



CHIEF OF THE NATIONAL GUARD BUREAU NOTICE

NGB-J3/4/7
DISTRIBUTION: A

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28 October 2020

STATE IMMEDIATE RESPONSE

References:

- a. DoD Directive 3025.18, 29 December 2010, "Defense Support of Civil Authorities," Incorporating Change 2, 19 March 2018
- b. FRAGO 01 to OPORD 2020-03 (NGB Response to Civil Unrest), 30 May 2020
- c. DoD Directive 5105.77, 30 October 2015, "National Guard Bureau (NGB)," Incorporating Change 1, 10 October 2017
- d. DoD Directive 5105.83, 05 January 2011, "National Guard Joint Force Headquarters – State (NG JFHQs-State)," as amended

1. Purpose. This notice establishes interim guidance for State immediate response (State IR) that includes use of Department of Defense (DoD) resources in accordance with (IAW) the references and pending the revision of references a and b. This notice also removes the National Guard Bureau's (NGB) requirement for the Chief of the National Guard Bureau (CNGB) to approve the use of National Guard (NG) personnel in a Title 32 (T32) duty status for State IR activities exceeding 72 hours.

2. Cancellation. This notice supersedes all previous NGB guidance on the use of NG personnel in a T32 duty status for State IR.

3. Applicability. This notice applies to all NG personnel in T32 duty status.

a. This notice does not apply to NG personnel in State Active Duty or Title 10 duty status.

b. This notice does not apply to the use of Immediate Response Authority by Federal personnel as described in paragraph 4.i of reference a.

4. Background. States' use of immediate response during civil unrest events in late May 2020, exposed issues in awareness and understanding of DoD and

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NG policies governing immediate response, which has two components: DoD Immediate Response Authority and State IR. Issues include: appropriate use; reporting procedures; approving officials for directing and extending State IR; and reimbursement requirements.

5. Action or Procedure.

a. Authority. IAW paragraph 4.h of reference a, State officials may direct a State IR using NG personnel under State command and control (including personnel in a T32 duty status) IAW State law. Neither placement nor extension of NG personnel in Title 32 duty status are authorized to conduct State IR activities.

b. State Officials. NG commanders and appropriate State civilian officials (hereafter referred to collectively as “State officials”), have State IR authority IAW State law, and may temporarily use NG personnel already in a T32 duty status for such State IR consistent with this notice.

c. Conditions on use of NG Personnel in T32 Duty Status. In addition to the requirements of State law, State officials may authorize NG members already in a T32 duty status to undertake State IR by ensuring all of the following criteria apply to the emergent situation:

(1) A request for assistance from a local civil authority.

(2) Imminently serious conditions with probability for loss of life, human suffering, and/or great property damage.

(3) Time does not permit approval from higher authority, including any State official who may authorize State Active Duty.

(4) The assistance does not involve actions that would subject civilians to the use of military power that is regulatory, prescriptive, proscriptive, or compulsory, such as search, seizure, or arrest.

d. Reporting Procedures.

(1) DoD does not require a State official to notify the National Joint Operations and Intelligence Center (NJOIC) or other DoD entities when a State conducts State IR. However, when State IR includes the use of NG personnel in a T32 duty status, the NG JFHQs-State will notify the NG Joint Operations Center (NGB-JOC) at the earliest opportunity (NLT 12 hours from employment).

(2) If responsible State officials direct NG personnel, who are on duty performing operational support activities authorized by the Secretary of Defense (SecDef) or another official within the Office of the SecDef (for example, Defense Support of Civil Authorities (DSCA) or Homeland Defense activities), to

perform State IR those State officials must notify SecDef through NGB at the earliest possible opportunity, but not later than 12 hours after such State IR begins.

e. Return to Duty.

(1) For State IR using NG personnel in a T32 duty status, NG personnel will return to their original T32 duty as soon as other resources become available to respond. When conducting State IR, State official(s) must immediately seek another authority (such as State Active Duty) or other resources to continue the response.

(2) DoD does not stipulate a responsible State official reassess the necessity for continued use of NG personnel to respond. However, utilization of DoD funds for State IR by NG personnel in a T32 status for a non-DoD purpose must end as soon as possible.

f. Reimbursement. Use of NG personnel in a T32 duty status for State IR is a reimbursable activity beginning at the initiation of State IR activities. Per Enclosure 2 of reference a, CNGB is responsible for ensuring that NG appropriations are appropriately reimbursed for DSCA activities.

6. Releasability. This notice is approved for public release; distribution is unlimited. Obtain copies through <<https://www.ngbpmc.ng.mil/>>.

7. Effective Date. This notice is effective upon publication and expires one year from the date of signature.


DANIEL R. HOKANSON
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Chief, National Guard Bureau