

SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PARTS 400–500 [RESERVED]

PART 501—EMPLOYMENT OF TROOPS IN AID OF CIVIL AUTHORITIES

Sec.

- 501.1 Basic policies.
- 501.2 Emergency.
- 501.3 Command authority.
- 501.4 Martial law.
- 501.5 Protection of Federal property.
- 501.6 End of commitment.
- 501.7 Loan of military resources to civil authorities.

AUTHORITY: Secs. 331, 332, 333, and 3012, 70A Stat. 15, 157; 10 U.S.C. 331, 332, 333, 3012.

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§501.1 Basic policies.

(a) The protection of life and property and the maintenance of law and order within the territorial jurisdiction of any State are the primary responsibility of State and local authorities. Generally, Federal Armed Forces are committed after State and local civil authorities have utilized all of their own forces and are unable to control the situation, or when the situation is beyond the capabilities of State or local civil authorities, or when State and local civil authorities will not take appropriate action. Commitment of Federal Armed Forces will take place only—

(1) Under the provisions of this part, and

(2) When the Secretary of the Army, pursuant to the orders and policies of the Secretary of Defense and the President, has generally or specifically so ordered, except in cases of emergency (§501.2).

(b) The Secretary of the Army has been designated as the Executive Agent for the Department of Defense in all matters pertaining to the planning for, and deployment and employment of military resources in the event of civil disturbances. The Department of the Army is responsible for coordinating the functions of all the Military Serv-

ices in this activity for the Executive Agent. The Secretaries of the other Military Services are responsible for providing such assistance as may be requested by the Executive Agent.

(c) Persons not normally subject to military law taken into custody by the military forces incident to the use of Armed Forces, as contemplated by this part, will be turned over, as soon as possible, to the civil authorities. The Army will not operate temporary confinement/detention facilities unless local facilities under the control of city, county, and State governments and the U.S. Department of Justice cannot accommodate the number of persons apprehended or detained. Further, this authority may be exercised only in the event Federal Armed Forces have been committed under the provisions of this part and only with the prior approval of the Department of the Army. When the requirement exists for the Army to operate such facilities, the provisions of Army confinement regulations will apply to the maximum extent feasible under the circumstances.

(d) Whenever military aid is requested by civil authorities in the event of civil disturbances within the States of Alaska, or Hawaii, the Commonwealth of Puerto Rico, or U.S. possessions and territories, the commander of the unified command concerned coordinates the provision of such aid.

(e) Units and members of the Army Reserve on active duty may be employed in civil disturbance operations in the same manner as active forces. Units and members of the Army Reserve may be ordered to active duty for this purpose by the President as provided by law. Members of the Army Reserve, with their consent, may be ordered to active duty for civil disturbance operations under the provisions of 10 U.S.C. 672.

§501.2 Emergency.

(a) In cases of sudden and unexpected invasion or civil disturbance, including

§ 501.3

civil disturbances incident to earthquake, fire, flood, or other public calamity endangering life or Federal property or disrupting Federal functions or the normal processes of Government, or other equivalent emergency so imminent as to make it dangerous to await instructions from the Department of the Army requested through the speediest means of communications available, an officer of the Active Army in command of troops may take such action, before the receipt of instructions, as the circumstances of the case reasonably justify. However, in view of the availability of rapid communications capabilities, it is unlikely that action under this authority would be justified without prior Department of the Army approval while communications facilities are operating. Such action, without prior authorization, of necessity may be prompt and vigorous, but should be designed for the preservation of law and order and the protection of life and property until such time as instructions from higher authority have been received, rather than as an assumption of functions normally performed by the civil authorities.

(b) Emergency firefighting assistance may be provided pursuant to agreements with local authorities; emergency explosive ordnance disposal service may be provided in accordance with paragraph 18, AR 75-15.

§ 501.3 Command authority.

(a) In the enforcement of the laws, Federal Armed Forces are employed as a part of the military power of the United States and act under the orders of the President as Commander in Chief. When commitment of Federal Armed Forces has taken place, the duly designated military commander at the objective area will act to the extent necessary to accomplish his mission. In the accomplishment of his mission, reasonable necessity is the measure of his authority, subject of course, to instructions he may receive from his superiors.

(b) Federal Armed Forces committed in aid of the civil authorities will be under the command of, and directly responsible to, their military and civilian superiors through the Department

32 CFR Ch. V (7-1-99 Edition)

of the Army chain of command. They will not be placed under the command of an officer of the State Defense Forces or of the National Guard not in the Federal service, or of any local or State civil official; any unlawful or unauthorized act on the part of such troops would not be excusable on the ground that it was the result of an order received from any such officer or official. As directed by the Army Chief of Staff, military commanders will be responsive to authorized Federal civil officials.

§ 501.4 Martial law.

It is unlikely that situations requiring the commitment of Federal Armed Forces will necessitate the declaration of martial law. When Federal Armed Forces are committed in the event of civil disturbances, their proper role is to support, not supplant, civil authority. Martial law depends for its justification upon public necessity. Necessity gives rise to its creation; necessity justifies its exercise; and necessity limits its duration. The extent of the military force used and the actual measures taken, consequently, will depend upon the actual threat to order and public safety which exists at the time. In most instances the decision to impose martial law is made by the President, who normally announces his decision by a proclamation, which usually contains his instructions concerning its exercise and any limitations thereon. However, the decision to impose martial law may be made by the local commander on the spot, if the circumstances demand immediate action, and time and available communications facilities do not permit obtaining prior approval from higher authority (§ 501.2). Whether or not a proclamation exists, it is incumbent upon commanders concerned to weigh every proposed action against the threat to public order and safety it is designed to meet, in order that the necessity therefor may be ascertained. When Federal Armed Forces have been committed in an objective area in a martial law situation, the population of the affected area will be informed of the rules of conduct and other restrictive measures the military is authorized to enforce. These will normally be announced by