

Military Support of Domestic Law Enforcement Operations Working Within Posse Comitatus

By DAVID G. BOLGIANO, J.D.



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Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than 2 years, or both.

—Posse Comitatus Act of 1878¹

Military support of domestic law enforcement, especially in the counter-drug arena,² has steadily increased over the past 20 years despite the ominous-sounding penalties of the *Posse Comitatus* Act of 1878 that created a general prohibition against using military personnel in civilian law enforcement. In light of the recent terrorist attacks on America, this support undoubtedly will increase. Local, state, and federal law enforcement communities should be aware of the most common types of military support available to them. They also should

be familiar with some of the legal restrictions imposed on this support by, most notably, the *Posse Comitatus* Act (PCA).

There are specific circumstances when the military may be called upon to directly perform domestic law enforcement duties. Generally, this occurs when the military responds under any of the various civil disturbance statutes invoked by the president to support a request from a state, enforce federal authority, or protect constitutional rights.³ The PCA does not apply to the use of the military to quell disruptions to the public order during

such civil disturbances. Additionally, the military will be called upon to provide personnel and equipment for certain special support activities,⁴ such as domestic terrorist events involving weapons of mass destruction. This article does not address the laws implicated under such limited and special circumstances, but reviews potential legal issues arising out of law enforcement's interface with the military in more common day-to-day missions.

Law enforcement agencies most likely will encounter military support in counterdrug operations, training, disaster assistance, or search and rescue missions. Some activities, such as counterdrug operations, are planned. Others arise out of some exigency. If time and circumstances permit, however, it is highly recommended that the law enforcement agencies involved develop a memorandum of understanding (MOU) between themselves and the supporting military department. At a minimum, this document should state what support is being provided, who pays for the support, and the nature and duration of the support.⁵

The MOU, as well as the operational deployments themselves, should be guided by the legal parameters surrounding such activities. The first step in defining such parameters is to review the scope and nature of the PCA.

UNDERSTANDING THE POSSE COMITATUS ACT

To Whom the PCA Applies

By enacting the PCA, Congress sought to terminate the prevalent

use of federal soldiers in civilian law enforcement roles in the South during the Reconstruction Period following the American Civil War. Today, the PCA is viewed as a prophylaxis against direct military involvement with civilian law enforcement activities. In other words, police officers protect the public safety by investigating criminal activity while the military fights the U.S. battles against hostile enemies.

The PCA, however, does not prohibit all military participation with civilian law enforcement. The key to understanding the PCA is to recognize to whom it applies and what military missions it impacts. Law enforcement authorities seeking assistance from the military should understand the PCA and applicable case law, as well as the implementing regulations published by the secretary of defense and the secretaries of the military departments.

Often times, for instance, when the military support comes from National Guard units acting in their Title 32 (state) capacity,⁶ the PCA does not apply, and there is no need to perform a PCA analysis. This is why the National Command Authority (NCA) directed National Guard assets in their Title 32 status, rather than active forces, to provide supplemental security at civilian airports in response to the recent terrorist attacks. Reservists, on the other hand, are always subject to PCA restrictions when performing their military duty. The first hurdle, therefore, is determining whether or not the PCA applies to the type or category of military force lending support. If the military support an agency receives comes from military units to which the PCA applies, the agency should take steps to ensure that the MOU acknowledges this fact and contains provisions to preclude potential PCA violations. In weighing the application

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of the PCA, civilian leaders, working in conjunction with their military counterparts, should consider certain factors.

The PCA applies to—

- active duty personnel in the Army, Air Force,⁷ Navy and Marines;⁸
- armed forces reservists on active duty, active duty for training, or inactive duty for training;
- National Guard personnel in federal service (Title 10 status); and
- civilian employees of the Department of Defense (DoD) when under direct command and control of a military officer.⁹

The PCA does not apply to—

- members of a military service when off duty and acting in a private capacity. (Members are not acting in a private capacity when assistance to law enforcement officials is rendered under the direction or control of DoD authorities;¹⁰)
- members of the National Guard when not in federal service;
- members of a reserve component when not on active duty, active duty for training, or inactive duty for training; and
- members of the Coast Guard during peacetime.¹¹ (Hence, the requirement for the U.S. Navy in the performance of its counterdrug missions to have Coast Guard law enforcement detachments board suspect vessels and effect arrests.¹²)

If it is determined that the PCA applies to the category of military unit providing support to a law enforcement agency, the next issue is to understand the limitations on the type and circumstance of the mission. In other words, what military operations are covered or proscribed by the PCA?

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What PCA and DoD Implementation Regulations Proscribe

PCA and DoD implementation regulations proscribe direct law enforcement assistance, including—

- interdiction of a vehicle, vessel, aircraft, or other similar activity;
- a search or seizure;
- an arrest, apprehension, stop and frisk, or similar activity; and
- use of military personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators.¹³

There are three separate tests that courts apply to determine whether the use of military personnel has violated the PCA. The first test is whether the action of the

military personnel is “active” or “passive.”¹⁴ An example of active participation is a military member assuming an undercover role or effecting an arrest. Passive participation is exemplified by the military’s conduct of area surveillance or the providing of transportation or training. The more active the military members’ participation becomes, the more likely such participation violates the PCA. The second test is whether use of the armed forces pervades the activities of civilian law enforcement officials.¹⁵ In other words, are the military members expected to perform traditional police investigative or enforcement roles? If so, then the PCA may preclude such activity. The final analysis is whether military personnel subject citizens to the exercise of military power that is regulatory, proscriptive, or compulsory (a power compulsory in nature is one that exerts some coercive force).¹⁶ For instance, if the use of the military would subject civilians to military judicial and administrative sanctions, such use probably violates the PCA.

When the PCA Does Not Apply

The PCA does not apply when actions further a military or foreign affairs function of the United States. This sometimes is known as the “Military Purpose Doctrine.” The primary purpose must be to further the military interest. The civilians may receive an incidental benefit. Such military purposes include the following:

- Investigations and other actions related to enforcement of the Uniform Code of Military Justice (UCMJ).¹⁷

- Investigations and other actions that are likely to result in administrative proceedings by DoD, regardless of whether there is a related civil or criminal proceeding.
- Investigations and other actions related to the commander's inherent authority to maintain law and order on a military installation or facility.¹⁸ Civilians may be detained for an on-base violation long enough to determine whether the civilian authorities are interested in assuming the prosecution.¹⁹
- Protection of classified military information or equipment.
- Protection of DoD personnel, DoD equipment, and official guests of the DoD.
- Such other actions that are undertaken primarily for a military or foreign affairs purpose.

Where the PCA Applies

The PCA only applies within the territorial limits of the United States. A 1989 Department of Justice (DOJ) Office of Legal Counsel opinion concluded that the PCA does not have extraterritorial application.²⁰ Some courts also have adopted the view that the PCA imposes no restriction on use of U.S. armed forces abroad, noting that Congress only intended to preclude military intervention in domestic affairs.²¹ Note, however, that DoD policy²² applies the PCA to all U.S. forces wherever they may be. In the case of compelling and

extraordinary circumstances, however, the secretary of defense may consider exceptions with regard to actions outside the territorial jurisdiction of the United States.

COUNTERDRUG OPERATIONS

Both active component and National Guard personnel support counterdrug operations. This effort is coordinated through the Office of the Defense Coordinator for Drug Enforcement Policy and Support (DEP&S), located within the Office

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of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.²³ Law enforcement agencies are especially interested in counterdrug support because interagency reimbursement generally is not required.

Available support differs between the active component and the National Guard, as do the rules governing their use. Generally, local and state jurisdictions will have most of their interface with National Guard assets, while federal agencies primarily will be the link to ac-

tive component assets. As a general rule, using National Guard assets provides law enforcement agencies with greater flexibility. This is true for a number of reasons. Even though federally funded, National Guard units performing such missions are not in Title 10 (federal) status, and are not subject to PCA.²⁴ National Guard personnel conducting counterdrug missions are protected under the Federal Torts Claim Act²⁵ even though they are not in a federal status. By internal policy, however, National Guard personnel still are precluded, except in exigent circumstances, from direct participation in arresting suspects, conducting searches, or becoming involved in the chain of custody of evidence.²⁶ The following is a list of some, but not all, of the missions the secretary of defense has approved for federal funding to provide counterdrug support to the National Guard:

- Linguist support provides nonevidentiary transcription/translation of audio/video tapes, seized documents, and other information media (active/real-time conversation monitoring or direct participation in interrogations is not allowed).
- Communications support provides personnel to establish, operate, and maintain communications stations, bases, and equipment in support of law enforcement agency counterdrug operations.
- Domestic cannabis suppression/eradication operations support.

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- Transportation support provides transportation (aerial, maritime, or ground) of law enforcement personnel/equipment, persons in law enforcement custody, seized property or contraband as part of on-going, time-sensitive counterdrug operations, when security or other special circumstances reasonably necessitate National Guard support.

- Surface reconnaissance includes reconnoitering or performing area observation by land or water to detect and report illegal drug activities that include cultivated marijuana, suspected isolated drug trafficking airstrips, drug drop zones, illegal drug laboratories, and suspicious aircraft, watercraft or motor vehicles.

- Aerial reconnaissance conducts reconnaissance/observation of airspace, maritime or surface areas (land and internal waterways of the United States and its territories) for illegal drug activities, which include, but are not limited to, cultivation of marijuana or delivery of illegal drugs.

- Educational institution demand reduction support supports community based activities that focus on educational institutions, or otherwise have an educational institution as the primary sponsor, and are primarily designed to educate, train, or otherwise prevent drug abuse.

- Leadership development supports camps, retreats, seminars, and programs not primarily associated with educational institutions that focus on developing drug abuse prevention leadership skills in youth and adults.

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It must be emphasized that National Guard personnel serve in a support role to the law enforcement agency. Any operational plan or MOU never should directly involve National Guard personnel in traditional law enforcement duties, such as arrests, raids, or search and seizures.

Because states have different legal standards governing the use of force, it is important to incorporate the correct rules into any MOU. Understanding what rules apply is critical. More important, these rules should be incorporated into training regimens for the officers, agents, and military personnel actually deploying. Once involved in an operation, the operators will not have

time to “consult the rules” before making an immediate, sometimes life or death, decision.

The question of whether or not National Guard personnel should be armed also is a question to be resolved prior to the beginning of an operation. The adjutant general (TAG) of each state has the authority, after conducting a mission risk assessment, to allow support personnel to be armed. In addition to the military’s rules and criteria governing this decision,²⁷ law enforcement agencies must ensure that their leaders are fully briefed on the capabilities, training, and limitations of the military personnel in this regard. The MOU should clarify these issues both to enhance interoperability and to ensure all personnel understand the restrictions placed on the military members. Plainly stated, military members are not to be used as extra muscle for raids or as primary backup for any mission. A military member’s inherent right of self-defense in exigent circumstances should not be interpreted as providing that same member with law enforcement capacity.

Active component military forces generally support federal law enforcement agencies, although the provisions of the National Defense Authorization Act that provide the primary authority for DoD support to counterdrug operations also lends support to local and state agencies. Military assets for the support of counterdrug activities of any federal, state, or local agency are available by request, and such missions are also coordinated through DEP&S.

Active component support includes transportation of personnel; establishment and support of bases of operations within or outside the United States; counterdrug training; command and control assets; the detection, monitoring, and communications of movement of air and sea traffic within 25 miles of, but outside, the geographic boundaries of the United States; and aerial and ground reconnaissance.²⁸ Again, the military should not be involved in direct enforcement duties. Law enforcement personnel always should be present whenever the possibility of an enforcement action may arise.

GENERAL SUPPORT

Military assistance other than counterdrug support includes, but is not limited to, military training, disaster assistance, and search and rescue operations. Although certain restrictions apply to each type of assistance, the following discussion sets forth the dominant areas of concern.

Training

In order to avoid potential violations of the PCA, the DoD prohibits its personnel from providing advanced military training to civilian law enforcement agencies. Such training includes high-intensity training that focuses on tactics, techniques, or procedures required to apprehend, arrest, detain, or seize a criminal suspect when the potential for a violent confrontation exists.²⁹ Again, the focus is on direct law enforcement-type duties. Specifically prohibited is any type of sniper training, close quarters battle/close quarters combat (CQB/

CQC) training, and military operations in urban terrain (MOUT) exercises. There are limited exceptions to this rule,³⁰ primarily for counterdrug and special operations forces.

Civilian law enforcement agencies may, however, use military ranges for firearms training.³¹ Additionally, military personnel are allowed to train federal, state and local law enforcement personnel in the operation and maintenance of equipment, including equipment provided to civilian law enforcement by the military.³²

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Intelligence Gathering

In addition to the general proscriptions of the PCA, DoD service regulations implementing Executive Order 12333 prohibit military intelligence personnel from collecting, retaining, or disseminating information about the domestic activities of U.S. citizens, resident aliens, or domestic associations or corporations.³³ The FBI, as opposed to the military or CIA, is the lead federal agency responsible for the

collection, analysis, and dissemination of domestic counterintelligence operations. Extreme care must be exercised whenever intelligence information is collected, compiled, or disseminated by military personnel.

In addition to the overarching policy concerns protected by these rules, the fact remains that the military generally is not concerned about the preservation of evidence: victory in warfare is its primary concern, not the successful criminal prosecution of miscreants.

Despite the general proscription against using military intelligence in domestic support operations, Title 10, Section 371, U.S. Code does allow for the transfer of information acquired in the normal course of military operations to civilian law enforcement agencies. In other words, if military personnel observe suspicious activity during their normal duties, they may, as any concerned citizen, pass such information on to the appropriate law enforcement agency. In fact, the military is encouraged to provide law enforcement officials any information collected during the normal course of military operations that may be relevant to a criminal violation. Moreover, law enforcement officials may accompany regularly scheduled military training flights as observers. Further, military intelligence organizations can provide law enforcement agencies with maps, terrain analysis, and damage assessment. These are distinctions with an important difference. The willful use of the military to gather intelligence information within U.S. borders is impermissible, and

great care must be exercised in the planning of joint military-civilian law enforcement operations to ensure that this does not occur.

Disaster Assistance

The president may determine that a natural catastrophe such as a hurricane, earthquake, flood, drought, or fire, may warrant disaster assistance. Under the Stafford Act, the president may direct federal agencies, including the DoD, to provide personnel, equipment, supplies, facilities, and technical advice in support of disaster relief.³⁴ The military may be called upon under three differing scenarios: 1) a presidential declaration of a major disaster; 2) a presidential order to perform emergency work essential for the preservation of life and property; and 3) a presidential declaration of an emergency. The first two scenarios may occur upon request of the governor of an affected state when a disaster is of such severity and magnitude that it is beyond the capabilities of the state and local governments. Upon the request of the governor of Florida, this authority was invoked in 1992 as the result of the damage caused by Hurricane Andrew. Federal assistance can unilaterally be invoked by a presidential declaration of an emergency. No state request is required. Under such circumstances, the president may determine that the emergency involves a subject area in which the United States exercises exclusive or predominant responsibility and authority. This authority was invoked in response to

Hurricane Floyd and the Oklahoma City bombing. The Federal Emergency Management Agency (FEMA) becomes the lead federal agency under such circumstances.

FEMA has established a federal response plan for the effective delivery of federal assistance as the result of any disaster or emergency declared under the Stafford Act. Local and state law enforcement agencies' requests for assistance are coordinated through a state coordinating officer to FEMA. FEMA, or its designee, will determine how to fulfill the request. It is important to recognize and to follow the established chain of command to ensure



the manageable and timely processing of requests for assistance.

Obviously, there are some situations that may require the immediate response of a military commander. A military unit may provide immediate response when imminently serious conditions resulting from any civil emergency or attack exist that require action to save lives, prevent human suffering, or mitigate great property damage.³⁵ This authority, however, is short-lived. Generally, it is applied

only to incidents near a military installation and when time does not permit approval from higher authorities. In light of the ever-increasing advancements in communication technology, such exigencies have become rare occurrences.

The use of force during disaster relief operations can become a sensitive issue. Disaster relief operations, by their very nature, generally do not implicate serious force protection issues. Nevertheless, it must be emphasized that the active duty military forces rely upon federal, local, and state law enforcement or the National Guard for force protection. Local and state law enforcement has primary responsibility for maintaining law and order.

Search and Rescue Operations

The military traditionally has supported civilian search and rescue (SAR) activities. In addition to the U.S. Coast Guard, U.S. Air Force and U.S. Army aviation assets most often provide support. Such support includes the aerial drop of medicine, emergency supplies, and livestock feed; aeromedical evacuation of the sick, injured, and stranded; and the transport and guidance of rescue parties.

Local military commanders may provide SAR assistance when immediate action is required to save human lives, to prevent human suffering, or to mitigate major destruction of property. This authority, however, is limited to the immediate exigency. Direct requests for SAR assistance from civilian authorities should be directed to the Air Force

Rescue Coordination Center (AFRCC).

CONCLUSION

The *Posse Comitatus* Act does not preclude all joint military/law enforcement agency operations. To the contrary, where allowable, such operations are fruitful, providing relevant training and assistance to all participants. Most important, such operations help serve the public, especially at times when the public needs additional governmental support. ♦

Endnotes

¹ 18 U.S.C. § 1385.

² In 1999, Congress appropriated \$725 million for Department of Defense support of counterdrug operations. This figure rose to \$869 million in 2001. See National Defense Appropriations Act of 2001, Pub. L. No. 106-259, 114 Stat. 656, 672 (2000).

³ Title 10, Chapter 15 of the United States Code, entitled "Insurrection," allows the use of federal forces to restore order during time of civil disturbance. See *Domestic Operational Law (DOPLAW) Handbook for Judge Advocates*, pp.52-56, Center for Law and Military Operations, U.S. Army The Judge Advocate General's School, Charlottesville, VA, April 15, 2001.

⁴ Counterterrorism (See Presidential Decision Directive 39, U.S. Policy on Counterterrorism (June 21, 1995)(classified SECRET), support to U.S. Secret Service (See U.S. Department of Defense Directive 3025.13), or special events like the Olympics, Presidential Inaugural events, or wildfire suppression.

⁵ Too often, poorly written and incomplete MOUs from previous missions have made their way around the e-mail circuit. Please use caution when using another's MOU.

⁶ National Guard units, when not performing a Title 10 (Federal) mission, are under the control of the individual states and the governors. This is commonly referred to as Title 32 status.

⁷ Most courts interpreting the *Posse Comitatus Act* have refused to extend its terms to the Navy and Marine Corps. See

United States v. Mendoza-Cecelia, 736 F.2d 1467 (11th Cir. 1992); *United States v. Yunis*, 924 F.2d 1086 (D.C. Cir. 1991); *United States v. Roberts*, 779 F.2d 565 (9th Cir. 1986), cert. denied, 479 U.S. 839 (1986).

⁸ 10 U.S.C. § 375 directed the Secretary of Defense to promulgate regulations forbidding direct participation "by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity." This was done so in Department of Defense Directive 5525.5. Therefore, the proscription has been extended by regulation to the Navy and Marine Corps.

⁹ Department of Defense Directive 5525.5, Encl. 4. See also Army Regulation 500-51, para. 3-2; SECNAVINST 5820.7B, para. 9b(3).

The military traditionally has supported civilian search and rescue (SAR) activities.

¹⁰ *Id.*; see also SECNAVINST 5820.7B, para. 9b(4); Air Force Instruction 10-801.

¹¹ 14 U.S.C. § 2. *Jackson v. Alaska*, 572 P.2d 87 (Alaska 1977).

¹² This requirement also is mandated by 10 U.S.C. § 379.

¹³ Department of Defense Directive 5525.5, Encl. 4, para. A.3.

¹⁴ *United States v. Red Feather*, 392 F. Supp. 916, 921 (W.D.S.D. 1975); *United States v. Yunis*, 681 F. Supp. 891, 892 (D.D.C. 1988); *United States v. Rasheed*, 802 F. Supp. 312 (D. Hawaii 1992).

¹⁵ *Hayes v. Hawes*, 921 F.2d 100 (7th Cir. 1990); *United States v. Bacon*, 851 F.2d 1312 (11th Cir. 1988); *United States v. Hartley*, 796 F.2d 112 (5th Cir. 1986); *United States v. Hartley*, 678 F.2d 961, 978 (11th Cir. 1982), cert. denied, 459 U.S. 1170 (1983); *United States v. Hitchcock*, 103 F. Supp. 1226 (D.Hawaii 1996).

¹⁶ *United States v. Kahn*, 35 F.3d 426 (9th Cir. 1994); *United States v. Casper*, 541 F.2d 1274 (8th Cir. 1976), cert. denied, 30 U.S. 970

(1977); *United States v. McArthur*, 419 F. Supp. 186 (D.N.D. 1975); *United States v. Yunis*, 681 F. Supp. 891, 895-6 (D.D.C. 1988).

¹⁷ *United States v. Thompson*, 33 M.J. 218 (CMA 1991), cert. denied, 502 U.S. 1074 (1992).

¹⁸ *Eggleston v. Department of Revenue*, 895 P.2d 1169 (Colo. Ct. App 1995); *Harker v. State*, 663 P.2d 932 (Alaska 1983); *Anchorage v. King*, 754 P.2d 283 (Alaska Ct. App. 1988).

¹⁹ *Applewhite v. United States*, 995 F.2d 997 (10th Cir. 1993), cert. denied, 510 U.S. 1190 (1994).

²⁰ Memorandum, Off. Legal Counsel for General Brent Scowcroft, 3 Nov. 1989. This opinion also states the restrictions of 10 U.S.C. §§ 371 - 381, specifically 10 U.S.C. § 375, also were not intended to have extraterritorial effect.

²¹ *United States v. Cotton*, 471 F.2d 744 (9th Cir. 1973); *Chandler v. United States*, 171 F.2d 921 (1st Cir. 1948), cert. denied, 336 U.S. 918 (1949); *D'Aquino v. United States*, 192 F.2d 338 (9th Cir. 1951), cert. denied, 343 U.S. 935 (1952). (Note: both Chandler and D'Aquino involved law enforcement in an area of military occupation.) But see *United States v. Kahn*, 35 F.3d 426, 431 n. 6 (9th Cir. 1994) (In a case involving the applicability of the PCA to Navy activities in support of maritime interdiction of a drug-smuggling ship, the government maintained the PCA had no extraterritorial effect. While the court stated that issue had not been definitively resolved, it did state that 10 U.S.C. §§ 371-381 did "impose limits on the use of American armed forces abroad.")

²² Department of Defense Directive 5525.5.

²³ DOPLAW Handbook, *supra* note 4, p. 31.

²⁴ *Gilbert v. United States*, 165 F.3d 470, 473-74 (6th Cir. 1999); *United States v. Benish*, 5 F.3d 20, 25-26 (3rd Cir. 1993).

²⁵ 28 U.S.C. §§ 2671-2680.

²⁶ National Guard Bureau Regulation 500-2, *National Guard Counterdrug Support*, para. 2-1e (March 31, 2000) defines "exigent circumstances" as situations where immediate action is necessary to protect police officers, National Guard personnel, or other persons from death or serious injury; to prevent the loss or destruction of evidence; or to prevent the escape of a suspect already in custody.

²⁷ *Id.*, para. 3-6, sets forth the training and other regulatory requirements applicable to armed National Guard members on counterdrug missions.

²⁸ This authority, while not specifically codified, can be found in Section 1004 of the

National Defense Authorization Act in all years from 1991 to 2002. *See also* 10 U.S.C.A. § 374.

²⁹ Memorandum, Deputy Secretary of Defense, DoD Training Support to U.S. Civilian Law Enforcement Agencies, (June 29, 1996).

³⁰ The U.S. Army Military Police School is authorized to continue training civilian law enforcement personnel in the Counterdrug Special Reaction Team Course, the Counterdrug Tactical Police Operations Course, and the Counterdrug Marksman/Observer Course. On an exceptional basis, the Commander-in-Chief, U.S. Special Operations Command may approve such training by special operations forces. *Id.*

³¹ 10 U.S.C. § 4309.

³² 10 U.S.C. § 373.

³³ Executive Order (EO) 12333, *United States Intelligence Activities* (December 4, 1981); Department of Defense Directive 5240.1R, *Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons* (December, 1982). NOTE: These proscriptions do not apply when the military is performing authorized direct law enforcement activities in support of civil disturbances. *See* U.S. Department of Defense Directive 5200.27, *Acquisition of Information Concerning Persons and Organizations Not Affiliated With the Department of Defense* (January 7, 1980) and U.S. Department of Defense Civil Disturbance Plan (Garden Plot) (February 15, 1991).

³⁴ 42 U.S.C. §§ 5121-5202 (2000).

³⁵ United States Department of Defense Directive 3025.1, *Military Support to Civil Authorities*, para. 4.5 (January 15, 1993).

This article provides a general overview of the important law surrounding law enforcement's interaction with the military. It is not intended to be a legal authority or reference for law enforcement managers, but rather a review that encourages responsible synergy between civilian law enforcement agencies and the military. Finally, law enforcement managers should always consult with their legal advisors prior to implementing an MOU or any operation with the military.

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