



DoD INSTRUCTION 5525.13

DEPUTATION OF DoD PERSONNEL

Originating Component: Office of the Under Secretary of Defense for Intelligence and Security

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Reissues and Cancels: DoD Instruction 5525.13, "Limitation of Authority to Deputize DoD Uniformed Law Enforcement Personnel by State and Local Governments," September 28, 2007, as amended

Approved by: Ronald Moultrie, Under Secretary of Defense for Intelligence and Security

Purpose: In accordance with the authority in DoD Directive (DoDD) 5143.01 and the June 29, 2018, Deputy Secretary of Defense approval of the May 21, 2018 request to establish the Under Secretary of Defense for Intelligence and Security (USD(I&S)) as the proponent for this issuance, this issuance establishes policy, assigns responsibilities, and provides guidelines for the deputation of DoD personnel.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY.

It is DoD policy that:

a. Law enforcement (LE) authorities will not be expanded by seeking deputized Federal, State, or local LE authority unless deputation is exercised in furtherance of the DoD mission for which he or she has been deputized and extends only so far as may be necessary to faithfully complete that mission.

b. Deputation may not expand the LE activities authorized for DoD LE personnel by statute and DoD and Component policies beyond those authorized in their LE capacity at their own agency.

c. DoD Components may only request deputation by Federal, State, or local government agencies of:

(1) DoD civilian LE personnel who have statutory LE authorities pursuant to Sections 1585a, 2672, 2674, 7377, 8750, or 9377 of Title 10, United States Code (U.S.C.) or Section 3609 of Title 50, U.S.C.; or

(2) Department of the Army civilian counterintelligence Special Agents conducting counterintelligence investigations in accordance with DoD Instruction 5240.04.

d. Use, to include deputation, of military personnel to enforce civilian laws is prohibited by Section 1385 of Title 18, U.S.C., unless expressly authorized by the Constitution or an Act of Congress.

SECTION 2: RESPONSIBILITIES

2.1. USD(I&S).

The USD(I&S):

- a. Establishes policy and oversees the deputation of DoD personnel by Federal, State, and local government agencies.
- b. Reviews and approves requests for deputation of DoD personnel, except those assigned to a Defense criminal investigative organization (DCIOs), a Military Department counterintelligence organization (MDCO), the Pentagon Force Protection Agency (PFPA), or the Secretaries of the Military Departments.
- c. Approves requests for deputation in accordance with Sections 3 and 4. The approval authority may not be delegated.
- d. Maintains a record of all personnel who are approved for deputation in accordance with Paragraph 4.2.

2.2. SECRETARIES OF THE MILITARY DEPARTMENTS.

With the exception of civilian LE personnel assigned to the Military Criminal Investigative Organization (MCIO) or MDCOs, the Secretaries of the Military Departments:

- a. Review and approve requests for deputation in accordance with Sections 3 and 4. The approval authority may not be delegated.
- b. Submit requests for exceptions to this policy to the USD(I&S).
- c. Maintain a record of personnel who are approved for deputation in accordance with Paragraph 4.2.

2.3. DIRECTOR OF THE DEFENSE CRIMINAL INVESTIGATIVE SERVICE, MCIO AND MDCO HEADS, AND DIRECTOR, PFPA.

The Director of Defense Criminal Investigative Service (under the authority, direction, and control of the Inspector General of the Department of Defense); the MCIOs and MDCO heads (under the authority, direction, and control of their respective Secretaries); and the Director, PFPA (under the authority, direction, and control of the Director of Administration and Management):

- a. Review and approve requests for deputation of assigned civilian LE personnel in accordance with Sections 3 and 4. The approval authority may not be delegated.

- b. Submit requests for exceptions to this policy to the USD(I&S).
- c. Maintain a record of personnel who have been approved for deputation in accordance with Paragraph 4.2.

SECTION 3: DEPUTATION JUSTIFICATION GUIDELINES

3.1. JUSTIFICATION GUIDELINES FOR REQUESTS FOR DEPUTATION OF DOD PERSONNEL BY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES.

Requests for deputation of DoD personnel by Federal, State, or local agencies may be submitted when each of the following are met:

- a. The employee has LE authorities in accordance with Paragraph 1.2.b.
- b. The authorities are needed to perform essential LE functions consistent with the DoD Component's mission.
- c. The DoD Component is significantly hindered in accomplishing its assigned LE functions by a lack of authority to enforce certain laws.
- d. The accomplishment of certain LE activities cannot be achieved effectively by assistance from Federal, State, or local LE agencies.
- e. The DoD Component requesting deputation has safeguards and management controls in place to ensure proper exercise of the requested authorities.
- f. The advantages of possessing LE authorities can reasonably be expected to exceed the disadvantages involved in exercising the authority.
- g. The employee has graduated from an accredited LE training academy.
- h. The employee is a U.S. citizen.
- i. The employee has not been convicted of a crime of domestic violence pursuant to Section 922(g)(9) of Title 18, U.S.C., also known as the "Lautenberg Amendment," does not meet the criteria of the other prohibited acts listed in Sections 922(g) or 922(n) of Title 18, U.S.C., also known as the "Gun Control Act of 1968."

3.2. DEPUTATION OF DOD PERSONNEL BY THE UNITED STATES MARSHALS SERVICE.

In addition to the requirements in Paragraph 3.1., requests for deputation of DoD personnel by the United States Marshals Service must also conform with the following guidelines:

- a. The deputation is to perform the functions of a Deputy U.S. Marshal in accordance with Section 0.112 of Title 28, Code of Federal Regulations.
- b. The employee is assigned to a federally directed or led task force, or similar effort, whose primary purpose is the enforcement of Federal statutes or law.

c. The authorities of a Special Deputy U.S. Marshal are needed to perform essential LE functions consistent with the mission of the DoD Component and the employee is significantly hindered in his or her assigned LE functions by a lack of authority to enforce additional Federal laws.

3.3. DEPUTATION OF DOD PERSONNEL BY STATE OR LOCAL GOVERNMENT AGENCIES.

In addition to the requirements in Paragraph 3.1., requests for deputation of DoD personnel by State or local government agencies must also conform with the following guidelines:

- a. The DoD Component requesting deputation has an LE function and is significantly hindered by a lack of authority to enforce State or local laws.
- b. It is unlikely that timely and effective assistance would be available from another agency with the requisite police powers.
- c. There is a specific reason to believe DoD LE personnel will frequently encounter situations in which it is necessary to rely on deputized State and local LE authorities.

SECTION 4: APPROVAL PROCESS AND DOCUMENTATION FOR DEPUTATION REQUESTS

4.1. REQUESTS FOR PERMISSION TO SEEK DEPUTATION BY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES.

- a. Requests for deputation are processed through the chain of command for approval at the level indicated in Section 2.
- b. The request will address the requirements in Paragraph 1.2. and the conditions in Section 3 for each employee requesting deputation.
- c. The request will include:
 - (1) The name, job series, and current duty position of the employee requested for special deputation.
 - (2) A certification that the employee received appropriate training to exercise the requested authorities.
 - (3) The duration of the requested deputation. Most deputations will be for 1 year. Employees assigned to a Federal task force may request 2 years. Permanent authorizations will not be considered. Deputations will only be effective for so long as the requirements of Paragraph 1.2. are met and the conditions in Section 3 exist.
 - (4) The DoD Component's policies and procedures that provide oversight and prevent misuse of the requested authority or authorities.
 - (5) A copy of any relevant memoranda of understanding or agreement with the Federal, State, or local jurisdiction that will grant the deputation, as applicable.

4.2. DOCUMENTATION AND RETENTION OF REQUESTS FOR PERMISSION TO SEEK DEPUTATION.

- a. Requests for deputation will be maintained for the duration of the approved deputation and an additional 5 years.
- b. Documentation will include:
 - (1) All information provided in accordance with Section 3 to the approving official.
 - (2) Deputation documents from the deputizing agency.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
LE	Law enforcement
MDCO	Military Department counterintelligence organization
PFPA	Pentagon Force Protection Agency
U.S.C.	United States Code
USD(I&S)	Under Secretary of Defense for Intelligence and Security

G.2. DEFINITIONS.

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
accredited LE training academy	A course of instruction offered by an LE agency that meets the accreditation standards of Federal Law Enforcement Training Accreditation; Commission on Accreditation for Law Enforcement Agencies; or equivalent accreditation bodies.
DCIO	Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations, Defense Criminal Investigative Service.
LE authorities	<p>The authority vested in specific agencies by statute, law, or other recognized authority to enforce laws.</p> <p>The authority to make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under U.S. law if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.</p> <p>The authority to serve warrants and subpoenas issued under U.S. authority and conduct investigations of suspected violations of Federal, State, or local criminal codes or statutes.</p>

TERM	DEFINITION
MDCO	The following organizations are the MDCOs: Army Counterintelligence, Naval Criminal Investigative Service, Air Force Office of Special Investigations.
MCIO	Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations.

REFERENCES

Code of Federal Regulations, Title 28, Section 0.112

DoD Directive 5143.01, “Under Secretary of Defense for Intelligence and Security (USD(I&S)),” October 24, 2014, as amended

DoD Instruction 5240.04, “Counterintelligence (CI) Investigations,” April 1, 2016, as amended

United States Code, Title 10

United States Code, Title 18

United States Code, Title 50, Section 3609

Under Secretary of Defense for Personnel and Readiness and Under Secretary of Defense for Intelligence Memorandum, “DoD Directive 5525.IC, Protection of Buildings, Grounds, Property, and Persons, and Implementation of Section 2672 of Title 10, United States Code,” May 21, 2018¹

¹ The Deputy Secretary of Defense approved this memorandum on June 29, 2018. It is available from the Chief, Law Enforcement Division within OUSD(I&S).