibility for direction of operations when and if such acts occur and that other federal departments and agencies will assist in every appropriate way. During recent meetings of the Subcommittee of the Cabinet Committee to Combat Terrorism and in connection with these responsibilities, the Federal Bureau of Investigation has expressed the concern that in certain unlikely but foreseeable situations, such as a foreign embassy in the United States being taken over by a terrorist group, the Bureau might not have the capability of accomplishing its mission without assistance from the Department of Defense. Such needed assistance might be in the form of specialized equipment or weaponry, support personnel or even, as a last resort, the commitment of some federal troops.

I am writing this letter to summarize our oral understanding of the procedures that will be followed in the unusual event that support and assistance from the Department of Defense is required.

1. If a request from the Acting Director, Federal Bureau of Investigation, is limited to the loan of military equipment and/or weaponry, or members of the services functioning in a technical but not law enforcement capacity, such request can be made directly to the Under Secretary of the



13272



My and the Under Secretary may respond on behalf of the Department of Defense. No Presidential authorization is necessary for this support. I understand that the Federal Bureau of Investigation is already in the process of making its potential needs known to the Department of Defense so that the material will be readily available without delay if needed.

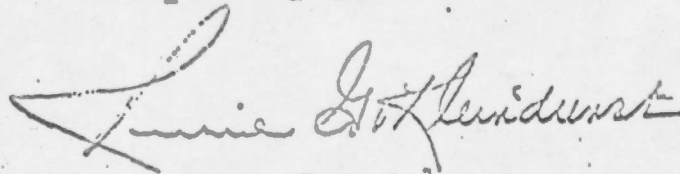
2. If federal troops are required for any law enforcement activity in connection with this Agreement, the President must first authorize this commitment. If the President approves, troops may be made available for missions designated by the FBI pursuant to its responsibility for overall direction of operations, but actual command and operational control of the troops will remain with the military. I believe that we are both in agreement that there are already existing procedures in effect for the use of federal troops and such procedures are contained in a memorandum of understanding dated April 1, 1969, and entitled, "Memorandum for the President re Inter-departmental Action Plan for Civil Disturbances;" which memorandum was signed by you and my predecessor, John N. Mitchell, and approved by the President. Although this memorandum is principally geared to situations involving a state request for assistance in controlling urban violence and disorder under Section 331 of Title 10, United States Code, the relationships it formalizes are equally applicable to other situations, including the situation above outlined. In general, the Attorney General after consultation with the Secretary of Defense will advise the President on the necessity for troop use, and the President's decision will be communicated to the Department of Defense as an Executive Order if troops are used under Chapter 15 of Title 10, United States Code, or incorporated into a memorandum from the Attorney General to the Department of Defense if troops are used pursuant to the Government's inherent authority to protect Federal property and functions.

Support furnished pursuant to this agreement shall be on a reimbursable basis in accordance with the Economy Act, 31 USC 686.




If you agree that this letter correctly sets forth our understanding would you please indicate your concurrence below and on the enclosed copy, which you can return.

Very truly yours,

  
Attorney General

I concur.

  
Date: 20 October 1972



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MEMORANDUM FOR: Secretaries of the Military Departments  
Chairman of the Joint Chiefs of Staff  
Assistant Secretaries of Defense  
Assistants to the Secretary of Defense  
Directors of the Defense Agencies

SUBJECT: Assistance to Federal Agencies in Combatting Terrorism

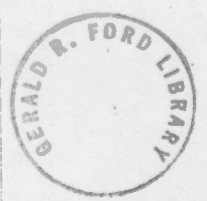
Reference: Letter, Attorney General to Secretary of Defense,  
November 10, 1972 (copy attached)

The Department of Justice and the Department of Defense have reached broad agreement on the procedures to be followed in the event a terrorist incident leads to requests to the Department of Defense by the Federal Bureau of Investigation. The attached letter of November 10, 1972 contains the understanding.

Support rendered by the Department of Defense to the Department of Justice pursuant to the November 10 letter falls under Section I.B., DoD Directive 3025.12 ("instances where military resources may be used to protect life or Federal property or to prevent disruption of Federal functions"). Consequently, the Secretary of the Army's designation as Executive Agent in that Directive will be deemed to extend to the employment of military resources in response to a request made under the terms of the November 10 letter, subject to the limitations set out in the letter and in the DoD Directive.



Attachment



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
WASHINGTON, D.C. 20310

30 July 1973

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Employment of Military Resources to Assist the Federal Bureau of Investigation in the Event of Terrorist Incidents

REFERENCES:

a. Memorandum from the President to the Secretary of State, Subject: "Action to Combat Terrorism," September 25, 1972, in vol. 8, no. 40, Weekly Compilation of Presidential Documents 1452, October 2, 1972, directing Federal departments and agencies to cooperate with Cabinet Committee in responding to acts of terrorism.

b. Letter between the Attorney General and the Secretary of Defense concerning procedures for reacting to terrorist incidents, dated 10 and 12 November 1972 (Inclosure 1).

c. Interdepartmental Action Plan for Civil Disturbances, dated 1 April 1969.

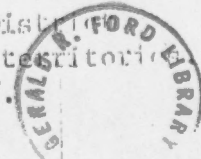
d. DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances", dated 19 August 1971.

e. Secretary of Defense Memorandum, "Assistance to Federal Agencies in Combatting Terrorism", dated December 8, 1972 (Inclosure 2).

f. Department of the Army Civil Disturbance Plan (GARDEN PLOT), dated 24 June 1970.

1. PURPOSE AND SCOPE

a. This Memorandum provides policy and direction for responding to Federal Bureau of Investigation requests for technical personnel not acting in a law enforcement capacity, and other military resources to be employed in connection with controlling actual or imminent terrorist incidents over which the FBI has jurisdiction in the 50 States, District of Columbia, Commonwealth of Puerto Rico, and US possessions and territories pending incorporation of these policies in Annex K of reference f.





SUBJECT: Employment of Military Resources to Assist the Federal Bureau of Investigation in the Event of Terrorist Incidents

b. This Memorandum does not apply to requests for military personnel to assist the Federal Bureau of Investigation in a law enforcement role, nor does it apply to exchange of intelligence/counterintelligence information. Policy and procedures for requesting Federal Armed Forces to assist civil authorities in law enforcement roles or in direct support of law enforcement activities is contained in references b, c, d and f.

## 2. APPLICABILITY

The provisions of this Memorandum apply to the Military Departments, Joint Chiefs of Staff, unified and specified commands, and Defense Agencies, hereinafter collectively referred to as "DoD components", having cognizance over military resources which may be used under the provisions of this Memorandum.

## 3. DEFINITIONS

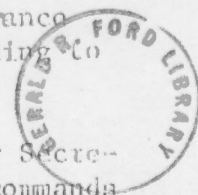
a. A terrorist incident is a criminal act committed or threatened to be committed in order to advance a political objective, and greatly endangering safety or property. This definition does not include aircraft piracy emergencies which are governed by the provisions of Deputy Secretary of Defense Memorandum, "Support of Civil Authorities in Airplane Hijacking Emergencies," dated 29 June 1972. It may be difficult in some situations to determine whether a particular incident fits the definition of terrorism. In these cases commanders are authorized to accept the judgment of the FBI official making the request if it is supported by the available facts.

b. Military resources include military and civilian personnel, facilities, equipment, and supplies under the control of a DoD component.

## 4. POLICIES AND PROCEDURES

Military resources for use in connection with a terrorist incident will be provided only upon request of the Director, Federal Bureau of Investigation, or the Senior Federal Bureau of Investigation official present at the scene of a terrorist incident. The provisions of paragraph X, DoD Directive 3025.12, and Annex K, Department of the Army Civil Disturbance Plan (GARDEN PLOT) prescribe the policies and procedures for responding to FBI requests for assistance except as modified as follows:

a. Requests for Group Two and 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



SUBJECT: Employment of Military Resources to Assist the Federal Bureau of Investigation in the Event of Terrorist Incidents

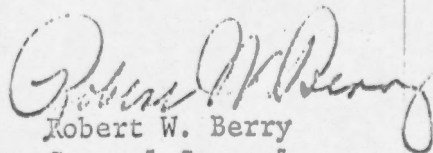
who have been delegated such authority by the appropriate Service Secretary or CINC. Delegation of authority to approve requests for Group Two and Three resources to the installation commander level is encouraged in order to provide the FBI with a rapid response in dealing with terrorist incidents.

b. Requests for equipment which involve technical/operating personnel, excluding firefighting and explosive ordnance disposal, will be processed as a Group One resource.

#### 5. EFFECTIVE DATE AND IMPLEMENTATION

This Memorandum is effective immediately. Military departments, JCS, and Defense agency directives, instructions, or plans (e.g., GARDEN PLOT) for the use of military resources will be reviewed and revised as necessary to conform with the policies and guidance established herein. Implementing directives, instructions, or plans revised or developed by DoD components under assignment herein will be furnished the DoD Executive Agent for review.

2 Incl  
as

  
Robert W. Berry  
General Counsel

Distribution:

Secretary of the Navy  
Secretary of the Air Force  
Chairman, Joint Chiefs of Staff  
Chief of Staff, US Army  
Director, Defense Supply Agency  
Director, Defense Communications Agency  
Director, Defense Intelligence Agency

CF:

Deputy Assistant Secretary of Defense (Admin),  
Office of the Assistant Secretary of Defense (Comptroller)  
Assistant Secretary of Defense (I&L)  
Assistant Secretary of Defense (PA)  
General Counsel, Department of Defense



⑤ Sudden Emergency

Declaration of intention to become a citizen of the United States, see section 1445 (f) of Title 8, Aliens and Nationality.

§312. Militia duty: exemptions.

(a) The following persons are exempt from militia duty:

- (1) The Vice President.
- (2) The judicial and executive officers of the United States, the several States and Territories, Puerto Rico, and the Canal Zone.
- (3) Members of the armed forces, except members who are not on active duty.
- (4) Customhouse clerks.
- (5) Persons employed by the United States in the transmission of mail.
- (6) Workmen employed in armories, arsenals, and naval shipyards of the United States.
- (7) Pilots on navigable waters.
- (8) Mariners in the sea service of a citizen of, or a merchant in, the United States.

(b) A person who claims exemption because of religious belief is exempt from militia duty in a combatant capacity, if the conscientious holding of that belief is established under such regulations as the President may prescribe. However, such a person is not exempt from militia duty that the President determines to be noncombatant. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U. S. Code)	Source (Statutes at Large)
312 (a).....	32: 3 (less last 67 words).	June 3, 1916, ch. 134, § 50, 39 Stat. 197.
312 (b).....	32: 3 (last 67 words).	

In subsection (a), the words "Members of the armed forces" are substituted for the words "persons in the military or naval service". The words "except members who are not on active duty" are inserted to reflect an opinion of the Judge Advocate General of the Army (JAGA 1952/4374, 9 July 1952). The word "artificers" is omitted as covered by the word "workmen". The words "naval shipyards" are substituted for the words "navy yards" to reflect modern terminology. The words "on navigable waters" are inserted to preserve the original coverage of the word "pilots". The words "actually" and "without regard to age" are omitted as surplusage.

CROSS REFERENCES

Deferments and exemptions from training and service under Universal Military Training and Service Act, see section 456 of Appendix to Title 50, War and National Defense.

Chapter 15.—INSURRECTION

- Sec.
- 331. Federal aid for State governments.
- 332. Use of militia and armed forces to enforce Federal authority.
- 333. Interference with State and Federal law.
- 334. Proclamation to disperse.
- 335. Guam included as "State".<sup>1</sup>
- 336. Virgin Islands included as "State".<sup>2</sup>

§331. Federal aid for State governments.

Whenever there is an insurrection in any State against its government, the President may, upon

<sup>1</sup> Pub. L. 90-497, § 11, Sept. 11, 1968, 82 Stat. 847, added section 335 without reflecting addition in chapter analysis.

<sup>2</sup> Pub. L. 90-496, § 12, Aug. 23, 1968, 82 Stat. 841, added section 336 without reflecting addition in chapter analysis.

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. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U. S. Code)	Source (Statutes at Large)
331.....	50: 201.	R. S. 5297.

The words "armed forces" are substituted for the words "land or naval forces of the United States". The word "governor" is substituted for the word "executive". The word "may" is substituted for the words "it shall be lawful . . . to". The words "into Federal service" are substituted for the word "forth" for uniformity and clarity.

CROSS REFERENCES

Army National Guard in Federal service, call, see section 3500 of this title.

Use of Army and Air Force as posse comitatus, see section 1385 of Title 18, Crimes and Criminal Procedure.

§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. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U. S. Code)	Source (Statutes at Large)
332.....	50: 202.	R. S. 5298.

50: 202 (last 22 words) is omitted as surplusage. The words "armed forces" are substituted for the words "land and naval forces of the United States". The words "call into Federal service such of the militia" are substituted for the words "call forth the militia of any or all the States" for clarity and uniformity. The word "may" is substituted for the words "it shall be lawful". The words "faithful execution of the" and "in whatever State or Territory thereof the laws of the United States may be forcibly opposed" are omitted as surplusage.

Ex. Ord. No. 10730. ASSISTANCE FOR REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS

Ex. Ord. No. 10730, Sept. 24, 1957, 22 F. R. 7628, provided: WHEREAS on September 23, 1957, I issued Proclamation No. 3204 [set out as a note under section 334 of this title] reading in part as follows:

WHEREAS the command contained in that Proclamation has not been obeyed and wilful obstruction of enforcement of said court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes of the United States, including Chapter 15 of Title 10, particularly sections 332, 333 and 334 thereof, and section 302 of Title 3 of the United States Code, it is hereby ordered, as follows:

SECTION 1. I hereby authorize and direct the Secretary of Defense to order into the active military service of the United States as he may deem appropriate to carry



## TITLE 10.—ARMED FORCES

332

out the purposes of this Order, any or all of the units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders.

Sec. 2. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstruction of justice in the State of Arkansas with respect to matters relating to enrollment and attendance at public schools in the Little Rock School District, Little Rock, Arkansas. In carrying out the provisions of this section, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to Section 1 of this Order.

Sec. 3. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Eastern District of Arkansas, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Sec. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this Order.

**EX. ORD. NO. 11053. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI**

Ex. Ord. No. 11053, Sept. 30, 1962, 27 F.R. 9681, provided: WHEREAS on September 30, 1962, I issued Proclamation No. 3497 [set out as a note under section 334 of this title] reading in part as follows:

"WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

"WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

"WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from his adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

"NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith;" and

WHEREAS the commands contained in that proclamation have not been obeyed and obstruction of enforcement of those court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 [this chapter], particularly Sections 332, 333 and 334 thereof, and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce all orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and to remove all obstructions of justice in the State of Mississippi.

Sec. 2. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Sec. 3. I hereby authorize the Secretary of Defense to call into the active military service of the United States,

as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Mississippi to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to this section.

Sec. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

JOHN F. KENNEDY

**EX. ORD. NO. 11111. ASSISTANCE FOR REMOVAL OF OBSTRUCTIONS OF JUSTICE AND SUPPRESSION OF UNLAWFUL COMBINATIONS WITHIN THE STATE OF ALABAMA**

Ex. Ord. No. 11111, June 11, 1963, 28 F.R. 5709, provided: WHEREAS on June 11, 1963, I issued Proclamation No. 3542 [set out as a note under section 334 of this title], pursuant in part to the provisions of section 334 of Title 10, United States Code; and

WHEREAS the commands contained in that Proclamation have not been obeyed, and the unlawful obstructions of justice and combinations referred to therein continue:

NOW THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 332, 333 and 334 thereof and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to remove obstructions of justice in the State of Alabama, to enforce the laws of the United States within that State, including the orders of the United States District Court for the Northern District of Alabama referred to in the said Proclamation, and to suppress unlawful assemblies, combinations, conspiracies and domestic violence which oppose or obstruct the execution of the laws of the United States or impede the course of justice under those laws within that State.

Sec. 2. In furtherance of the authorization and direction contained in section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

Sec. 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Alabama to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of section 1, the Secretary of Defense is authorized to use the units, and members thereof, called into the active military service of the United States pursuant to this section.

Sec. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

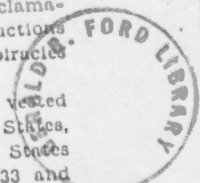
JOHN F. KENNEDY

**EX. ORD. NO. 11118. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF ALABAMA**

Ex. Ord. No. 11118, Sept. 10, 1963, 28 F.R. 9863, provided: WHEREAS, on September 10, 1963, I issued a proclamation entitled "Obstructions of Justice in the State of Alabama" [set out as a note under section 334 of this title] pursuant in part to the provisions of section 334 of Title 10 of the United States Code and

WHEREAS the commands contained in that proclamation have not been obeyed, and the unlawful obstructions of justice, assemblies, combinations, and conspiracies referred to therein continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 332, 333 and 334 thereof, and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:





SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to remove obstructions of justice in the State of Alabama, to enforce the laws of the United States within that State, including any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama, and to suppress unlawful assemblies, combinations, conspiracies, and domestic violence which oppose, obstruct, or hinder the execution of the law or impede the course of justice under the law within that State.

SEC. 2. In furtherance of the authorization and direction contained in Section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

SEC. 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Alabama to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, of the Army National Guard and of the Air National Guard of the State of Alabama called into the active military service of the United States pursuant to this section or otherwise.

SEC. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

JOHN F. KENNEDY

§ 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. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U. S. Code)	Source (Statutes at Large)
333.....	50: 203.	R. S. 5299.

The words "armed forces" are substituted for the words "land or naval forces of the United States". The word "shall" is substituted for the words "it shall be lawful for . . . and it shall be his duty".

§ 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. (Aug. 10, 1956, ch. 1041, 70A Stat. 16.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U. S. Code)	Source (Statutes at Large)
334.....	50: 204.	R. S. 5300.

The words "militia or the armed forces" are substituted for the words "military forces" for clarity and to conform to sections 331, 332, and 333 of this title.

PROC. NO. 3204. OBSTRUCTION OF JUSTICE IN THE STATE OF ARKANSAS

Proc. No. 3204, Sept. 23, 1957, 22 F. R. 7628, provided: WHEREAS certain persons in the State of Arkansas, individually and in unlawful assemblages, combinations, and conspiracies, have wilfully obstructed the enforcement of orders of the United States District Court for the Eastern District of Arkansas with respect to matters relating to enrollment and attendance at public schools, particularly at Central High School, located in Little Rock School District, Little Rock, Arkansas; and

WHEREAS such wilful obstruction of justice hinders the execution of the laws of that State and of the United States, and makes it impracticable to enforce such laws by the ordinary course of judicial proceedings; and

WHEREAS such obstruction of justice constitutes a denial of the equal protection of the laws secured by the Constitution of the United States and impedes the course of justice under those laws:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstruction of justice to cease and desist therefrom, and to disperse forthwith.

Assistance for removal of obstruction of justice in Arkansas, see Ex. Ord. 10730, set out as a note under section 332 of this title.

PROC. NO. 3497. OBSTRUCTION OF JUSTICE IN THE STATE OF MISSISSIPPI

Proc. No. 3497, Sept. 30, 1962, 27 F.R. 9681, provided:

WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies have been and are wilfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

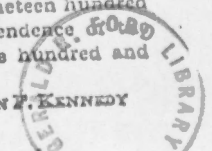
WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 30th day of September in the year of our Lord nineteen hundred [SEAL] and sixty-two, and of the Independence of the United States of America the one hundred and eighty-seventh.

JOHN F. KENNEDY



Assistance for removal of unlawful obstructions of justice in Mississippi, see Ex. Ord. No. 11053, Sept. 30, 1963, 28 F.R. 9093, set out as a note under section 332 of this title.

**PROC. NO. 3542. UNLAWFUL OBSTRUCTION OF JUSTICE AND COMBINATIONS IN THE STATE OF ALABAMA**

Proc. No. 3542, June 11, 1963, 28 F.R. 5707, provided: WHEREAS on June 5, 1963, the United States District Court for the Northern District of Alabama entered an order enjoining the Governor of the State of Alabama, together with all persons acting in concert with him, from blocking or interfering with the entry of certain qualified Negro students to the campuses of the University of Alabama at Tuscaloosa and Huntsville, Alabama, and from preventing or seeking to prevent by any means the enrollment or attendance at the University of Alabama of any person entitled to enroll in or attend the University pursuant to the order of the court of July 1, 1955, in the case of *Lucy v. Adams*; and

WHEREAS both before and after the entry of the order of June 5, 1963, the Governor of the State of Alabama has declared publicly that he intended to oppose and obstruct the orders of the United States District Court relating to the enrollment and attendance of Negro students at the University of Alabama and would, on June 11, 1963, block the entry of two such students to a part of the campus of the University of Alabama at Tuscaloosa; and

WHEREAS I have requested but have not received assurances that the Governor and forces under his command will abandon this proposed course of action in violation of the orders of the United States District Court and will enforce the laws of the United States in the State of Alabama; and

WHEREAS this unlawful obstruction and combination on the part of the Governor and others against the authority of the United States will, if carried out as threatened, make it impracticable to enforce the laws of the United States in the State of Alabama by the ordinary course of judicial proceeding; and

WHEREAS this unlawful combination opposes the execution of the laws of the United States and threatens to impede the course of justice under those laws:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, including Chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 332, and 333 and 334 thereof, do command the Governor of the State of Alabama and all other persons engaged or who may engage in unlawful obstructions of justice, assemblies, combinations, conspiracies or domestic violence in that State to cease and desist therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eleventh day of June in the year of our Lord nineteen hundred [SEAL] and sixty-three, and of the Independence of the United States of America the one hundred and eighty-seventh.

JOHN F. KENNEDY

Assistance for removal of obstructions of justice and suppression of unlawful combinations in Alabama, see Ex. Ord. No. 11111, June 11, 1963, 28 F.R. 5709, set out as a note under section 332 of this title.

**PROC. NO. 3554. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA**

Proc. No. 3554, Sept. 10, 1963, 28 F.R. 9861, provided: WHEREAS the Governor of the State of Alabama, together with certain other officials of that State, and other persons, individually and in unlawful assemblies, combinations, and conspiracies, have been and are willfully opposing and obstructing the execution of the laws of the United States, including the enforcement of orders entered by the United States District Courts in the State of Alabama relating to the enrollment and attendance of students in public schools in that State, and have been and are impeding the course of justice under those laws; and

WHEREAS such unlawful assemblies, combinations, and conspiracies make it impracticable to enforce the laws

of the United States in the State of Alabama by the ordinary course of judicial proceedings; and

WHEREAS such unlawful assemblies, combinations, and conspiracies so hinder the execution of the laws of the State of Alabama, and of the United States within the State of Alabama, that a part or class of its people is deprived of rights, privileges, immunities, and protections named in the Constitution and secured by law, and the constituted authorities of that State refuse to protect such rights, privileges, or immunities, or to give that protection:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 332, 333, and 334 thereof, do command all persons engaged in such unlawful obstructions of justice, assemblies, combinations, and conspiracies to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this tenth day of September in the year of our Lord nineteen hundred and sixty-three, and of the Independence of the United States of America the one hundred and eighty-eighth.

JOHN FITZGERALD KENNEDY

Assistance for removal of unlawful obstructions of justice in Alabama, see Ex. Ord. No. 11118, Sept. 10, 1963, 28 F.R. 9863, set out as a note under section 332 of this title.

**§ 335. Guam included as "State".<sup>1</sup>**

For purposes of this chapter, "State" includes the unincorporated territory of Guam. (Added Pub. L. 90-497, § 11, Sept. 11, 1968, 82 Stat. 847.)

**EFFECTIVE DATE**

Section 11 of Pub. L. 90-497 provided in part that this section shall be effective on the date of enactment of Pub. L. 90-497, which was approved on September 11, 1968.

**§ 336. Virgin Islands included as "State".<sup>1</sup>**

For the purposes of this chapter, "State" includes the unincorporated territory of the Virgin Islands. (Added Pub. L. 90-496, § 12, Aug. 23, 1968, 82 Stat. 841.)

**EFFECTIVE DATE**

Section 12 of Pub. L. 90-496 provided in part that this section shall be effective on the date of enactment of Pub. L. 90-496, which was approved Aug. 23, 1968.

**Chapter 17.—ARMING OF AMERICAN VESSELS**

Sec.

351. During war or threat to national security.

§ 351. During war or threat to national security.

(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

<sup>1</sup> Section catchline has been supplied editorially since section was enacted without a catchline.

**§ 3497. Army National Guard of United States: members; status in which ordered into Federal service.**

Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. (Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U. S. Code)	Source (Statutes at Large)
3497.....	50: 1123 (a).	July 9, 1952, ch. 608, § 713 (a), 66 Stat. 504.

The words "officers and enlisted" and "in their status" are omitted as surplusage. The word "Reserves" is substituted for the words "Reserve officers and Reserve enlisted members". The words "to active duty" are substituted for the words "into Federal service".

**§ 3498. Army National Guard of United States: mobilization; maintenance of organization.**

During an initial mobilization, the organization of a unit of the Army National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty. (Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U. S. Code)	Source (Statutes at Large)
3498.....	50: 1122 (a).	July 9, 1952, ch. 608, § 712 (a), 66 Stat. 504.

The words "ordered into active Federal service" are inserted for clarity. The words "shall . . . be maintained as it existed on the date of the order to duty" are substituted for the words "existing at the date of an order to active Federal service shall be maintained intact".

**CROSS REFERENCES**

Regulations to carry out this section, see section 280 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 280 of this title.

**§ 3499. Army National Guard in Federal service: status.**

Members of the Army National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army, except those applicable only to members of the Regular Army. (Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U. S. Code)	Source (Statutes at Large)
3499.....	32: 82.	June 3, 1916, ch. 134, § 101, 39 Stat. 208.

The words "Members of" are inserted for clarity. The words "governing the Army, except those applicable only to members of the Regular Army" are substituted for the words "governing the Regular Army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law", since the Regular Army, under

section 3076 of this title, consists only of persons whose permanent retention in the military service is "contemplated by law".

**§ 3500. Army National Guard in Federal service: call.**

Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the Army National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia. (Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U. S. Code)	Source (Statutes at Large)
3500.....	32: 81a.	Jan. 21, 1903, ch. 106, § 4; restated May 27, 1908, ch. 204, § 3, 35 Stat. 400.

The words "or any of the Territories, Commonwealths, or possessions" are inserted to conform to an opinion of the Judge Advocate General of the Army (C. 16273, May 3, 1904). The words "laws of the United States" are substituted for the words "laws of the Union". The word "may" is substituted for the words "it shall be lawful for". The words "into Federal service" are substituted for the word "forth". The words "members and units" are substituted for the word "number". The words "in such numbers as he considers necessary" are substituted for the words "as he may deem". The words "at his command" and 32: 81a (last 11 words) are omitted as surplusage.

**§ 3501. Army National Guard in Federal service: period of service; apportionment.**

(a) Whenever the President calls the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the Army National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia is called into Federal service with the Army National Guard of another of those jurisdictions, the President may apportion the total number called on the basis of the populations of the jurisdictions affected by the call. (Aug. 10, 1956, ch. 1041, 70A Stat. 199.)



**UNIFORMED SERVICES—HOSTILE FIRE AREAS—  
SPECIAL LEAVE**

*For Legislative History of Act, see p. 2042*

PUBLIC LAW 90-330; 82 STAT. 170

[H. R. 15348]

An Act to extend the authority to grant a special thirty-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

Section 703(b) of title 10, United States Code,<sup>24</sup> is amended by striking out "June 30, 1968", and inserting in lieu thereof "June 30, 1970".

Approved June 5, 1968.

**SECRET SERVICE—PROTECTION OF PRESIDENTIAL  
AND VICE PRESIDENTIAL CANDIDATES**

PUBLIC LAW 90-331; 82 STAT. 170

[H. J. Res. 1292]

Joint Resolution to authorize the United States Secret Service to furnish protection to major presidential or vice presidential candidates.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

(a) The United States Secret Service, in addition to other duties now provided by law, is authorized to furnish protection to persons who are determined from time to time by the Secretary of the Treasury, after consultation with the advisory committee, as being major presidential or vice presidential candidates who should receive such protection (unless the candidate has declined such protection).

(b) The advisory committee referred to in subsection (a) shall consist of the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, the minority leader of the Senate and one additional member selected by the other members of the committee.

Sec. 2. Hereafter, when requested by the Director of the United States Secret Service, Federal Departments and agencies, unless such authority is revoked by the President, shall assist the Secret Service in the performance of its protective duties under section 3056 of title 18 of the United States Code and the first section of this joint resolution.

Sec. 3. For necessary expenses of carrying out the provisions of this resolution, there is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1968, the sum of \$400,000.

Approved June 6, 1968.

next under





§ 3056. Secret Service powers

(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the

person or the President of the United States, the members of his immediate family, the President-elect, the Vice President or other officer next in the order of succession to the office of President, and the Vice President-elect; protect the person of a former President and his wife during his lifetime, the person of the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined; protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad; detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; detect and arrest any person violating any of the provisions of sections 508, 509, and 871 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title; execute warrants issued under the authority of the United States; carry firearms; offer and pay rewards for services or information looking toward the apprehension of criminals; and perform such other functions and duties as are authorized by law. In the performance of their duties under this section, the Director, Deputy Director, Assistant Directors, Assistants to the Director, inspectors, and agents of the Secret Service are authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Moneys expended from Secret Service appropriations for the purchase of counterfeit and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.

(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than \$300 or imprisoned not more than one year, or both.

As amended Jan. 2, 1971, Pub.L. 91-644, Title V, § 19, 84 Stat. 1892; Jan. 5, 1971, Pub.L. 91-651, § 4, 84 Stat. 1941.

References in Text. The Act of June 6, 1968 (82 Stat. 211), referred to in subsec. (b), is set out as "Major Presidential or Vice Presidential Candidates; Personal Protection" note under this section.

1971 Amendments. Subsec. (a). Pub.L. 91-651 authorized the Secret Service to protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad, and substituted "Director, Deputy Director, Assistant Directors, Assistants to the Director" for "Chief, Deputy Chief, Assistant Chief".

Subsec. (b). Pub.L. 91-644 designated existing provisions as subsec. (a) and added subsec. (b).

Applicability of 1950 Reorg. Plan No. 26. Section 5 of Pub.L. 91-651 provided that: "Section 3056 of title 18, United States Code, as amended by section 4 of this Act [this section], shall be subject to Reorganization Plan Numbered 26 of 1950 (64 Stat. 1280) [set out in the Appendix to Title 5, Government Organization and Employees]."

Legislative History. For legislative history and purpose of Pub.L. 91-644,

see 1970 U.S. Code Cong. and Adm. News, p. 3304. See, also, Pub.L. 91-651, 1970 U.S. Code Cong. and Adm. News, p. 5903.

4. Arrest without warrant—Generally Secret service agents, who made warrantless arrest of defendant, charged with passing counterfeit federal reserve notes, were not required, at moment of arrest, to possess knowledge of facts and circumstances comprising probable cause for such arrest, but rather probable cause was to be determined on objective facts available for consideration by agencies or officers participating in arrest. U. S. v. Stratton, C.A.Mo.1071, 433 F.2d 30, certiorari denied 92 S.Ct. 1515, 405 U.S. 1069, 31 L.Ed.2d 800.

Secret Service is empowered to effectuate lawful arrest without warrant only if there is reasonable ground to believe that person to be arrested has committed or is committing a felony. Holt v. U. S. C.A.Or.1968, 404 F.2d 914, certiorari denied 89 S.Ct. 872, 393 U.S. 1080, 21 L.Ed. 2d 770, rehearing denied 89 S.Ct. 1303, 394 U.S. 607, 22 L.Ed.2d 570.

5. Informants Where informant had provided Secret Service agents with reliable information in the past, and informant correctly stated that defendant would be at airport at particular time and would be

MES

carrying counterfeit money after conversing with notified agent that the contraband and a nation to arresting of brown sack bulging pocket, officer had arrest notwithstanding

§ 3060. Preliminary

Index to

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- Appearance 2b
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1. Amendments Statutory amendments preliminary hearing days for in-custody defendants in 20 days for defendants unless defense delay or exceptional has been in effect in district of New York since October 17, 1968. U. S. v. Y.1969, 305 F.Supp. 125.

2. Purpose Sole purpose of provision is to test probability that innocent persons under arrest, and if that made by another means, undue to defendant by no preliminary examination. U. S. v. Milano, F.2d 1022, certiorari denied 404 U.S. 947, 30 L.Ed.2d

Under this section, a preliminary hearing to determine whether probable cause to believe has been committed against has committed a hearing procedure does of providing a defense for discovery of against him. U. S. v. 1969, 307 F.Supp. 117.

This section requires hearing be held with custody defendants and defendants who are represented counsel consents to circumstances exist new powers to magistrates missions did not in to bring uniformity "reasonable time." U. N.Y.1969, 305 F.Supp. 1

2a. Necessity for preliminary

Once indictment preliminary hearing. U. S. v. Furrice, C. 1057.

Constitution does many hearings and without more, does no notion of constitution would vitiate a sub U. S. v. Coley, C.A.Ga certiorari denied 92 S. 30 L.Ed.2d 111.

In this section primary examination, section providing the examination in completion (a) of this section