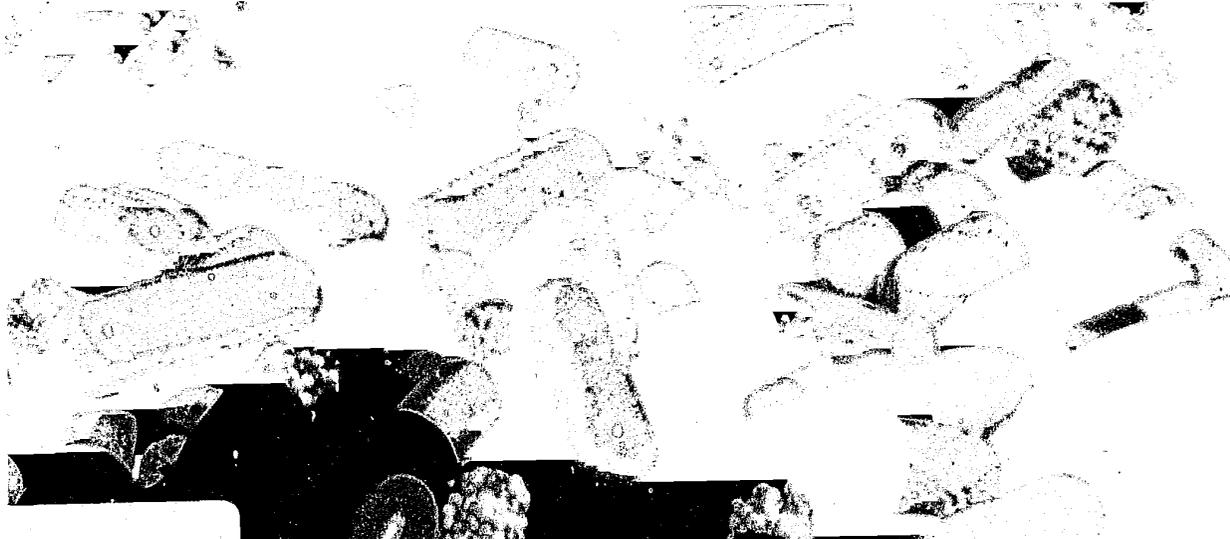




FBI



130303-
130309

U.S. Department of Justice
National Institute of Justice

130303 -
130309

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
FBI Law Enforcement Bulletin

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

... ..



Features



Page 19



Page 27

- 1** **Pharmaceutical Diversion and Abuse** 130303
By Thomas C. Babicke
- 6** **ROP-ing in Fences** 130304
By James Trainum, Nancy Brown, and Raymond Smith, Jr.
- 12** **Drug Abuse and Testing in Law Enforcement** 130305
By Andrew J. Harvey
- 16** **Plateauing in Law Enforcement** 130306
By James M. Childers
- 19** **Gunshot Primer Residue** 130307
By Roger W. Aaron
- 24** **Military Support to Civilian Law Enforcement Agencies** 130308
By R. Barry Cronin
- 27** **Detaining Suspected Drug Couriers: Recent Court Decisions** 130309
By William U. McCormack

Departments

- 5** Book Review
- 10** Police Practices
- 22** The Bulletin Reports



The Cover: Prescription medication misuse and abuse contributes to the drug problems in this country. See article p. 1.

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William S. Sessions, Director

Contributors' opinions and statements should not be considered as an endorsement for any policy, program, or service by the FBI.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget.

Editor—Stephen D. Gladis, D.A.Ed.
Managing Editor—Kathryn E. Sulewski
Art Director—John E. Ott
Assistant Editors—Alice S. Cole
Karen F. McCarron
Production Manager—Andrew DiRosa
Staff Assistant—Carolyn F. Thompson

The *FBI Law Enforcement Bulletin* (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535. Second-Class postage paid at Washington, D.C., and additional mailing offices. Postmaster: Send address changes to *FBI Law Enforcement Bulletin*, Federal Bureau of Investigation, Washington, D.C. 20535

Military Support to Civilian Law Enforcement Agencies

By
R. BARRY CRONIN



A U.S. Marine Corps military police drug detector dog team assists the U.S. Customs Service during an inspection of a Scandinavian merchant vessel.

If a cross-section of police chiefs were polled concerning their understanding of the Posse Comitatus Act, most would likely answer that the act prohibits U.S. military personnel from performing civilian law enforcement functions.¹ However, to assume that Posse Comitatus prevents law enforcement agencies from obtaining any military support would be a mistake. In fact, several exceptions to the general prohibition exist, and civilian police organizations should not be reluctant to seek the military's help in certain circumstances.

This article provides an overview of the type of military support available to civilian law enforcement agencies. It then describes briefly the procedures for requesting military assistance, depending on the type and amount of support desired.

PERMISSIBLE DIRECT ASSISTANCE

As a general rule, the Posse Comitatus Act restricts direct use of military personnel in civilian law enforcement operations. Direct assistance is defined as: 1) A search or seizure; 2) an arrest, apprehension, stop and frisk, or similar activity; or 3) the use of military

The Bulletin Reports

NCJRS User Guide

The National Criminal Justice Reference Service (NCJRS) is the largest criminal justice information network in the world. It disseminates and furnishes research findings to policymakers, practitioners, researchers, academicians, and others in the criminal justice profession. It also offers a variety of services and products in response to special criminal justice questions.

To assist those interested in learning of available services and products, NCJRS has developed a *User Guide*. This guide, which is divided into nine sections, informs readers how to access the NCJRS data base and how to obtain the documents listed in the data base. It also tells how to access the various reference and referral services of NCJRS and its electronic bulletin board. The guide also provides information on publications, audiovisual materials, and microfiche services, among others.

To obtain a copy of the guide or to learn of the products and services of NCJRS, call the toll-free customer service number 1-800-851-3420 (301-251-5500 in Maryland and the Metropolitan Washington, D.C., area) or write to the National Institute of Justice/NCJRS, Box 6000, Rockville, MD 20850.

Female Crime Victims

A report issued by the Bureau of Justice Statistics (BJS) shows that women in the United States sustained an average of 2.5 million violent crimes each year from 1979 to 1987. This BJS report, *Female Victims of Violent Crime*, notes that about one-quarter of these incidents were committed by family members or boyfriends and another 27 percent by people known to the victim. During this same period, males sustained an average of 4 million violent crimes annually, according to the report.

Among the women victims, 6 percent said the crime was a rape or an attempted rape, 17 percent had been robbed, 22 percent were victims of aggravated assault, and 56 percent described a simple assault. Of

those who were rape or attempted rape victims, 65% said they were attacked after nightfall, and more than one-third said the attack happened at or in their place of residence.

Twenty-four percent said the offender used a weapon, and 38% of these said the weapon was a gun. The report also notes that per capita rape and attempted rape rates were highest among women 16 to 24 years old, black women, and separated or divorced women.

A copy of this report can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850. The toll-free number is 1-800-732-3277; in Maryland and the Washington, DC, metropolitan area, the number is 1-300-251-5500.

The Bulletin Reports, a collection of criminal justice studies, reports, and project findings, is written by Kathy Sulewski. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania Ave., NW, Washington, DC 20535.

(NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators.²

Despite these restrictions, it is military policy to try to cooperate with civilian law enforcement officials to the maximum extent possible, depending upon national security and military preparedness, the tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law.³ Even so, direct assistance is permissible when it is with the "...primary purpose of furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities."⁴ The key is that direct assistance must support military interests. Police chiefs, especially those with jurisdictions near major military installations, should be aware of this important exception and of the various forms of military assistance available locally.

TYPES OF AVAILABLE ASSISTANCE

Military Working Dog Teams

The most widely requested form of military assistance is the military working dog (MWD) teams, which are located at almost every major Department of Defense (DoD) installation in the United States.⁵ Normally, military bases have both explosive and drug detector dog teams available for use by civilian law enforcement with the understanding that military commitments will usually take precedence over civilian requests.⁶

“
**The U.S. military
stands ready to
provide civilian law
enforcement with
whatever assistance
it can....**
”



Major Cronin is stationed at U.S. Marine Corps Headquarters, Washington, DC.

Training

Every year, scores of civilian police agencies take advantage of firing ranges, combat towns, and other military training facilities. Depending on the size of the military installation, these facilities can vary from a standard, small arms requalification range to a full-scale combat town where police tactical units can practice in a realistic, urban setting. There are also demolitions ranges, as well as training areas where teams can conduct a variety of outside exercises. Additionally, office spaces and buildings may be used for traditional classroom training. And, if available, military instructors may also be used to train civilian law enforcement personnel.⁷

Expert Advice/Technical Assistance

The military is authorized to provide expert advice to civilian law

enforcement agencies.⁸ There is no restriction on this kind of support so long as military personnel do not participate directly in civilian law enforcement activities.

Equipment and Personnel

Military equipment can be loaned to civilian law enforcement agencies on a temporary basis to support on-going operations and training. Approval for these requests is handled on a case-by-case basis.⁹ In addition, personnel may also be requested in situations where it would be impractical from a cost or time perspective to train civilian personnel to operate and/or to maintain equipment.¹⁰ For example, recently, a local police department requested assistance from a nearby Marine Corps base concerning a homicide case. Eleven Marines, using mine sweepers, were assigned to help the local police department conduct an area search for the homicide weapon.

In this case, it would have been highly impractical to train local police department members on how to use mine sweepers properly. In such cases, however, service members operating or maintaining equipment

HOW TO REQUEST ASSISTANCE

There are various regulations regarding military support to civilian law enforcement agencies, and the level at which DoD approval is

area naval bases should be directed to the Security Officer.

CONCLUSION

This article has briefly described a few of the exceptions to the Posse Comitatus Act with regard to civilian law enforcement requesting military assistance. Every year, hundreds of requests for assistance from civilian law enforcement are successfully supported by the U.S. military. As stated previously, routine requests can be approved locally, and civilian law enforcement administrators should contact their military counterparts about available support. The U.S. military stands ready to provide civilian law enforcement with whatever assistance it can, in accordance with the complex stipulations of Posse Comitatus. In many cases, all an agency has to do is ask.

LEB

“

...civilian police organizations should not be reluctant to seek the military's help in certain circumstances.

”

should not be placed in positions where violations of the Posse Comitatus Act might occur.

Emergency Situations

In an emergency, civilian law enforcement authorities cannot waste time tracking down helicopters, dive teams, or explosive ordnance disposal (EOD) technicians. Fortunately, the military possesses a variety of capabilities to which a civilian law enforcement department may not have access. In fact, military search and rescue helicopters and military divers frequently aid civilian law enforcement in searches for boats and missing persons on oceans, lakes, or rivers. In addition, military EOD technicians regularly assist civilian law enforcement officials in ordnance recovery and disposal operations.

granted varies according to the amount and duration of the support desired. For example, in many cases, the base commanders can approve requests, while other requests must have higher approval. In addition, the military may require reimbursement for certain services.¹¹

However, civilian law enforcement officials need not be completely familiar with all of these regulations. The senior military law enforcement official stationed at each installation is the point of contact for these services and can provide all the necessary information regarding any rules or regulations. Law enforcement agencies near Army or Marine Corps installations should contact the Provost Marshal. Those agencies near Air Force bases should contact the Chief of Security Police, while requests for assistance from

Footnotes

¹ The Posse Comitatus Act provides: "...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 not more than \$10,000 or imprisoned not more than two years or both." 18 USCA sec. 1385 (1984).

² SECNAVINST 5820.7B (paragraph 9.a.(3)) March 28, 1988.

³ Ibid., paragraph 6.a.

⁴ Ibid., paragraph 9.a. (2).

⁵ 10 USCA sec. 374(b)(2) (1989).

⁶ Capt. James L. Setzer, "Bomb Dog Teams," *FBI Law Enforcement Bulletin*, July 1990, pp. 12-13.

⁷ 10 USCA sec. 373 (1989).

⁸ 10 USCA sec. 371-380 (1989).

⁹ Supra note 5.

¹⁰ 10 USCA sec. 372 (1989).

¹¹ 10 USCA sec. 377 (1989).