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DEPARTMENT OF DEFENSE
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September 30, 1991

MEMORANDUM FOR DOD COORDINATOR FOR DRUG ENFORCEMENT POLICY AND SUPPORT
DIRECTOR, DEFENSE ADVANCED RESEARCH PROJECTS AGENCY
DIRECTOR, JOINT STAFF

SUBJECT: Audit Report on DoD's Support to U.S. Drug Interdiction Efforts (U) (Report No. 91-124)

(U) This is our final report on the Audit of DoD's Support to U.S. Drug Interdiction Efforts. The objective of the audit was to determine if DoD properly planned and managed its counterdrug responsibilities. The audit was performed in segments from June 1989 through August 1990. Separate reports were issued on conditions disclosed at Joint Task Force-6 (Report No. 90-102), at National Guard Activities (Report No. 91-107) and at the U.S. Pacific Command (Report No. 91-109). Those reports included recommendations for corrective actions to be implemented primarily at the major component level. A synopsis of the three reports is provided in Appendix A. This report addresses conditions pertaining to overall management of the counterdrug program with recommendations to be implemented primarily at the Departmental level.

(U) We evaluated the support DoD provided to the law enforcement agencies (LEA's) in detecting and monitoring drug traffickers as well as other forms of indirect support, such as training, loans of equipment, and operational support. Specifically, we determined whether DoD's support, including National Guard efforts, to the LEA's was adequate and met the intent of the Congress. We also evaluated the effectiveness and efficiency of management in budgeting, contracting, and executing counterdrug operations and assessed internal controls pertaining to our audit objectives.

(U) The DoD counterdrug program was developed based on a congressional tasking contained in the Defense Authorization Act of 1989. The program is dynamic, and at the time of our audit, was still in an evolutionary stage. In a relatively short period of involvement, DoD has made significant strides in providing support to the counterdrug efforts of the LEA's. The DoD budget for counterdrug-related support has grown from $300 million in FY 1989 to over $1 billion for FY 1991. This growth demonstrates the high-priority commitment DoD has made to the counterdrug mission.

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(U) Our audit showed that DoD had made major progress in establishing a viable counterdrug program. Overall, DoD's counterdrug efforts were commendable. As part of the continuing evolution in the program, certain improvements were identified that can be implemented to enhance the effectiveness of the counterdrug program. The results of the audit are summarized in the following paragraphs, and the details, recommendations, and management comments are in Part II of the report.

(U) Coordination of the DoD counterdrug program with the LEA's should be more extensive to achieve maximum effectiveness. As a result of incomplete coordination, some unilaterally developed counterdrug support missions either were unsuccessful or did not accomplish their intended goals (page 5).

(U) The counterdrug intelligence structure in DoD did not provide maximum support to the LEA's. The audit disclosed that the new and unique aspects of counterdrug intelligence collection, processing, and analysis were performed by various DoD activities and were fragmented, duplicative, and not cost-effective (page 15).

(U) The information security, operations security, and physical security aspects of DoD's recently mandated counterdrug support missions have not been adequately addressed in DoD policies and procedures. Attempts to correct these deficiencies have been hampered by a lack of criteria that prescribe the unique aspects of security requirements for counterdrug operations. As a result, sensitive counterdrug information may be subjected to unwarranted risk of compromise, possibly jeopardizing the effectiveness of counterdrug support efforts. In addition, DoD personnel and property may be more vulnerable to anti-counterdrug actions from drug trafficking organizations (page 27).

(U) Methods have not been instituted that adequately measure the effectiveness of DoD's counterdrug support contributions or that accurately reflect the significant effort provided by DoD to assist the LEA's. As a result, DoD's contribution to U.S. counterdrug efforts may be misrepresented and, without clarification, may be subjected to criticism that would defer efforts from valid counterdrug support (page 35).

(U) Support provided to the LEA's conducting counterdrug operations was not maximized because procedures were not established to identify, quantify, and prioritize the functional requirements of the various LEA's. Consequently, delays in conducting counterdrug operations were experienced, and

uncertainty and confusion existed among the LEA's regarding the capabilities of DoD to support their counterdrug activities (page 43).

(U) The audit identified internal control weaknesses as defined by Public Law 97-255, Office of Management and Budget Circular A-123, and DoD Directive 5010.38. Sufficient policies and procedures were not established in the areas of counterdrug planning and budget development (Finding A), and counterdrug security techniques (Finding C). Internal controls were also not sufficient to ensure the accuracy of reports detailing the level of support DoD provided to the LEA's (Finding E). Implementation of recommendations in Findings A, C, and E in this report will correct the weaknesses. Therefore, a copy of this report will be provided to the senior officials responsible for internal controls within the Office of the DoD Coordinator for Drug Enforcement Policy and Support (Drug Coordinator) and the Joint Staff.

(U) A draft of this report was issued for comment on April 22, 1991. Addressees were requested to provide comments by June 30, 1991. The General Counsel, while not a primary addressee, provided comments on May 2, 1991, on the legal matters discussed in the report. The General Counsel concurred with Recommendation E.1.a. and recognized the need to expeditiously field an updated DoD Directive 5525.5, which addresses cooperation with civilian law enforcement activities. The comments were constructive and fully responsive to the recommendation.

(U) Replies to the draft report were not received by the requested due date from the Drug Coordinator, the Defense Advanced Research Projects Agency (DARPA) and the Joint Staff. Recommendations were made in the draft report to each of those organizations, and in accordance with established procedures for staffing audit reports in the Department, comments were requested directly from the addressees. In response to our follow-up inquiries, we were informed that DARPA and the Joint Staff had been instructed to provide their comments to the Office of the Drug Coordinator.

(U) On August 13, 1991, comments were received from the Drug Coordinator's Office. In deference to the national importance of the counterdrug program and our standards of full disclosure reporting, we delayed the publication process to consider and include management comments in this final report. We remind management of the obligation, under DoD Directive 7650.3,

"Followup on General Accounting Office, DoD Inspector General, Internal Audit and Internal Review Reports," September 5, 1989, to respond timely to audit reports.

(U) The Drug Coordinator's reply stated nonconcurrence with Findings A, B, D, and E and concurrence with Finding C. For the 20 recommendations in the draft report the reply:

- concurred in Recommendations A.1.a., B.2.b., C.1., C.2., C.3.a., C.3.b., D.1.b., and E.2.

- partially concurred in Recommendations D.1.a. and D.2.

- nonconcurred in Recommendations A.2.a., A.2.b., B.1.a., E.1.a., E.1.b., and E.1.c.

- did not conform to DoD Directive 7650.3 for Recommendations A.1.b., B.1.b., B.2.a., and E.1.d.

(U) Managements' positions on the findings and recommendations and related audit responses are provided at the end of each finding in Part II of this report. The complete texts of the comments are included in Appendixes C and D.

(U) DoD Directive 7650.3 requires that all recommendations be resolved promptly. Accordingly, we request that a reply to this final report be provided by the Drug Coordinator and the Director, Joint Staff, within 60 days of the date of this memorandum. Appendix E, Status of Recommendations, identifies the specific requirements for your comments.

(U) As required by DoD Directive 7650.3, the comments must indicate concurrence or nonconcurrence in the findings and each recommendation addressed to you. If you concur, describe the corrective actions taken or planned, the completion dates for actions already taken, and the estimated dates for completion of planned actions. If you nonconcur, you must state your specific reasons for each nonconcurrence. If appropriate, you may propose alternative methods for accomplishing desired improvements.

(U) If you nonconcur with the estimated monetary benefits or any part thereof (Appendix F), you must state the amount you nonconcur with and the basis for your nonconcurrence. Recommendations and potential monetary benefits are subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment.

(U) If you have any questions concerning this audit, please contact Mr. Charles M. Santoni on (703) 693-0139 or Mr. Wayne B. Winkler on (703) 693-0117 (DSN 223-0117). The courtesies and cooperation extended to the audit staff are appreciated. Copies of this report will be distributed to the activities listed in Appendix H.

Robert J. Lieberman
Assistant Inspector General
for Auditing

cc:
General Counsel, Department of Defense

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DOD'S SUPPORT TO U.S. DRUG INTERDICTION EFFORTS (U)

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Prepared by:
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Support Directorate
Project No. 9RC-0052

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DOD'S SUPPORT TO U.S. DRUG INTERDICTION EFFORTS (U)

PART I - INTRODUCTION

Background

(U) The increased use of illicit drugs in the United States has led to intensifying efforts to interdict illegal drugs. In an effort to reduce the amount of illegal drugs entering the country, Congress tasked the DoD to assume a major role in detecting and monitoring drug production and trafficking. The DoD counterdrug efforts are to complement those of other agencies to advance the national objective of reducing the flow of illegal drugs into the United States.

(U) The Defense Authorization Act of 1989 (the Act) mandated that DoD take an expanded role in the Nation's counterdrug efforts. The Act authorized DoD $300 million: to serve as the lead Federal agency in the detection and monitoring of aerial and maritime transit of illegal drugs into the United States ($200 million); to integrate the command, control, communications, and intelligence assets dedicated to drug interdiction into an effective network ($60 million); and to enhance the role of the National Guard in support of drug interdiction and law enforcement ($40 million).

(U) DoD's primary role in the counterdrug area, as indicated in the congressional tasking, is to support the law enforcement agencies (LEA's) that have the responsibility for seizing illegal drugs and apprehending drug smugglers. DoD's support to the LEA's goes significantly beyond providing the intelligence garnered from its detection and monitoring mission. DoD also supports the LEA's with loans of equipment, training assistance, and operational support on a reimbursable and nonreimbursable basis.

Objectives and Scope

(U) The overall objective of the audit was to determine whether the DoD properly planned and managed its counterdrug responsibilities. We evaluated the support that DoD provided the LEA's in the area of detection and monitoring of drug traffickers and other contributions, such as training, loans of equipment, and operational support. Specifically, we determined whether DoD's support, including the support of the National Guard, to the LEA's was adequate and met the intent of Congress. In addition, we evaluated the effectiveness and efficiency of management in budgeting, contracting, and executing counterdrug operations. Our audit focused on DoD's detection and monitoring

mission and the enhancement of the National Guard's counterdrug role. DoD's responsibilities in the communications area were not included in the scope of our audit.

(U) The cost of DoD's counterdrug program increased from $438.8 million in FY 1989 to $745.8 million in FY 1990. The cost of the counterdrug program in FY 1991 is expected to exceed $1 billion, when DoD baseline operations having a counterdrug contribution are included.

(U) We evaluated DoD's counterdrug operations for the period October 1988 through August 1990. We reviewed program documentation, operation planning and execution, funding documents, and counterdrug activity reports. We also reviewed criteria established in pertinent congressional, DoD, Service, and Defense agency guidance. We interviewed cognizant DoD, Service, Defense agency, and LEA officials involved in DoD's support of counterdrug efforts. A list of activities visited or contacted is in Appendix G. This program audit was made from June 1989 through August 1990 in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD, and accordingly included such tests of internal controls as deemed necessary.

Internal Controls

(U) We assessed internal controls associated with the management of DoD's support to U.S. drug interdiction efforts, concentrating on the internal controls relating to our audit objectives. We evaluated internal control techniques such as management plans, written policies and procedures, and various mechanisms for independently reporting counterdrug program results. The audit identified internal control deficiencies in planning and budgeting for counterdrug efforts, establishing counterdrug security techniques, and identifying and monitoring the level of support provided to the LEA's. Details on the weaknesses are discussed in Part II of the report.

Audit Methodology

(U) The audit approach used to evaluate DoD's counterdrug mission was based on the premise that DoD is in a support role. Congress identified DoD as the lead agency for detection and monitoring. However, it is the LEA's that ultimately apprehend or seize the illegal drugs and make the arrests. This arrangement places the LEA's in the role of the consumer of the information collected, analyzed, and disseminated by DoD.

Prior Audits and Other Reviews

(U) In conjunction with our audit of "DoD's Support to U.S. Drug Interdiction Efforts," three audit reports were issued addressing counterdrug-related issues. Synopses of the reports are provided in Appendix A. In addition, the General Accounting Office (GAO) has conducted several projects that address DoD's involvement in drug interdiction and eradication. GAO reports related to matters discussed in this report are also listed in Appendix A.

Other Matters of Interest

(U) During our audit, the LEA's expressed concerns regarding how to request assistance from DoD and who to consult regarding such requests. In addition, the LEA's were uncertain as to what type of support or assistance was available from DoD. Recognizing these problems, the Secretary of Defense initiated corrective action on September 18, 1989, to establish four Regional Logistics Support Offices (RLSO's). The RLSO's, primarily at coastal or border locations, were tasked to consolidate and coordinate support for the LEA's. When fully operational, the four RLSO's will have a staff of 18 personnel. An alternative to creating the new infrastructure could have been the designation of the National Guard of the 50 states, 3 territories, and the District of Columbia as the focal points for support requests and the assignment of specific elements to serve in this capacity. However, since the RLSO's were newly established and had not been operational long enough for us to evaluate their performance, we reserved judgment on whether their establishment was the most efficient and effective solution.

(U) Our audit also disclosed potential internal control deficiencies in the identification of items and activities needed to satisfy counterdrug requirements at various Unified or Specified Commands. We noted that, during the formative years of the counterdrug program, many requirements were inaccurately identified by the Commands as being counterdrug-related. The DoD Coordinator for Drug Enforcement Policy and Support recognized the problem and addressed it in a memorandum dated March 29, 1990, by directing that counterdrug requirements be included in DoD's Planning, Programming, and Budgeting System (PPBS) by FY 1992. The incorporation of the counterdrug program into the PPBS should permit an adequate level of oversight in the requirements process to correct the problems noted in counterdrug requirements submissions.

(U) Certain financial issues we identified during the audit were also identified in GAO Fact Sheet No. GAO/NSIAD-90-296FS. Specifically, the GAO Fact Sheet indicated that DoD's financial obligation data, as of July 31, 1990, contained obligation rates

for counterdrug appropriation accounts that were generally lower than those for Defense programs as a whole. DoD officials attributed the delays in obligating counterdrug funds to the late receipt of obligation authority, extensive and time-consuming reprogramming actions, DoD policy decisions requiring congressional approval, changes in counterdrug programs required by the final appropriations act, sequestration deliberations, and apportionment issues. The natural evolutionary process of the new counterdrug mission should resolve these financial issues, and, as counterdrug support becomes routine, inconsistencies in financial reporting and delays in funding execution should diminish.

PART II - FINDINGS AND RECOMMENDATIONS

A. Program Management and Coordination (U)

FINDING

(U) DoD's counterdrug program has not been adequately coordinated with the law enforcement agencies (LEA's) at all levels to achieve maximum effectiveness. This condition occurred because the Unified and Specified Commands were initially tasked to conduct detection and monitoring activities without sufficient recognition of their primary role of support to the LEA's. Also, counterdrug planning was unilaterally developed without procedures that elicited coordinated assurances from the LEA's that priority missions were addressed. As a result, LEA input on objectives and strategies was not always included in DoD's counterdrug missions, thereby making the accomplishment of mission goals more difficult.

DISCUSSION OF DETAILS

(U) Background. The Defense Authorization Act of 1989 (the Act) required DoD to take an active role in the Nation's counterdrug efforts. In response to the Act, the Secretary of Defense issued policy guidelines on January 6, 1989, identifying the Assistant Secretary of Defense (Reserve Affairs), subsequently designated on January 26, 1990, as the DoD Coordinator for Drug Enforcement Policy and Support (Drug Coordinator), as responsible for establishing the policies required to implement the new mission.

(U) In December 1988, prior to the issuance of the OSD policy guidelines, the Joint Chiefs of Staff (JCS) issued a Warning Notice alerting the Unified and Specified Commands (the Commands) of DoD's new mission as lead agency for the detection and monitoring of narcotics trafficking. The Warning Notice tasked the Commands to develop plans for fulfilling their new counterdrug mission.

(U) The JCS was assigned responsibility for developing the necessary plans and for overseeing operations to carry out detection and monitoring duties. In response to this assignment, the Chairman tasked four of the Commands, the U.S. Atlantic Command (USLANTCOM), the U.S. Pacific Command (USPACOM), the U.S. Southern Command (USSOUTHCOM), and the U.S. element of the North American Aerospace Defense Command (USNORAD) with the counterdrug mission. In September 1989, a fifth command, the U.S. Forces Command (USFORSCOM), was tasked with implementing the counterdrug mission along the southwest border. Each of the

five Commands was to develop plans for conducting counterdrug operations within its respective area of responsibility (AOR). Appendix B identifies each Command's AOR.

(U) The commands implemented the tasking guidelines for the new counterdrug mission in various ways. In accordance with JCS Publication No. 2 "Joint Operational Planning System (JOPS)," USLANTCOM, USPACOM, and USFORSCOM established Joint Task Forces (JTF's) to conduct their counterdrug support operations. At USSOUTHCOM and USNORAD, the new mission was integrated into existent organizational structures.

(U) Coordination with the LEA's. DoD was tasked by Congress to serve as the lead Federal agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. This "lead agency" designation requires close coordination with the LEA's, the supported agencies performing related functions. However, an urgency to implement the new tasking impacted the adequacy of coordinating the counterdrug program with the LEA's.

(U) JTF Locations. The sites selected for two of the three JTF's established by the Commands were not coordinated with the LEA's they were designed to support. As a result, the propriety of the locations was often questioned by the various LEA's we visited. In particular, the rationale for locating the JTF's a significant distance from the LEA's regional headquarters was questioned. The LEA's specifically noted the location of JTF-4 established in Key West, Florida, -- more than 190 miles from most of the LEA southeastern regional offices in Miami, Florida.

(U) The selection of Key West, Florida, for the operational location of JTF-4 was based on the availability of facilities and equipment resulting from the closure and consolidation of a USLANTCOM function. Because the building was vacant and partially equipped, JTF-4's start-up time and costs were minimized.

(U) The location of JTF-5 in Alameda, California, was repeatedly questioned by the LEA officials we interviewed. Most of the western regional headquarters for the LEA's are located in the Los Angeles area, 400 miles south of Alameda. The U.S. attorney for central California expressed his concern in a letter to the Chairman of the JCS on the dissolution of the National Narcotics Border Interdiction System (NNBIS) and the creation of JTF-5 in Alameda. The NNBIS served primarily as a coordinating body within the counterdrug community. The U.S. attorney stated, "it seems to me that nothing is gained, and much is lost, by positioning the successor coordination activity far away from the

heart of the threat." The LEA officials perceived that the location of JTF-5 was an autonomous decision by USAPACOM, excluding coordination with the counterdrug community. We requested documentation supporting the establishment of the JTF-5 in Alameda from both the USPACOM and JCS. However, we were unable to acquire documented evidence of any assessment of alternatives that USPACOM considered in selecting the site.

(U) Counterdrug Operations. The interdiction of narcotics is categorized into four distinct parts: detection, monitoring, apprehension, and arrest or seizure. DoD is directly involved in two of the four elements, detection and monitoring. The objective of detection and monitoring is the seizure of illegal drugs.

(U) The Act did not change the aerial and maritime roles or responsibilities of the other Federal agencies involved in counterdrug operations. The U.S. Customs Service retained its lead agency status for interdicting aerial smugglers, and the U.S. Coast Guard retained its lead agency role for interdicting maritime smugglers. Both agencies perform detection and monitoring functions, just as DoD, within their specified AOR's. Unlike DoD, however, those two agencies also perform the follow-on missions of arrest and seizure as part of their legal authority.

(U) The DoD does not have arrest authority and is prohibited by law and DoD policy from performing any act of seizure. Because DoD does not have the authority to complete the interdiction process, it is imperative that DoD closely coordinate its detection and monitoring activities with the LEA's. *

(U) The complex nature of the counterdrug mission makes it imperative that operational plans are effectively coordinated. During our visit to JTF-6 in El Paso, Texas, we were told that a listening post/observation post (LP/OP), staffed by JTF-6 personnel, detected an aircraft landing on a deserted airstrip at night. *

When the LP/OP requirement was initially established, appropriate

* Classified Material Deleted

planning and coordination should have been performed in anticipation of a counterdrug operation being detected to assure the timely availability of LEA personnel. To achieve the maximum benefit of DoD's involvement, appropriate coordination should take place before the operation to prevent similar problems from reoccurring.

(U) Counterdrug Budgeting. In FY 1989, Congress authorized $300 million to fund DoD counterdrug efforts. By FY 1990, DoD's financial commitment to counterdrug efforts had increased to $745.8 million; $450 million was mandated by Congress and the remainder was appropriated for normal DoD operations that also benefited the counterdrug effort. Estimates place the DoD counterdrug effort for FY 1991 in excess of $1 billion.

(U) DoD is 1 of 47 Federal agencies involved in the national counterdrug effort. However, according to personnel in the Office of National Drug Control Policy (ONDCP), DoD receives approximately 12 percent of all Federal monies directed against narcotics. This relatively large portion of the total funds available necessitates close coordination of DoD operations with the LEA's. However, because of the prevailing urgency to initiate activity, DoD was unable to apply its normal Planning, Programming and Budgeting System (PPBS) procedures. During the first year of expanded counterdrug operations, the PPBS process could not react to the new mission in a timely manner to accomplish the entire budget review process. Instead, the commanders responsible for executing the counterdrug program were requested to identify their procurement and operational funding needs outside the PPBS cycle.

(U) On March 1, 1990, the Deputy Secretary of Defense directed the Drug Coordinator, in conjunction with the Military Departments, JCS, and Defense agencies, to establish a counterdrug program for the first time in the FY 1992-1997 Future Years Defense Program (FYDP). That action allows the DoD Components to compete for available dollars through the normal budget process, based on the merits of their respective proposals. A key factor in the budget evaluation process should be LEA input. Since the counterdrug program cannot succeed without close coordination between the DoD and the LEA's, it is important that the priorities and requirements of the LEA's be fully considered as the budget is built. At the command level, where budgets were essentially formulated, we found limited documented evidence of coordination with the LEA's during the budget process.

(U) LEA officials indicated to us that their Agencies did not have a long-range planning vehicle like the DoD's PPBS. In our

opinion, DoD could bring PPBS-type procedures to the entire counterdrug community to enhance strategic planning while concurrently accomplishing coordination efforts. The law enforcement community is more focused on current tactical needs that range from monitoring open or active drug cases to pursuing leads on near-term smuggling operations. Officials at ONDCP noted that a void exists within the counterdrug community for strategic or long-term planning. Those officials perceived that maintenance of current work files was a time-consuming necessity of the LEA's and permitted little time to develop historical data bases. The introduction of a long-range planning, programming and budgeting process to the LEA's would be an initial step in bringing long-term planning to the counterdrug community. The ability of the LEA's to plan future operations would ensure a concerted, coordinated effort among members of the counterdrug community. Joint planning also has the potential to enhance the interrelationships of DoD with the LEA's.

(U) During our visit to JTF-6, we were apprised of situations wherein financial limitations precluded the LEA's from assisting in planned operations along the southwestern border. For example, a planned operation was proposed by JTF-6 based on anticipated drug activity. However, the corresponding LEA could not respond because overtime provisions had not been made in the budget to accommodate the operation. In another case, problems were encountered in obtaining * equipment for use along the border. The problem concerned responsibility for paying approximately $20,000 in temporary duty (TDY) costs for transporting the equipment and the operator into position. The funding issue was forwarded to numerous offices within the Pentagon. Six weeks passed before the issue was resolved. The U.S. Customs Service subsequently funded the mission, * . However, based on LEA projections, * cocaine and marijuana could have been brought into the country during the * period JTF-6 was awaiting a decision. In our opinion, the significance of the operation warranted immediate funding and, if needed, appropriate adjustments and reimbursements made later.

(U) Counterdrug Planning. Recent General Accounting Office reports have been critical of the LEA's for developing investigative strategies and priorities in isolation, operating separate/duplicative intelligence systems, and using incompatible criteria and systems for reporting and measuring performance. DoD has the potential to directly benefit the LEA's in the area of planning. The procedures that DoD uses to plan operations have been tried and tested over time and are promulgated by the JCS in its Publication No 2, "Joint Operational Planning Process" (JOPS). DoD should share this operational planning process with the counterdrug elements in the LEA's.

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(U) Classified Plans. Instructions for developing command-level counterdrug programs required that operations be planned in accordance with the JOPS. *

We requested the counterdrug annex to the "Concept Plan" (CONPLAN) for USLANTCOM.*

Eventually, through the laborious procedures prescribed for such sensitive documents, the audit staff gained access. *

(U) Adequacy of Plans. The counterdrug annexes to the CONPLAN's we reviewed were so generic that we doubt their usefulness for detailed operational planning. For example, one of the plans made a general reference to the use of unspecified planes and ships in the AOR to accomplish the counterdrug mission. The lack of sufficient detail in the counterdrug annexes is attributable to, at least in part, the exclusion of the LEA's from the planning process. A properly developed plan for a detection and monitoring operation must ultimately include the interdiction processes necessary to effect apprehension. LEA involvement in the planning process is vital. Because successful execution of the plans is dependent on LEA participation, the LEA's should participate in prioritizing and evaluating the merits of the proposed plans.

(U) Conclusion. In its normal course of business, DoD has developed many management tools that can directly benefit the LEA's. In its basic support role to the LEA's, as much assistance as possible should be provided by the DoD, particularly in areas where it has historically developed expertise. To successfully accomplish joint efforts, DoD and LEA counterdrug operations need to be effectively coordinated. In addition, DoD should assist the LEA's in developing long-range planning and budgeting systems and coordinate with the LEA's during its own planning and budgeting process for the counterdrug program. Further, the inclusion of counterdrug plans in traditional war plans is unnecessarily restrictive and precludes complete coordination with the LEA's.

MANAGEMENT COMMENTS AND AUDIT RESPONSE ON THE FINDING

(U) Management Comments. The reply from the Drug Coordinator nonconcurred with the finding, stating that a great

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the decision-making process prior to executing the DoD's new and unprecedented lead agency and support missions. The "need for expediency" in multiple areas of operations made the regional approach to execution the right decision. The reply also stated that although the use of dedicated military assets increased as a result of an expanded role, DoD operations "actually did not differ a great deal from previous Department methodology for providing support to LEA's." Finally, the comments stated that in the final months of calendar year 1989, the DoD planned and executed ENHANCED OPERATIONS with the full coordination of the LEA's.

(U) Audit Response. The Drug Coordinator's comments regarding the evolution of the counterdrug program within DoD reinforce our observations regarding the coordination process. As the lead agency for detection and monitoring, DoD must apply assets to this new mission in a manner that provides optimal results. We agree that the need for expediency in commencing counterdrug operations resulted in active DoD involvement in a short period of time. The statement that decisions were made "at the highest level within the Department" prior to executing DoD's new lead agency role exemplifies our observations during the audit and the basic point of the finding. The primary impediment to optimization is the normal practice of internalizing the decision-making process "within" the Department. DoD's internalization of critical decision making in establishing its counterdrug program precluded participation by the very elements it was chartered to support -- the LEA's.

DoD's approach to its counterdrug mission was similar to the approach it would take for any conventional military mission. However, the LEA's the DoD was to "lead" were not consulted regarding basic decisions in formulating the way DoD would conduct its counterdrug missions. As stated in Part I, Audit Methodology, DoD's counterdrug mission is to provide support to the LEA's. This fact is reiterated in the Senate Committee on Armed Services report on the National Defense Authorization Act for Fiscal Years 1992 and 1993. The Committee's report states "the committee emphasizes that ... the Department's counterdrug efforts are all in support of federal, local, and foreign law enforcement agencies." We believe that the language in this recent report by the Committee confirms our assessment that DoD has not fully adapted its methods and practices in recognition of the support role it has been assigned. After 3 years of enhanced counterdrug operations, it is especially noteworthy that the Senate had to explicitly clarify the DoD's role in the counterdrug effort.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

1. (U) We recommend that the Director, Joint Staff, modify the Joint Operational Planning Process:

a. (U) To establish counterdrug plans as separate operational plans and to reduce the sensitivity of the plans, allowing access to law enforcement agencies.

(U) Management Comments. The reply from the Drug Coordinator concurred with the recommendation and stated that action has been taken to separate concept plans from Joint Strategic Plans. Also, the counterdrug operation orders will be fully coordinated with appropriate LEA's at the command level prior to promulgation. In addition, under the recent update of JCS Memorandum of Policy 60, the Commanders are delegated the authority to make release determinations on "Joint" information to be exchanged with the LEA's.

(U) Audit Response. The actions identified by the Drug Coordinator meet the intent of the recommendation and address the deficiency identified.

b. (U) To incorporate the law enforcement agencies' planning contributions into counterdrug operational plans at the command level in order to maximize coordination and to achieve optimal results.

(U) Management Comments. The Drug Coordinator concurred with the recommendation and stated that incorporation of LEA's contributions has always been recognized as critical in planning development. The mechanics for achieving the proper level of coordination have and will continue to improve with program maturity.

(U) Audit Response. The comments are not fully responsive in that they do not provide adequate detail regarding the mechanics being used to accomplish a proper level of coordination. We request that the Director, Joint Staff, in response to the final report, provide specific details regarding the mechanisms that have been or are being implemented to incorporate the LEA's in the command level planning process and the estimated completion date of the actions.

2. (U) We recommend that the DoD Coordinator for Drug Enforcement Policy and Support:

a. (U) Coordinate the priorities of DoD project submissions included in the counterdrug program with the law enforcement agencies.

(U) Management Comments. The Drug Coordinator nonconcurred, stating that the Office of National Drug Control Policy is responsible for reviewing and approving the counterdrug program and budget for all Federal agencies.

(U) Audit Response. The Drug Coordinator's comments do not address the primary issue. The recommendation calls for the coordination, not the certification of the priorities of the DoD counterdrug budget submission with the LEA's. In its capacity as the lead agency for detection and monitoring, the DoD should coordinate not only its operations, but also its prioritized budget proposal for counterdrugs with the law enforcement community. This coordination should occur prior to the submission of the budget proposal to the ONDCP. Coordination is recommended to ensure that the various Federal agencies that have counterdrug responsibilities are using the resources applied against drugs in a manner that achieves the maximum effect. Even though the proposed budget may be within the guidelines of the National Strategy, without sufficient coordination of LEA priorities before certification, the DoD could engage in activities that may duplicate ongoing activities of the other Federal participants or may not achieve optimal results. We request that the Drug Coordinator reconsider his position in response to the final report.

b. (U) Develop, in coordination with the law enforcement agencies and the Office of Management and Budget, a long-range planning, programming, and budgeting process for counterdrug programs by proposing to the Office of Management and Budget and the law enforcement agencies the establishment of an ad hoc working group. The charter of the working group should provide a forum for active participation by the law enforcement agencies to develop, in communication with the DoD, a national counterdrug program for detection and monitoring.

(U) Management Comments. The Drug Coordinator nonconcurred and stated that it is not DoD's responsibility to develop systems for other Government agencies. If the LEA's require a long-range system, the system should be developed under the auspices of the Office of Management and Budget.

(U) Audit Response. It was not our intent that the DoD propose systems for the LEA's to procure and operate. Our intent was to facilitate a coordinated, consolidated, long-term approach to the counterdrug responsibilities of the various participants. The recommendation is primarily concerned with establishing a vehicle for long-term planning, programming, and budgeting, a process for which DoD is recognized as a leader, i.e., PPBS. In our opinion, the process development envisioned in the

recommendation is a basic management function and is not inconsistent with the "Lead Agency" role assigned to DoD for detecting and monitoring drug production and trafficking. We recognize the potential role for and interest of the Office of Management and Budget in this area and have modified our initial recommendation accordingly. We ask that the Drug Coordinator reconsider his position in response to the final report.

B. Counterdrug Intelligence (U)

FINDING

(U) The DoD intelligence structure for the new counterdrug mission is not ideally designed to provide maximum support to the law enforcement agencies (LEA's). Intelligence support has been delegated to five relatively independent commands. Basically, the counterdrug mission has been treated as a conventional defense mission, i.e., the commands acting autonomously in performing intelligence activities within each respective geographic area of responsibility. As a result, the collection, processing, and the analysis of counterdrug intelligence was fragmented, duplicative, and not cost-effective. Restructuring of the counterdrug intelligence elements would improve support provided to the LEA's and could result in about $71.4 million in potential monetary benefits by putting funds to better use.

DISCUSSION OF DETAILS

(U) Background. The ability to detect and monitor illegal drugs being smuggled into the United States is driven by information *

. The responsibility for providing counterdrug-related information to the LEA's places DoD in a reactive and a supportive role, reacting to the LEA's information needs and supporting the LEA's with the timely information necessary * .

(U) In response to the December 8, 1988, JCS Warning Notice (a preliminary notice of an order or action that is to follow), each of the tasked commanders submitted a "Commander's Estimate" for implementing the counterdrug mission within their respective AOR. A map depicting each command's AOR for counterdrug operations is in Appendix B.

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(U) In response to the Warning Notice, two of the commands, USLANTCOM and USPACOM, identified the need to establish a counterdrug joint task force (JTF) that was external to regular operations, but subordinate to their respective command. A JTF is a force composed of two or more elements of the Army, Navy, Air Force, and Marine Corps and designated by a commander for a specific purpose or function. On February 4, 1989, the JCS issued an Execute Order approving the continuation of existing efforts by the commanders in support of the counterdrug mission. Subsequently, JCS approved the establishment of the JTF's by USLANTCOM (JTF-4 located in Key West, Florida) and USPACOM (JTF-5 located in Alameda, California). The JTF's were activated on February 10, 1989, as facilities "dedicated solely to the detection and monitoring of aerial and maritime transit of illegal drugs into the U.S." within their respective AOR.

(U) * a fifth command, USFORSCOM, was tasked with implementing the counterdrug mission along the southwestern border. Unlike the aerial and maritime intelligence missions of JTF-4 and JTF-5, USFORSCOM's mission was to coordinate DoD operational support to Federal, state, and local LEA's in its AOR. To carry out this mission, USFORSCOM established JTF-6 in El Paso, Texas, * . JTF-6 was established in close coordination with Operation Alliance, a conglomerate of various LEA activities involved in the counterdrug mission in the southwestern region of the United States.

(U) At the USNORAD, the counterdrug mission was integrated into the existent * organization for its AOR. In lieu of establishing a JTF, USNORAD restructured its internal organizational elements *

(U) The counterdrug mission within the USSOUTHCOM AOR was implemented by using existing capabilities within the command's organizational structure. USSOUTHCOM is organizationally structured into country teams. Each team has members with expertise in specific functional areas (e.g., intelligence, operations, planning). USSOUTHCOM's counterdrug operations were integrated into these existing country teams. The teams, however, expanded their focus to include counterdrug activities within their respective countries.

(U) Intelligence support for the USSOUTHCOM counterdrug mission is supplemented by the Joint Tactical Intelligence Center (JTIC), a Defense Intelligence Agency organization. The JTIC is responsible for providing tactical counterdrug intelligence to the USSOUTHCOM Tactical Analysis Teams (TAT's). The TAT's work with the various country teams performing the other USSOUTHCOM defense missions.

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(U) Establishment of Joint Task Forces. During our audit, several of the LEA's expressed concerns about how the JTF's would be integrated into the counterdrug community. The LEA's cited OSD policy guidelines on counterdrug efforts, which state, in part, that DoD efforts should "build on existing capabilities and facilities and ... avoid unnecessary duplication...."

(U) Based on the results of our audit, we believe that the policy has been interpreted to encourage the use of existing capabilities and facilities within DoD. In our opinion, the policy to use existing capabilities and facilities should not be limited to only those within DoD. Where practical, joint utilization of existing LEA capabilities, facilities, and resources should also be considered. Since DoD directly supports the LEA's by targeting illegal drug smugglers, collocating the counterdrug intelligence activities with the primary operational users of the information or at an existing LEA intelligence organization would be prudent, cost-effective, and more supportive to LEA intelligence consumers.

(U) One of the existing LEA organizations is the El Paso Intelligence Center (EPIC). This activity is an intelligence organization operated by the Drug Enforcement Agency (DEA). The EPIC charter is "to provide a complete and accurate intelligence picture of drug movement by land, sea, and air" with a focus on narcotics trafficking destined for the United States. The EPIC accumulates data, conducts analyses, and provides tactical and operational intelligence to agencies with statutory law enforcement responsibilities. The information provided during our audit through discussion and documentation indicates that these functions directly parallel functions of the JTF's and NORTIC.

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(U) Both JTF-4 and JTF-5 focus on counterdrug intelligence. Conversely, JTF-6's mission focuses primarily on support of the operational tasks requested by Operation Alliance. Prior to JTF-6 becoming operational, extensive coordination was conducted with the LEA's in the southwestern region. Because of this advance coordination, the JTF-6 operation was well integrated into law enforcement counterdrug operations.

(U) After completion of audit field work, we were informed that initiatives were under way in USPACOM, to consolidate *

(U) DoD's counterdrug intelligence operations could capitalize on the trend to consolidate intelligence production and analysis facilities. By consolidating the counterdrug intelligence centers, DoD could benefit by reducing operational costs and personnel staffing. Further, collocating the consolidated counterdrug intelligence center at the EPIC would better serve

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the LEA's, the users of the information; streamline communications; reduce the proliferation of data bases; and enhance security.

(U) Personnel. As shown in the following chart, the JCS approved 334 billets, or the counterdrug operations * .

Authorized Personnel

Billets	JTF-4	JTF-5	JTF-6	NORTIC	JTIC	Total
*						
*						
Total Billets	104	70	124	26	68	392

(U) JCS advised that the counterdrug billets were to be taken from existing personnel authorization levels in each of the Commands.

(U) Based on the expected results of the estimate from consolidation at USPACOM, the number of personnel authorized in counterdrug intelligence billets could be reduced significantly. At least a 40-percent reduction (98 billets) in intelligence billet staffing should be readily attainable. In addition, the nonintelligence billets listed above, with the exception of the 76 support billets located at JTF-6 and the billets to be provided to the LEA's as liaisons, could be returned to the appropriate Commands. The 40-percent reduction in intelligence billets achieved through consolidation of counterdrug operations includes provisions for each Command to provide liaison billets to LEA headquarters where warranted. These liaison billets would provide direct coordination between the LEA's and the Commands.

(U) Operational Costs. As previously stated, the Deputy Secretary of Defense directed that the Drug Coordinator establish a counterdrug program to commence with the FY 1992 budget cycle. Therefore, funding projections for future years were not readily available at the time of our audit. Based on audit information compiled from the offices of the DoD Drug Coordinator and the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), we estimated that the FY 1991 operating costs for the five DoD counterdrug centers will be approximately $19.6 million and that the military pay associated with staffing the centers will be approximately $10.2 million. We believe that at a minimum, $47.0 million in future years savings associated

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with operating costs could be achieved through the consolidation of DoD's intelligence operations, and $24.4 million of future years costs associated with military personnel could be put to better use (see Appendix F). The restructuring alternatives discussed above, including consolidation of the intelligence centers, does not impact on the level of support provided by JTF-6 to Operation Alliance.

(U) Counterdrug Threat. * national policy as defined by the Director, ONDCP, and the counterdrug threat . The three targeted narcotics in the guidance, in priority order, are cocaine, heroin, and marijuana. From this guidance, the Commands then identified their respective threats based on the geographic counterdrug trafficking within their respective AOR. *

(U) As discussed in Inspector General, DoD, Report No. 91-109, "Audit of DoD's Support to Drug Interdiction Efforts in the Pacific," July 9, 1991, USPACOM is providing * operational support *

in its AOR. We recommended that USPACOM adjust its * operations to be in accordance with the * guidance. The variance in targeted threats between AOR's is one means available to indicate that the DoD Drug Coordinator should focus DoD's limited resources on the highest priority targets.

(U) Data Base Systems. The January 6, 1989, guidance from the Secretary of Defense, directed, "to the maximum extent practical, limit participation, infrastructure modifications, and system/asset procurement that will be dedicated to unique anti-drug activities." The Commanders had intelligence architectures developed to identify the types of data bases and communication systems appropriate for the intelligence needs within their AOR's. Comparison of the Commands' architectures disclosed that numerous and diverse data bases and communication systems were being incorporated into the various Commands' counterdrug operations.

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(U) Our analysis of the system configuration plans at four of the Commands (JTF-4's and JTF-5's architecture, NORTIC's operation plan, and JTF-6's Command, Control, Communications, and Intelligence Requirements Document) identified 10 data bases or information handling systems that were being used in two or more of the intelligence centers. Some of these data bases were planned for all five of the DoD counterdrug intelligence centers. In addition, many of the systems will also be placed at each Command's headquarters intelligence organization.

(U) Unique counterdrug data bases are being developed within each Command that will exclusively serve their respective AOR. On October 19, 1990, the Commander, USPACOM, identified a need for a * data base. *

This point was demonstrated in JTF-5's "Third Quarter FY 1989 Anti-Drug Operations Report." *

In identifying command data base needs, coordination with the LEA's to assist in validating the need for specific information is imperative. *

(U) Another example of data base proliferation is demonstrated by the U.S.S. John A. Moore, a Pacific Fleet asset, that identified a need to have readily available counterdrug information during its surveillance operations. To accomplish this requirement, the U.S.S. John A. Moore is developing its own unique counterdrug data base of historical information it has accumulated during its counterdrug tours. The value and limited scope of this data base is questionable. If the information is pertinent to operations in the Pacific, it should be readily available to everyone with a potential need for the information. In addition, this singular-purpose data base sets a precedence for further fragmentation of information that could ultimately present barriers to the cross-flow of intelligence information.

(U) Our review of USLANTCOM's architecture disclosed plans to duplicate, at the command's headquarters intelligence section for counterdrug efforts, 10 of the 12 counterdrug systems located at

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JTF-4. We were advised that the purpose of the duplicative systems at the command headquarters was to ensure that the command's staff intelligence organization would be able to obtain the same information as JTF-4 in the same time frame.

(U) During the audit, we visited the NORAD southeastern and southwestern sectors. The radar coverage provided by those sectors closely replicates coverage provided by the U.S. Customs Service's East and West Command, Control, Communications and Intelligence facilities. In the case of the west coast operations, the NORAD facility and the U.S. Customs Service facility are across the street from one another. The two NORAD sectors have a long-standing national defense mission that predates DoD's involvement in counterdrug efforts. The unique missions performed by the southeastern and southwestern sectors clearly justify continued operations.

(U) Conclusion. The Commands approached their counter-narcotics mission as they would conventional military missions. This approach meets the traditional model of executing a military operation. However, the counterdrug mission is unique and does not parallel a military operation. For example, the Commands are primarily focused on operations that afford protection and defense of their AOR's. AOR's were established based on sound military principles derived from assessments of potential enemy operations. However, the counterdrug enemy, the drug smuggler, is not the traditional enemy planned for in military scenarios. The drug smuggler is totally unethical and will exploit any weakness possible in attempts to get illegal drugs into the United States. The drug smuggler was characterized by the intelligence community as innovative, adaptable, unpredictable, and very aware of U.S. counterdrug operations. Based on intelligence briefings at the Commands, drug smugglers do not confine their operations to a single AOR. The decision to execute the counterdrug mission by AOR within existing military operations was an arbitrary decision based on military tactics, not drug smuggling scenarios. Counterdrug operations are not compatible with the traditional military approach to gather intelligence for fighting wars based on a geographic AOR.

Consolidating the intelligence operations of the JTF's and the NORTIC would result in multiple benefits:

- economies of scale would reduce staffing;

- integration of operations and other support elements into the Commands' headquarters structures would eliminate the need for duplicative functions at the JTF's and the NORTIC;

- collocation of counterdrug intelligence at the EPIC would eliminate established AOR barriers;

- consolidation of data bases would be more cost-effective;

- security would be enhanced as proliferation of data is reversed, and better controls over dissemination can be provided;

- the flow of information among key players would be streamlined; and

- new trends in DoD for consolidation of intelligence functions would be accommodated.

MANAGEMENT COMMENTS AND AUDIT RESPONSE ON THE FINDING

(U) Management Comments. The Drug Coordinator stated:

> the finding completely disregards the functions of the Joint Task Forces (JTF's) and the overall scope of the DoD counterdrug mission.... Due to the unique nature of the counterdrug detection and monitoring mission and the task to provide operational support to the LEA's, the CINCs [Commanders in Chief] elected, with Secretary of Defense approval, to form Joint Task Forces dedicated to the execution of their counterdrug activities.

(U) Audit Response. See our audit response section under Recommendation 1.a. below.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

1. (U) We recommend that the Chairman, Joint Chiefs of Staff, in consultation with the DoD Coordinator for Drug Enforcement Policy and Support:

a. (U) Consolidate DoD counterdrug intelligence activities (JTF-4, JTF-5, JTF-6, NORTIC, and JTIC) at the El Paso Intelligence Center, and integrate, with the exception of the JTF-6 counterdrug operations, nonintelligence counterdrug functions into the organizational structure at the Unified and Specified Commands' headquarters.

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(U) Management Comments. The reply from the Drug Coordinator nonconcurred with the recommendation, stating that the JTF's:

> primary mission is to support DoD operations. JTF's are operations centers, responsible for tactical direction of assets committed to detection and monitoring activities and, in the case of JTF-6, extensive coordination of DoD assets used in support of LEA operations. The proposed consolidation would severely damage operational responsiveness.

(U) The reply also stated that removing the JTIC from the *

The Drug Coordinator also disagreed with the estimated potential monetary benefits of $71.4 million and stated that "to establish and globally network the capabilities described within the report at EPIC would be prohibitively expensive."

(U) Audit Response. Many of the Drug Coordinator's points have merit, but the response does not address the key point in the finding. Basically, the typical "area of responsibility" concept of operations within the multiple commands is questionable as to whether the AOR concept is the most effective approach to the counterdrug mission. Under the "lead agency" role for detection and monitoring, the LEA community, rather than the embassies and Commands, is the primary consumer of DoD intelligence support. We do not question the need for intelligence support for tactical command and control of assets committed for detection and monitoring. In addition to the economic benefits iterated in the conclusion paragraph of the finding, the intelligence support to tactical command and control may be more effective without the constraint of AOR military principles in DoD's performance of its unique counterdrug detection and monitoring mission. In our discussions with the LEA's, the recurring theme was that DoD support was most desired through providing much-needed resources. Specifically, the LEA community was in need of analytic capabilities and automation

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resources to manage information. Considering all the factors, we continue to believe that the counterdrug community would be better served by the integration of DoD counterdrug intelligence elements at the EPIC. In our opinion, the advantages of consolidation outweigh the disadvantages. Now that 3 years of operations have been experienced, the time may be appropriate to consider the feasibility of a "global" intelligence fusion center, as part of the continuing examination of the dynamic and evolving processes of the counterdrug program referred to in the Drug Coordinator's reply. Therefore, we request that the Director, Joint Staff reconsider his position in the response to the final report.

b. (U) Establish, in consultation with the major law enforcement agencies, liaison elements at the law enforcement agencies' headquarters as warranted.

(U) Management Comments. The reply from the Drug Coordinator concurred, stating that while a liaison net cannot be accepted as a substitute for the JTF's, the benefits of the mutual exchange of liaisons between LEA and DoD elements is well-recognized.

(U) Audit Response. The response provides the management position but lacks specific detail on the actions to be taken and the estimated completion dates for the actions. Therefore, the Director, Joint Staff, in reply to the final report, is requested to identify liaison arrangements or plans between the LEA's and the DoD along with estimated completion dates.

2. (U) We recommend that the DoD Coordinator for Drug Enforcement Policy and Support:

a. (U) Review Unified and Specified Command programs and budgets for counterdrug efforts to ensure that proposed expenditures are commensurate with the prescribed threat.

(U) Management Comments. The response from the Drug Coordinator concurred, stating that "the Department does review the CINC's [the Commanders] counterdrug budgets to determine that expenditures are commensurate with the prescribed threat." The comments stated that the management of the DoD counterdrug program within the PPBS has established the necessary review mechanisms. *

(U) Audit Response. The comments do not indicate that the intent of the recommendation will be met. The intent of the recommendation was to eliminate the inconsistencies between the

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targeted threats in the Atlantic versus the lower priority threats in the Pacific. As explained in the discussion portion of the finding, we believe the emphasis on marijuana in the Pacific is by default and that USPACOM's efforts have had nominal results. In comparison, CINCLANT's "target rich" environment for cocaine has been very successful. The report suggests that DoD's detection and monitoring efforts should be commensurate with the priority drug threat. We did not intend to infer that USPACOM's marijuana eradication efforts were anything but commendable. However, counterdrug budgets in the future should be based on prescribed target priorities and accomplishments. In light of this clarification, we request that the Drug Coordinator specify the procedures that will be used to ensure DoD expends time and resources in areas where the drug threat is a high priority and DoD efforts have proved successful.

b. (U) Develop a comprehensive list of all DoD data bases with counterdrug information, verify the justifications for the data bases, and eliminate data bases that are duplicative.

(U) Management Comments. The reply from the Drug Coordinator concurred, stating that the General Accounting Office recently completed an inventory of all Federal agencies' automated data processing (ADP) systems that are used in support of drug law enforcement. The inventory included DoD's systems. The DCI Counterdrug Center has developed a list of intelligence data bases as part of an effort being conducted by the Data Task Team of ONDCP's ADP working group. Although the DoD is developing some dedicated counterdrug intelligence data bases, the functions they perform are not replicated throughout the Commands or Defense agencies. Once the data bases mature, the goal is to assess the feasibility of hosting them on common-user workstations.

(U) Audit Response. The Drug Coordinator's comments identify actions that are responsive to the intent of the recommendation. Although the General Accounting Office's inventory identifies existing data bases, the need for a method to prevent future, unnecessary or duplicative systems from being developed should be recognized.

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C. Security (U)

FINDING

(U) The information security, operations security, and physical security aspects of DoD's recently mandated counterdrug support mission have not been adequately addressed in DoD policies and procedures. Attempts to correct these deficiencies have been hampered by a lack of criteria that prescribe the unique aspects of security requirements for counterdrug operations. *

DISCUSSION OF DETAILS

(U) Background. The DoD military mission has caused security to evolve into a high priority area of interest. To protect military information and operational data, DoD has developed detailed procedures for safeguarding data, personnel, communications, and operational plans. DoD's justification for the protection afforded these areas is based on national security concerns.

(U) Similar protection needs to be afforded to counterdrug information. However, protecting counterdrug information is generally more complex because of the variety of agencies involved in handling the information and the disparity in security techniques these agencies use. Whereas military information is often associated with espionage, unauthorized release of counterdrug information does not carry the same stigma. Because counterdrug information may not be perceived as a threat to national security, it becomes more vulnerable to compromise or disclosure.

(U) The LEA's have documented breaches in security involving counterdrug information. These breaches range from the sale of sensitive information to drug traffickers to the compromise of counterdrug missions resulting from operational data being deliberately leaked by inside sources. The physical dangers inherent to LEA agents responsible for the interdiction of drug traffickers is also commonly known.

(U) Our audit addressed the need for safeguards for the counterdrug mission by focusing on three aspects of security: information security (INFOSEC), operations security (OPSEC), and physical security. INFOSEC is the protection of sensitive information against unauthorized disclosure. OPSEC is the

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protection of capabilities from disclosure to adversaries. Physical security addresses the protection of personnel and assets against loss, damage, or injury. Lack of detailed historical information in the new environment of DoD drug interdiction support presents difficulties in identifying the security precautions necessary to ensure mission safety and success. During the audit, we identified security issues that need to be resolved if proper protection is to be provided to the counterdrug mission.

(U) INFOSEC. There is extensive guidance within DoD that addresses INFOSEC. The basic framework of the policies and procedures for storing, handling, and protecting sensitive information is identified in DoD Regulation 5200.1-R, "DoD Information Security Program Regulation." INFOSEC is concerned with protecting DoD information relating to national security against unauthorized disclosure. The Regulation requires that classification guides be issued by the original classification authority as early as practicable, before the initial funding or implementation of each classified system, program, project, or plan. Subordinate commands are to prescribe more detailed supplemental guides on security. The purpose of a classification guide is to ensure that security resources are expended to protect only that which truly warrants protection in the interest of national security.

(U) The absence of classification guides for counterdrug operations has caused the various DoD counterdrug activities to act independently and inconsistently. *

(U) The inconsistent treatment of sensitive information does not comply with DoD Regulation 5200.1-R. The various actions taken represent attempts to adapt DoD's security classification procedures to the new counterdrug mission. The actions taken by the DoD activities demonstrate the desire to provide the appropriate level of protection for a type of information that was historically secondary to DoD's primary area of interest, that of conventional military intelligence. With the expanded counterdrug mission and the establishment of intelligence fusion centers, DoD is now routinely processing all-source intelligence

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from multiple (non-DoD) sources. Although well intended, the multiple techniques that are being used to classify information demonstrate the confusion that exists within the DoD counterdrug community.

(U) Without security guidance that establishes uniform handling procedures and standards within and among the entire counterdrug community, the potential risk of mishandling and compromise increases significantly. DoD has not adequately addressed the need to develop a compatible classification system with the LEA's. The lack of a compatible classification system has been a serious barrier to effective communications within the counterdrug community and has increased the possibility that sensitive counterdrug information could be mishandled or worse, be unused. For example, Drug Enforcement Agency (DEA) officers in San Francisco and San Diego, California, commented that the classified DoD information provided to them was of no use because none of their subordinates held security clearances that would permit access to the information. Further, one DEA officer stated that the value of DoD information had not been determined because the agents were not authorized access and therefore were unable to use the information in field work. In another example, we were advised that the Command, Control, Communications, and Intelligence Center West, a regional office of the U.S. Customs Service, provided an unclassified document to the Navy, only to have the same document returned with a security classification assigned.

(U) DoD Regulation 5200.1-R provides criteria for determining when information requires protection by the DoD classification system based on the concept that release of the information to adversaries would cause damage to the national security. Certain elements of DoD's drug interdiction efforts, such as intelligence collection sources and methods, meet those criteria for classification. However, many other elements of DoD's counterdrug effort do not clearly meet established criteria for classification. Although proper safeguarding is important to the success of the counterdrug mission, it is not evident how the release of information relating to these elements could be considered a threat to national security. Missions should not be impeded because sensitive information is denied. Rather, security requirements should be reassessed and designed to ensure that they accommodate the mission.

(U) OPSEC. DoD Directive 5205.2, "DoD Operations Security Program," defines OPSEC as:

> The process of denying adversaries information about friendly capabilities and intentions by identifying, controlling, and protecting

indicators associated with planning and conducting military operations and other activities.

(U) The Directive requires heads of DoD Components to establish an OPSEC program to include, at a minimum, OPSEC training, use of OPSEC in planning, and OPSEC surveys as appropriate.

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(U) At times, OPSEC precautions are needed to counter less obvious threats. For example, the DEA's Deputy Assistant Administrator for Intelligence stated that the DEA has lost its ability to use a particular data base as an audit trail to identify personnel who had access to information that had been compromised. DEA lost control over its ability to identify those personnel due to the proliferation of the information into data bases of DoD activities that shared the same information.

(U) Another OPSEC concern deals with internal controls over the release of DoD information to the public. DoD Directive 5230.9,

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"Clearance of DoD Information for Public Release," requires that material originated by the DoD and intended for public release be forwarded to the Assistant Secretary of Defense (Public Affairs) for review to ensure the material does not contain classified information. We found that several DoD news article releases did not comply with this Directive. One article presented the mission, location, and even the operational techniques of a JTF. In addition, names of officers staffing the JTF were identified along with their qualifications. Based on the sensitivity of the JTF's missions, a low profile would benefit the JTF's operations and the security of their personnel. Regardless, the DoD Directive was not complied with, and specific details of information requiring protection were inadvertently released.

(U) Physical Security. A wide disparity exists in physical security awareness at DoD's counterdrug activities. Because USSOUTHCOM is located close to countries suspected of being primary shipping sites for narcotics, physical security should be an important issue. *

(U) DoD Directive 5200.8, "Security of Military Installations and Resources," authorizes installation commanders to take reasonable necessary steps to protect installation personnel and property. *

(U) Decisions regarding physical security have traditionally remained at the installation commander's level. However, during the evolutionary process of DoD's counterdrug mission, increased participation at the OSD level may be appropriate to attain consistency and standardization of operations and security to ensure that areas most in need of safeguarding are given protection commensurate with risk.

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(U) Conclusion. DoD has traditionally been on the leading edge in security programs due to the need to protect national security interests. However, the drug interdiction mission is unique and requires a new assessment of security techniques to include DoD's involvement with the LEA's. DoD's new relationship with the LEA's demands that security precautions be coordinated to ensure maximum efficiency and effectiveness in drug interdiction efforts. Security precautions exercised by the DoD to protect sensitive information and plans will be effective only if the LEA community exercises comparable safeguards. Failure to consider the LEA's capabilities and needs in the development of security plans could create barriers that preclude the timely sharing of information with agencies needing DoD assistance. While a strong security program is essential to success in the counterdrug mission, it is important that this program be balanced against the need to exchange time-sensitive information with the LEA's.

(U) DoD OPSEC policy has withstood the test of time against conventional adversaries. However, its new enemy, the drug traffickers, is more difficult to identify and is capable of rapidly adapting to methods that best suit profit motivation. This same premise holds true with physical security, because DoD has entered a new environment with no historical basis to help in making decisions regarding protection of military personnel and property. In addition, poor security may inadvertently put DoD personnel and property at increased risk. The DoD's success in support of counterdrug will be hampered until coordination and standardization of security efforts with the LEA's are accomplished.

MANAGEMENT COMMENTS ON THE FINDING

(U) The comments provided by the Drug Coordinator concurred with the finding and stated the audit report highlights many of the issues that the DoD coped with on an ad hoc basis for quite some time. Because of the significance of the security problem, DoD has become involved in the Data Task Team (DTT) of ONDCP. The DTT is under the Information Architecture and Integration's Subgroup.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

(U) We recommend that the DoD Coordinator for Drug Enforcement Policy and Support:

1. (U) Issue a counterdrug classification guide that provides a standardized system for treatment of counterdrug information in compliance with DoD Regulation 5200.1-R, "DoD Information Security Program Regulation."

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(U) Management Comments. The reply from the Drug Coordinator concurred, stating that the DoD, as a member of the DTT, has been tasked to develop an information protection guide, planned for publication in August 1991. The guide will have applicability across the entire counterdrug community and will address classification, security, and integrity issues surrounding the operations and data bases of the DoD and the LEA's. Also, DoD published "DoD Procedures for Handling Drug Enforcement Administration Sensitive Information" on December 11, 1990.

(U) Audit Response. Actions taken and planned by the Drug Coordinator meet the intent of the recommendation.

2. (U) Establish, in conjunction with the Office of National Drug Control Policy, a joint forum to create a generic system of classifying sensitive information that will permit wide dissemination of DoD counterdrug documents to appropriate user-level personnel in the law enforcement community.

(U) Management Comments. The comments concurred, stating that DoD has achieved something of a consensus in the DTT on the security classification issue relating to counterdrug information. Most information of a law enforcement agency nature is not classifiable according to Executive Order 12356, "National Security Information," except when it involves foreign relations of the United States or when classified intelligence sources or methods are involved. In addition, the bulk of counterdrug information can and should be handled like "DEA Sensitive Information."

(U) Audit Response. The Drug Coordinator's comments are fully responsive.

3. (U) Establish procedures that require counterdrug activities to:

a. Perform Operations Security surveys to determine the minimum counterintelligence precautions necessary to defeat drug trafficker intelligence efforts, and correct physical security deficiencies.

(U) Management Comments. The reply concurred, stating that "Regarding observations and deficiencies in physical security, we have noted similar situations and developed DoD 5200.8-R, 'Physical Security Program,' which was approved on 13 May 1991."

(U) Audit Response. The Drug Coordinator's actions are fully responsive.

b. Provide DoD counterdrug operational and mission-related information to the Assistant Secretary of Defense (Public Affairs) before its release for publication.

(U) Management Comments. The response from the Drug Coordinator concurred, stating that all DoD counterdrug operational and mission-related information will be submitted to the Assistant Secretary of Defense (Public Affairs) pursuant to DoD Directive 5230.9, "Clearance of DoD Information for Public Release," before public release.

(U) Audit Response. The Drug Coordinator's comments are fully responsive.

D. Measures of Effectiveness (U)

FINDING

(U) Methods have not been instituted that adequately measure the effectiveness of DoD's counterdrug support contributions or that accurately reflect the significant effort provided by DoD to assist the LEA's. As a result, DoD's contribution to U.S. counterdrug efforts may be misrepresented, and without clarification, may be subjected to criticism that would defer efforts from valid counterdrug support.

DISCUSSION OF DETAILS

(U) Background. The development of viable measures of effectiveness is an integral part of determining how successful DoD is performing its new counterdrug mission. Measures of effectiveness are defined as the variables which, when analyzed independently or in conjunction with other variables, enable determination of a program's success or benefit.

(U) Within DoD, there are numerous opinions on how DoD should measure its drug mission effectiveness. The Joint Staff stated in an Execute Order dated February 8, 1989, that level of effort reporting is the preferred method that the five designated Commands (USFORSCOM, USSOUTHCOM, USLANTCOM, USPACOM, and USNORAD) should use in assessing performance. This approach attempts to quantify counterdrug support by using such measures as the "number of flying hours" or the "number of ship days" that DoD assets expend performing counterdrug missions.

(U) DoD Directive 5149.1, "DoD Coordinator for Drug Enforcement Policy and Support," January 26, 1990, established the authorities, responsibilities, and functions of the Drug Coordinator. As part of his responsibilities, the Drug Coordinator is to "develop systems and standards for the administration and management of approved DoD drug control plans and programs." In order to accomplish this responsibility, the Drug Coordinator is authorized to "obtain reports, information, advice, and assistance ... necessary in carrying out assigned functions."

(U) On April 24, 1990, the Drug Coordinator testified to the Senate Subcommittee on Defense, Committee on Appropriations, that DoD's overall budget for counterdrug will increase from $300 million in FY 1989 to $450 million in FY 1990. He also indicated that DoD's counterdrug budget is expected to exceed $1 billion in FY 1991. Because of the significance of DoD's expenditures for counterdrug efforts and plans indicating substantial growth, it is essential that viable and accurate measures of effectiveness are developed.

(U) DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," stipulates the current requirements and procedures for reporting DoD assistance to the LEA's. The Directive requires the Defense agencies and the Secretaries of the Military Departments to submit quarterly reports of all civilian agency requests for DoD assistance. The reports are used to help capture and quantify the overall support DoD provides to LEA's, but do not specifically segregate DoD's counterdrug support.

(U) Measurement Constraints. Statutory limitations on DoD operations must be considered in attempting to measure DoD's effectiveness in performing its counterdrug mission. DoD operates in a support role and cannot seize drugs or arrest traffickers because of legal restrictions on military involvement in civilian law enforcement activities. Seizures and arrests are the responsibilities of the LEA's. Because of these responsibilities, LEA's often use volumes of confiscated illegal drugs and numbers of arrests as a means of assessing performance.

(U) A significant variable that strongly influences counterdrug operations but is difficult to measure is that of deterrence. *

DoD's involvement could range from having a ship patrolling in the Caribbean, to placing military working dogs with military handlers at certain ports of entry. Regardless of the technique used, deterrence is the most difficult contribution to measure. *

(U) Reporting Requirement. With DoD's anticipated counterdrug budget exceeding $1 billion, it is important to assess DoD's contribution to the overall mission. In addition to DoD's intelligence contributions to the counterdrug mission, DoD also provides other support in miscellaneous categories such as training, equipment loans, and drug operation missions. An essential part of compiling statistics to display the measure of effectiveness in the "other support" category is completeness and accuracy of reporting.

(U) At the time of our audit, DoD Directive 5525.5 was the only guidance that specified a reporting requirement (Report on Support to Civilian Law Enforcement) for quantifying DoD's assistance to the LEA's. The Directive requires the Defense agencies and the Military Departments to submit quarterly reports on all requests received from the LEA's. The reports are

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required to include five reportable categories (i.e., number and types of assistance, length of time assistance is required, status of the requests, reasons for denial, and time expended). The quarterly reports generated as a result of the Directive did not segregate DoD's counterdrug efforts from other support provided to the LEA's, e.g., emergency and disaster relief. In addition, the Directive does not provide guidance on how costs associated with assistance other than ship days and flying hours are to be determined. The costs associated with the time expended to provide information, personnel, and training support were the most frequently unidentified costs in the quarterly reports. Therefore, there is no readily available mechanism for specifically identifying the quantity and cost of counterdrug support DoD provided the LEA's.

(U) The format of the existing quarterly report, with modifications, could be used to assist OSD management in assessing the quantity or level of effort of counterdrug support provided to the LEA's. These modifications would include differentiating counterdrug support from all other types of civilian law enforcement assistance. In addition, the reports submitted by the Defense agencies and the Military Departments need to be standardized so that uniform and consistent information is displayed among the Military Departments. Specifically, costs, quantities, time expended, and loans of equipment and personnel need to be identified in detail to facilitate subsequent consolidation.

(U) Reporting on Operations. JCS and the commanders use several types of reports for describing operations and for assessing results of the operations within the various AOR's. These reports include: operations reports, which describe operations and associated results for a period of time; situation reports, which describe a specific situation; and assessment reports, which describe results and provide information relating to performance. The purpose of these various reports is to provide the information necessary to make objective assessments of the commanders' operations within the AOR's.

(U) On February 3, 1989, the Chairman, JCS, issued an Execute Order, "National Anti-Drug Surveillance Ops," to the commanders that identifies the course of counterdrug action authorized within each AOR. This Order required commanders to report counterdrug operations quarterly to the JCS. *

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All reporting requirements were intended to show DoD's detection and monitoring support to the LEA's and the corresponding results of the support provided.

(U) Although the format of the quarterly report provides for an array of objective statistics, it does not require a comparison of current statistics with statistics included in prior quarterly reports. In addition, trend analyses of counterdrug operations in the area are not required to show developing patterns. Also, there are no cumulative statistics such as "Fiscal Year to Date," which would show cumulative totals for given categories. We recognize that the statistics being reported are not easily amenable to comparative analyses. However, the present quarterly report format does not and is not designed to provide summary assessments of the actual or the perceived success of the Commands' counterdrug operations.

(U) In an attempt to summarize the commanders' counterdrug operations, we compiled the performance statistics reflected in the quarterly reports. We also reviewed all available assessment reports furnished by JTF-4 to USLANTCOM, by JTF-5 to USPACOM, and by JTF-6 to USFORSCOM. However, in the absence of a narrative summary, the statistics in the reports were not informative.

Since the reports used by the commanders to quantify support operations contained no narrative evaluation of the situations described, the statistics may be interpreted

. Without narrative information providing some analysis of these statistics, the report figures may be misinterpreted.

(U) In discussions with JCS officials, we were advised that "level of effort" was the mechanism being used to assess the Military Departments' measure of effectiveness. The total number of flying hours and total number of ship days accumulated and reported by the five Commands are necessary statistics for demonstrating the level of effort DoD devoted to counterdrug. However, for purposes of measuring the success of the Commands' counterdrug missions, statistics such as flying hours and ship days are of questionable value. The success of DoD's efforts should be evaluated based on the LEA's assessments of the support provided rather than on the quantity of effort expended. Relying exclusively on the quantity or volume of effort and not including some degree of a quality assessment may incorrectly or even negatively portray DoD's counterdrug efforts.

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(U) In a message dated May 5, 1989, the Drug Coordinator directed all DoD entities engaged in counterdrug efforts to report the total number of flying hours or ship days involved in a mission having counterdrug support applicability, even if the mission was only partially related to counterdrug support. This computation method inflates the level of effort statistics and makes their use highly questionable.

(U) Techniques to measure DoD's support to LEA's are available. The effectiveness of counterdrug support provided to host countries by USSOUTHCOM and to the LEA's by USFORSCOM is readily measurable. For example, the mobile training teams that USSOUTHCOM deploys to Columbia, Bolivia, and Peru receive postdeployment evaluations that include host country officials' input. These evaluations serve not only as effectiveness measures, but also as learning tools that enhance the planning and use of future mobile training teams.

(U) At JTF-6, after-action reviews are conducted at the completion of each operation. These reviews solicit the viewpoints of the officials of the supported LEA on how efficiently and effectively JTF-6 provided support. In addition, these reviews aid in planning future operations. The results of counterdrug efforts conducted by USLANTCOM/JTF-4, USPACOM/JTF-5, and NORAD/NORTIC are not as conducive to after-action review as those conducted by SOUTHCOM and USFORSCOM/JTF-6, *

. As a result, analysis and quantification of the benefit of support provided to the LEA's by those three commands is more difficult to correlate to an effect. The three commands need to develop measures of effectiveness that are based on direct and regular feedback from the supported LEA's on the timeliness, quality, and utility of the support provided. Since the DoD mission is to provide support to the LEA's, it is essential that the LEA's input be a major determinant or gauge of how effective DoD support is. The implementation of Recommendation 1.a. of Finding B of this report, regarding the collocation of the Commands' counterdrug intelligence centers at the EPIC will enhance the development of measures of effectiveness based on direct support provided to the LEA's.

(U) Conclusion. The category of "other support" provided to the LEA's is significant. Also, there is the possibility for improving DoD's assistance to the LEA's in the "other support" category. The measure of effectiveness DoD provides to the counterdrug mission should be strongly influenced by the level and degree of support provided in areas such as training, loans of equipment, available expertise in drug intelligence, and miscellaneous areas yet to be defined.

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(U) Measurement of the "other support" category can be quantified and evaluated based on DoD's responsiveness and timeliness. The measurement reporting process, however, must be complete and consistently developed with a standardized format. The measure of DoD performance in intelligence support is much more difficult. We believe that collocation of DoD's counterdrug intelligence efforts at the EPIC is a significant step in improving performance of DoD's counterdrug contribution to the detection and monitoring of drug traffickers. In our opinion, the best and most representative way of assessing DoD's contribution is to accurately and completely quantify the types of support required compared to the support provided. Also, DoD needs to determine the LEA's satisfaction relating to the quality and timeliness of the DoD support received.

MANAGEMENT COMMENTS AND AUDIT RESPONSE ON THE FINDING

(U) Management Comments. The reply from the Drug Coordinator nonconcurred with the finding, stating that the supporting role of the military is limited by law, the complexity of the national drug problem, and the reluctance of the military forces to judge their own performance by artificial "body count" statistics. The Drug Coordinator also stated that DoD "should be measured against a realistic standard--one that measures DoD performance against the specific and very important, but limited support missions and programs that have been assigned to it." DoD attacked the new counterdrug challenge in two ways. First, the Department focused on realistic goals in the use of military forces, such as what the relevant data indicated about DoD's success in detecting and monitoring potential aerial and maritime drug traffickers, rather than the ability to seal the borders. Second, DoD obtained the judgment of those best suited to its support of the LEA's, the agencies themselves. These measures of effectiveness were included in a report to the Secretary of Defense for FY 1990 and were reported in the DoD "Report to Congress on Drug Interdiction and Counter-Drug Activities for FY 1990."

(U) Audit Response. The reply from the Drug Coordinator stated nonconcurrence with the finding. However, the comments that DoD counterdrug efforts should be measured against realistic standards indicate basic agreement with the essence of the finding. The use of LEA input for the measures initially included in the FY 1990 reports to the Secretary of Defense and to the Congress was an important first step in assessing the effectiveness of DoD support. The dynamic and evolving nature of the program dictate that the judgments of the LEA community be continuously elicited so that as the program matures, the

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measures will clearly reflect DoD's contributions. Therefore, we request that the Drug Coordinator clarify his position on the finding in response to the final report.

RECOMMENDATIONS, MANAGEMENT COMMENTS AND AUDIT RESPONSE

(U) We recommend that the DoD Coordinator for Drug Enforcement Policy and Support:

1. (U) Revise DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," to require that the quarterly report on DoD's support to law enforcement agencies include specifics on the assessment of DoD's counterdrug performance based on two primary categories, intelligence support and other support.

a. (U) Establish procedures, with the Drug Enforcement Agency, to obtain a quarterly assessment of DoD's counterdrug performance in the area of intelligence from the El Paso Intelligence Center.

(U) Management Comments. The comments nonconcurred with the portion of the recommendation requiring quarterly reporting of counterdrug performance in the area of intelligence support, stating that the recommendation seems to suggest that the "official" evaluation of DoD intelligence effectiveness should be vested in DEA/EPIC. Although the reply indicated that a regular assessment provided by the EPIC would be welcome as part of an overall DoD assessment, it could not stand alone as an evaluation of DoD counterdrug performance in the area of intelligence. The comments also stated that there is no objection to periodic surveys of the law enforcement community; however, it should not be limited to only EPIC participation. The reply concluded that it is doubtful that a scientifically measurable characterization of intelligence support is achievable.

(U) The reply concurred with the portion the recommendation requiring quarterly reporting of the other support DoD provides in the counterdrug effort. The Drug Coordinator stated that his office is refining and automating the data collection process to centralize all reporting for other support at the Regional Logistic Support Offices (RLSO's).

(U) Audit Response. We agree with the comments that surveys of the LEA's to assess DoD performance should not be limited to the EPIC but should include all community users of DoD's intelligence. These assessments should indicate if DoD's detection and monitoring missions are satisfying the LEA's intelligence requirements. When that is accomplished, the intent of our recommendation will be met. Regarding the RLSO's initial

attempt to quantify and assess DoD's other support categories, these actions, when accomplished, will meet the intent of the recommendation. Therefore, in the response to the final report, we request that the Drug Coordinator provide details on the procedures to be established and the estimated date the procedures will be implemented.

b. (U) Standardize the elements that must be reported under the "other support" category to include at a minimum, staff hours, loans of equipment, types of training, and other support assistance directly attributable to the counterdrug mission.

(U) Management Comments. The reply concurred with the recommendation and the need for standardized reporting and stated that in lieu of accounting for staff hours, a macro view of staff effort could be achieved by reviewing the number of personnel assigned to a support task or staff.

(U) Audit Response. The reply is fully responsive.

2. (U) Use assessments in the quarterly reports to identify weaknesses and areas for adjustment in the "other support" category. Specifically, sources for intelligence collection should be commensurate with interdiction capabilities and should be periodically reassessed to provide necessary adjustments.

(U) Management Comments. The Drug Coordinator partially concurred, stating that there would be value in assessments of all areas, except that of adjusting intelligence sources commensurate with interdiction capabilities. The Drug Coordinator indicated that it is widely recognized that interdiction capabilities are generally inadequate for the threat. Further, the Drug Coordinator stated that intelligence collection efforts are continually reviewed and adjusted according to shifting international priorities and that the result is a focused application of intelligence collection resources in addition to those under the direct control of DoD.

(U) Audit Response. The Drug Coordinator recognizes that interdiction capabilities already fall short of intelligence capabilities. For example, time-sensitive tactical intelligence regarding a potential drug-running target of interest cannot always be pursued because of limited interdiction assets. This is precisely why we believe the LEA assessments would provide more substantive information on interdiction resources and therefore should be used as a means of maintaining balance between intelligence collecting and interdiction efforts. Therefore, we request that in response to the final report the Drug Coordinator reconsider his position regarding periodic reassessments of intelligence collection.

E. Other Support (U)

FINDING

(U) Support provided to the LEA's conducting counterdrug operations was not maximized because procedures were not established to identify, quantify, and prioritize the functional requirements of the various LEA's. Consequently, delays in conducting counterdrug operations were experienced, and uncertainty and confusion existed among the LEA's regarding the capabilities of DoD to support their counterdrug activities.

DISCUSSION OF DETAILS

(U) Background. The role of DoD in the nation's counterdrug efforts has evolved from supporting the LEA's with intelligence relating to illegal drug trafficking to an expanded role that includes providing support in multiple categories. This includes support such as training, dog teams, loans of equipment and personnel, and sharing research and development (R&D) efforts having potential counterdrug benefits. In a memorandum to the commanders of the Unified and Specified Commands, dated September 18, 1989, the Secretary of Defense stated that the detection and countering of the production, trafficking, and use of illegal drugs is a high priority national security mission of the DoD and that he intended to maximize, where feasible, the use of DoD's resources to contribute to the counterdrug mission. DoD management recognized that it had significant resources and capabilities that could be used to assist the LEA's in their counterdrug role. However, uncertainty over legal issues and a lack of complete and definitive guidance have been a constraint on the amount and timeliness of support the Military Departments have provided to the LEA's.

(U) Research and Development. R&D was repeatedly identified by the various LEA's as an area that poses the greatest hope for winning the drug war. The need for a concerted effort in R&D was stated by an official from the Office of National Drug Control Policy, when he pointed out that in this day of technological innovation, it seems ironic that the current single best drug detection device is the nose of a dog. The need for improved methods for inspecting cargo containers was identified by several LEA's as a specific area where R&D could make significant contributions. The research efforts within DoD that could help the counterdrug mission include sensor devices, improved radars, and night vision goggles. The initial funding for DoD's R&D efforts in counterdrug was approved by the Defense Authorization Act (the Act) of FY 1990. The Act appropriated $28 million "to ensure that DoD and the Defense Advanced Research Projects Agency (DARPA) are devoting adequate research and development technology to the detection of illicit drug activities."

(U) The Drug Coordinator is responsible for reviewing, evaluating, coordinating, and monitoring DoD drug control plans and programs to ensure compliance with approved policies and standards. To accomplish his responsibilities in the area of R&D, the Drug Coordinator has actively coordinated and exchanged information related to DoD's R&D efforts in counterdrugs with the law enforcement community. This coordination is accomplished through various committees. For example, the Drug Coordinator's Deputy Assistant is the DoD's representative and the vice-chairman of the Science and Technology (S&T) Committee. The S&T Committee, an element of the Office of the National Drug Control Policy (ONDCP), is an important forum for identifying, discussing, and coordinating community R&D requirements and ongoing efforts. The forum also offers the counterdrug community an opportunity to identify joint areas of interests and to prevent duplication of efforts.

(U) On January 11, 1990, the ONDCP compiled a listing of the LEA's most critical R&D requirements and tasked the S&T Committee to determine if DoD facilities were directing resources to satisfy any of these requirements. To accomplish this tasking, a workshop was held in August 1990 to match Federal R&D efforts with the LEA's counterdrug requirements and to ensure that the needs of the LEA's were clearly understood by all the Federal laboratories. In preparation for this workshop, the Drug Coordinator's office sought input from the DoD Components on any research being conducted that had been identified by ONDCP as a specific area of interest. Six related projects, totaling $14.3 million, were identified. DARPA, one of DoD's major R&D organizations, did not participate in the effort.

(U) In our discussions with DARPA officials, we were told that there were 12 ongoing DARPA projects, totaling approximately $900,000, that had potential counterdrug applications. In congressional testimony, a DARPA official stated that the ultimate goal of these projects is to produce devices that are suitable to the needs of the LEA's and the DoD in fighting the drug war. DARPA could contribute significantly to the counterdrug effort. Therefore, we believe that DARPA should coordinate all future R&D projects related to the counterdrug mission with the Drug Coordinator's office. Without DARPA's input, the Drug Coordinator cannot provide the LEA's a comprehensive picture of DoD's R&D projects that have counterdrug applicability. The LEA's need to be aware of DoD's ongoing R&D efforts in order to identify mutual areas of interest, coordinate their specific needs and requirements, and prevent duplications of effort.

(U) Training. The Secretary of Defense identified training as a major area for DoD support to the LEA's. Potential areas of training assistance include courses in languages, planning, logistics, communications, tactics, equipment operation and maintenance, intelligence, and establishing and operating rehabilitation-oriented training camps. Further, mobile training teams could be utilized to address specific LEA requirements.

(U) Inspector General, DoD, audit Report No. 91-107, July 2, 1991, "National Guard Support to U.S. Drug Interdiction Efforts," identified problems related to counterdrug training that are systemic in DoD. Specifically, the report disclosed that there has not been a comprehensive effort to identify DoD courses that are of interest to the LEA's. Also, the report states that DoD has not identified available LEA courses that could be used by DoD personnel to help them improve their counterdrug tasks.

(U) DoD Directive 5525.5 requires the Military Departments to prepare a quarterly report that indicates the number of hours DoD expended on instructing civilian agency personnel and the number of personnel used to provide the training. The report addresses all training provided to the civilian agencies and does not specifically indicate training that was counterdrug-related.

(U) We reviewed the FY 1989 quarterly reports from the Military Departments and found that 14,203 hours were expended for civilian agency training by a total of 191 DoD personnel. The report did not indicate the titles of the courses that the civilian agency personnel attended or the number of personnel that attended each course. Therefore, it was not possible to determine areas of LEA interest or courses in high demand by the LEA's. Determining the courses and the quantity and frequency of the LEA's training needs would assist DoD in projecting how often courses should be offered. In addition, because records of course requests were not maintained, we could not identify what courses were requested by the LEA's, whether the Military Departments denied any training requests, or the reasons for such denials.

(U) As a result of DoD's new counterdrug mission, DoD activities have identified requirements for counterdrug training. These training needs center on courses to help DoD personnel provide maximum support to the LEA's and to become familiar with some of the LEA techniques used in conducting counterdrug operations. DoD has not attempted to identify LEA courses that could be used to satisfy its requirements. A limited review of LEA training capabilities disclosed many training courses that could be beneficial to DoD personnel and that would be of major interest to various DoD Components.

(U) At the time of our audit, the Army was preparing a training analysis to identify its counterdrug-related requirements and to determine availability of existing LEA courses that could satisfy Army counterdrug training requirements. In addition, the Defense Intelligence College has developed an intelligence counterdrug training program based on input coordinated with the LEA's and the Military Departments. The training program lists courses that are appropriate for personnel working on intelligence-related counterdrug efforts. A comprehensive list of the counterdrug- related courses conducted by DoD and the LEA's would be mutually beneficial. The list could also be used to identify voids in training where programs need to be developed.

(U) Legal Issues. DoD's expanded role in the detection and monitoring of illegal drugs entering the United States has evoked many legal and procedural issues. Not since the Federal deployment of troops to the southern states during the post-Civil War period has the U.S. military been tasked to participate so closely in civilian law enforcement activities. Although DoD's involvement in counterdrug emphasizes support, defining the legal boundaries between a support role and an active role is often difficult. For example, the Posse Comitatus Act limits the extent to which military resources may be used to assist in civilian law enforcement matters. Therefore, definitive, legal direction and guidance addressing the parameters of DoD's counterdrug activities should have been developed when the DoD counterdrug mission was established.

(U) During our visits to the commands, numerous issues relating to legal concerns were raised. These concerns focused on actions prohibited by law and the conflicts resulting from the commanders' commitments to provide the LEA's maximum support. The most common problem was lack of action for fear of exceeding legal boundaries. This situation existed because adequate guidance either was not developed or was developed on a reactive rather than a proactive basis.

(U) Legal rulings were issued on a case-by-case basis. Each command has a Staff Judge Advocate, who provides legal advice and guidance for the command. The Legal and Legislative Counsel to the Chairman, JCS, provides assistance to the Staff Judge Advocates. The Legal and Legislative Counsel receives guidance from the OSD General Counsel, who acts as the final legal authority within the DoD.

(U) Despite the uniqueness and sensitivity of DoD's enhanced counterdrug mission, minimal legal guidance was issued to the Commands' Staff Judge Advocates by the Legal and Legislative Counsel and the OSD General Counsel. The Legal and Legislative

Counsel and the OSD General Counsel did not provide legal guidance in anticipation of numerous questions regarding the legal parameters for DoD counterdrug operations.

(U) At each of the JTF's, we were told of specific legal issues that were pending resolution by their command's Staff Judge Advocate. *

The legal impediment was the language of the Posse Comitatus Act, which prohibits military personnel from engaging in law enforcement activities, such as search and arrest actions.

(U) The Posse Comitatus Act was also a concern at JTF-6 in El Paso, Texas. JTF-6 conducts counterdrug operations in conjunction with the LEA's. At the time of our visit, the issue of whether military personnel had the authority to access private lands remained unresolved.

(U) We were also told of legal concerns regarding intelligence collection efforts against U.S. citizens associated with drug smuggling. In this instance, the General Counsel at the National Security Agency was involved in developing a DoD position.

(U) Based on similar concerns raised at multiple DoD counterdrug activities, we believe it would be in the best interest of DoD to issue comprehensive guidance that would standardize operational procedures and expedite responses to LEA requests. For example, because of legal concerns regarding reimbursement, it took 6 weeks for JTF-6 to respond to an LEA request for a seismologist. Similar delays could be reduced significantly to avoid the adverse affects of additional illegal drugs entering the country.

(U) Conclusion. DoD management has demonstrated its total support of the counterdrug effort. However, certain improvements would streamline DoD's operations and enhance the program's impact. If the DoD Drug Coordinator is to provide effective oversight, all counterdrug efforts need to be under his purview. In the case of training, an assessment of what is available, to include both LEA and DoD training, would assist in identifying courses of mutual interest and would provide a basis for isolating training needs. Also, the frequency of LEA training requests by area or subject would help in the development of training priorities and would identify where DoD could be of the greatest assistance. In the area of nonintelligence-related support, (i.e., transportation support, loans of equipment, and operational assistance) criteria for the

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support DoD can and cannot provide would assist the Commands, the DoD counterdrug organizations, and the LEA's in determining areas where DoD can provide the greatest assistance.

MANAGEMENT COMMENTS AND AUDIT RESPONSE ON THE FINDING

(U) Management Comments. The response from the Drug Coordinator nonconcurred with the finding, stating that the use of military personnel in support of law enforcement activities was approached cautiously by DoD because LEA requirements were not always within DoD's legal authority to accomplish.

(U) A reply to the finding was also provided by the General Counsel, DoD. In the response, dated May 2, 1991, the General Counsel commented that centralized review and control over counterdrug operations was initially directed by the Secretary of Defense and other DoD policymakers to avoid "unnecessary adverse publicity, international debacles, and civil and criminal lawsuits against military members." Therefore, individual missions were reviewed for legal sufficiency within the General Counsel's office. The General Counsel also provided details regarding actions initiated by his office addressing legal constraints and uncertainties relating to DoD's counterdrug mission. Specifically, a counterdrug advisory panel made up of the Military Department General Counsels was established to expedite the legal review process at the OSD level. Also, a counterdrug working group, which meets weekly, was created to resolve legal issues at the action officer level. In addition, the comments stated that a legal decision concerning the use of military dog teams was issued on May 31, 1990. The proposal to authorize military personnel to enter onto private lands without a search warrant was resolved by the Secretary of Defense in a decision not to forward draft legislation to Capitol Hill addressing the matter. The General Counsel stated that "it has routinely provided legal guidance in the absence of an actual fact pattern when the issues could be framed with precision." The reply concluded by stating, "I believe a well conceived, updated DoD Directive 5525.5 should be completed and sent to the field expeditiously by the office responsible for that directive." The General Counsel's comments on the finding are in Appendix D.

(U) Audit Response. We agree with the basic premise stated in the Drug Coordinator's response that the use of DoD military support be approached cautiously. Contrary to refuting the need for definitized guidance, we believe that the basic premise supports our conclusion. The publication of official guidance would clarify for the LEA's, as well as for the DoD personnel being requested to provide support, those requirements that may

not be within DoD's legal authority to accomplish. As a result, the unknowing involvement in potentially illegal support roles could be avoided. The comments on the finding from the General Counsel are, in our opinion, constructive and consistent with the basic premise made in the Drug Coordinator's reply. The suggested issuance of an updated DoD Directive 5525.5 would accomplish the necessary corrective action to alleviate the problem.

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

1. (U) We recommend that the DoD Coordinator for Drug Enforcement Policy and Support:

a. (U) Develop in conjunction with the General Counsel, DoD, and publish comprehensive policy and legal guidance on DoD's new expanded counterdrug mission, specifically identifying the support capabilities and resources DoD can make available to law enforcement agencies. Once published, distribute future General Counsel, DoD, decisions affecting counterdrug operations to DoD's counterdrug community in an effort to keep the guidance current.

(U) Management Comments. The reply from the Drug Coordinator nonconcurred with the recommendation, stating that the Secretary of Defense and other DoD policymakers initially called for centralized review and control over counterdrug operations to avoid adverse publicity, international debacles, and civil and criminal lawsuits against military members. The response also discussed the counterdrug advisory panel and the counterdrug working group. The reply stated that as legal issues develop a precedent based on past legal guidance, the Secretary has approved delegation of authority to the Commanders. The Drug Coordinator concluded by stating that DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," is being significantly revised by his office to determine its consistency with current legislation and case law. Specific guidance in addition to the Directive has been issued in messages, instructions, and policy letters, and new directives will be issued as DoD's involvement and support stabilizes.

(U) Audit Response. Although the reply from the Drug Coordinator nonconcurred with the recommendation, it agreed that the Directive addressing DoD's comprehensive policy and legal guidance should be updated. Considering that DoD's congressionally mandated role in counterdrugs is entering its fourth year, we contend that sufficient experience and precedents are available to provide meaningful and viable policy guidance in the form of an official publication. We fully endorse the General Counsel's comment that a completed DoD Directive 5525.5

be "sent to the field expeditiously." Therefore, we request that the Drug Coordinator provide an anticipated date of publication of DoD Directive 5525.5 in response to the final report.

b. (U) Develop and furnish to the law enforcement community a list of DoD training courses that have potential counterdrug applicability.

(U) Management Comments. The Drug Coordinator nonconcurred, stating that "providing the LEA's an extensive printout of DoD schools and available training would most likely produce a volume of unused material." Most of the training DoD has provided was designed to meet an agency's needs.

(U) Audit Response. The Drug Coordinator's comments are not responsive to the recommendation. As stated in his response, the LEA's have shown a wide range of interest in DoD training, from "Ranger School to Cook's School." However, the LEA's have limited knowledge of the training that is available. The intent of the recommendation was to provide a method to promulgate training availability. We maintain that the recommendation is still valid, and we request that the Drug Coordinator reconsider his position in response to the final report.

c. (U) Establish formal procedures for identifying the law enforcement community's requirements for DoD training and provide classes to satisfy their requirements.

(U) Management Comments. The Drug Coordinator nonconcurred, stating that the current method of having the LEA's describe to DoD what their requirements are and allowing DoD to determine the type of training best suited to meet those requirements remains the more effective method of meeting the LEA training needs.

(U) Audit Response. The method used to inform LEA's of potential DoD training available for their use may vary. Distributing various military school catalogs may satisfy some LEA needs, or periodic meetings of various DoD and LEA Training Coordinators may suffice. Regardless of the method adopted, we continue to support the need to formalize the process to identify and offer the maximum training support possible. Therefore, we request the Drug Coordinator to reconsider his position in response to this final report.

d. (U) Establish procedures with the law enforcement agencies for joint utilization of their counterdrug-related courses by DoD personnel when warranted.

(U) Management Comments. The Drug Coordinator concurred, stating that procedures exist for the LEA's to identify their

training requirements to DoD and for DoD to provide classes to satisfy those requirements. The Drug Coordinator also stated that although DoD has not had extensive requirements to attend LEA schools, when necessary, procedures were established for specific needs, as in the case of DoD personnel attending DEA intelligence training courses.

(U) Audit Response. For the Drug Coordinator's reply to be fully responsive, we need to know the specific procedures that were implemented to accomplish the recommended corrective action. Therefore, we ask that the Drug Coordinator identify the mechanism by which the corrective action was implemented in his response to the final report.

2. (U) We recommend that the Director, Defense Advanced Research Projects Agency, identify all research and development projects that may have application to the counterdrug community and provide the identified projects to the DoD Coordinator for Drug Enforcement Policy and Support.

(U) Management Comments. The Drug Coordinator concurred stating that DARPA has provided a list of and a detailed briefing to the Drug Coordinator on programs related to counterdrug support and on the congressionally mandated RDT&E programs for container inspection and contraband detection.

(U) Audit Response. The actions identified in the comments accomplish the corrective action recommended.

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OTHER AUDIT REPORTS PERTAINING TO COUNTERDRUG SUPPORT (U)

(U) As part of the overall "Audit of DoD's Support to U.S. Drug Interdiction Efforts," three reports on specific elements of the counterdrug program have been issued. The results of audit, synopsized below, were reported separately to permit timely implementation of corrective action.

(U) Inspector General, DoD, Audit Report No. 90-102, "Manpower Requirements Joint Task Force-6," September 17, 1990. This report disclosed that a critical shortage of essential personnel would occur at Joint Task Force 6 (JTF-6) during the fourth quarter of FY 1990. The overall JTF-6 vacancy rate for the fourth quarter of FY 1990 would reach 57 percent, and the vacancy rate for intelligence activities would reach 75 percent. Delays in filling these staff shortages would have resulted in impaired support to law enforcement agencies and a severe degradation of overall mission accomplishment at JTF-6.

(U) Recommendations were made to the Chief of Staff, U.S. Army; the Chief of Naval Operations, U.S. Navy; the Chief of Staff, U.S. Air Force; and the Commandant of the Marine Corps to expedite staffing of their respective vacant billets in order to reach authorized levels at JTF-6 by the end of FY 1990; to extend assignments of temporary duty personnel until permanently assigned personnel are available; and to furnish to the Director J-1 (Manpower and Personnel), of the Joint Staff, plans containing specific milestones by which full staffing of JTF-6 will be attained and maintained. Management concurred in the finding and recommendations and initiated appropriate action.

(U) Inspector General, DoD, Audit Report No. 91-109, "Support to Drug Interdiction Efforts in the U.S. Pacific Command," July 9, 1991. This report disclosed that the establishment of the U.S. Pacific Command (USPACOM) Joint Task Force-5 (JTF-5), in Alameda, California, duplicated existing capabilities in USPACOM, was contrary to OSD guidance, and did not provide the degree or type of support required by the LEA's. In addition, *

USPACOM's land interdiction program in Hawaii overlapped the congressionally mandated mission of the Hawaii National Guard; and the USPACOM FY 1989 counterdrug budget and program projection for FY 1990 * contained * million for projects that either were unrelated to the detection and monitoring of drug traffickers or did not support the LEA's counterdrug efforts. In addition, a * million project

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OTHER AUDIT REPORTS PERTAINING TO COUNTERDRUG SUPPORT (U) (Continued)

* in the USPACOM FY 1991
* Counterdrug Program was not justified based on its proposed counterdrug contribution.

(U) The report recommended that the Commander in Chief, USPACOM, disestablish JTF-5, and establish liaison offices for the purpose of identifying and maximizing support to the LEA's. The report also recommended that the intelligence functions for counterdrug efforts be incorporated into the El Paso Intelligence Center, and that a USPACOM Intelligence Support Element be provided to the National Drug Intelligence Center when it becomes operational. In addition, the report recommended that sea and air assets be more efficiently utilized; that units be dedicated to interdiction missions only when justified by adequate intelligence; that USPACOM coordinate the Counterdrug Plan of the U.S. Army Pacific Command with the Hawaii National Guard to minimize duplication and to provide maximum support to the LEA's in the State of Hawaii; and that the Secure Video Teleconferencing System proposed for JTF-5 and the Fleet Intelligence Training Center, Pacific, be removed from the counterdrug requirements submissions.

(U) The Commander in Chief, USPACOM, nonconcurred with the finding and recommendation to disestablish JTF-5 and to incorporate PACOM's intelligence functions for counterdrug support into the El Paso Intelligence Center and the planned National Drug Intelligence Center. USPACOM concurred with the recommendation to use sea and air assets only when justified by adequate intelligence. USPACOM nonconcurred with the recommendation to revise the U.S. Army Pacific Command's counterdrug plan to recognize the Hawaii National Guard as primary contact for counterdrug support to the LEA's within Hawaii. USPACOM concurred with the recommendation to cancel the counterdrug funding of the project to provide Secure Video Teleconferencing connectivity to JTF-5 and the Fleet Intelligence Training Center, Pacific. We are awaiting management's response to the final report.

(U) Inspector General, DoD, Audit Report No. 91-107, "National Guard Support to U.S. Drug Interdiction Efforts," July 2, 1991. This audit concluded that the National Guard Bureau was adequately managing the National Guard Components' counterdrug role. However, weaknesses were identified that required improvements. The Components had not fully identified their counterdrug work load, sought feedback on their counterdrug operations, measured effectiveness of the support they provided,

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OTHER AUDIT REPORTS PERTAINING TO COUNTERDRUG SUPPORT (U) (Continued)

or conducted long-term planning on counterdrug operations. The report recommended that the National Guard Bureau establish policies and procedures that require Components to maintain records of LEA requests for counterdrug support; develop feedback mechanisms with the LEA's for use in evaluating and improving the counterdrug support provided to the LEA's; annually assess the geographic priority categories of its Components based on measures of effectiveness; and incorporate projected funding of National Guard counterdrug operations into the DoD Counterdrug Program Objectives Memorandum. The National Guard concurred with these recommendations and is taking corrective action.

(U) The report also indicated that the requirement to establish a $16.8 million National Interagency Counterdrug Institute (NICI) was not justified and recommended that the National Guard Bureau cancel plans for the Continuation of the NICI, develop training requirements based on the operational needs of the Components, identify training courses within DoD and the LEA's that could be used to support the Guard's counterdrug mission, and establish procedures for the Guard to participate in existing counterdrug training. The National Guard nonconcurred with cancellation of the NICI and with the Guard's participation in existing counterdrug training. We are awaiting National Guard comments on the final report.

(U) The General Accounting Office (GAO) has also conducted numerous audits that address DoD's involvement in drug interdiction and eradication. GAO reports related to matters discussed in this report are identified and summarized below.

(U) GAO Audit Report No. GAO/GGD-88-27, "Drug Law Enforcement: Military Assistance for Anti-Drug Agencies," December 23, 1987 (OSD Case No. 7426). This audit assessed DoD's compliance with the Anti-Drug Abuse Act of 1986 (the Anti-Drug Act) (OSD Case No. 7426). The GAO reported that DoD was in compliance with the Anti-Drug Act. The Anti-Drug Act required DoD to convene a conference of the Federal drug law enforcement agencies. The conference was held to introduce protocol procedures for receiving DoD assistance. Attendees agreed to continue to follow established procedures when requesting counterdrug support from DoD. DoD stated in a letter dated November 2, 1987, that it concurred with the report's contents.

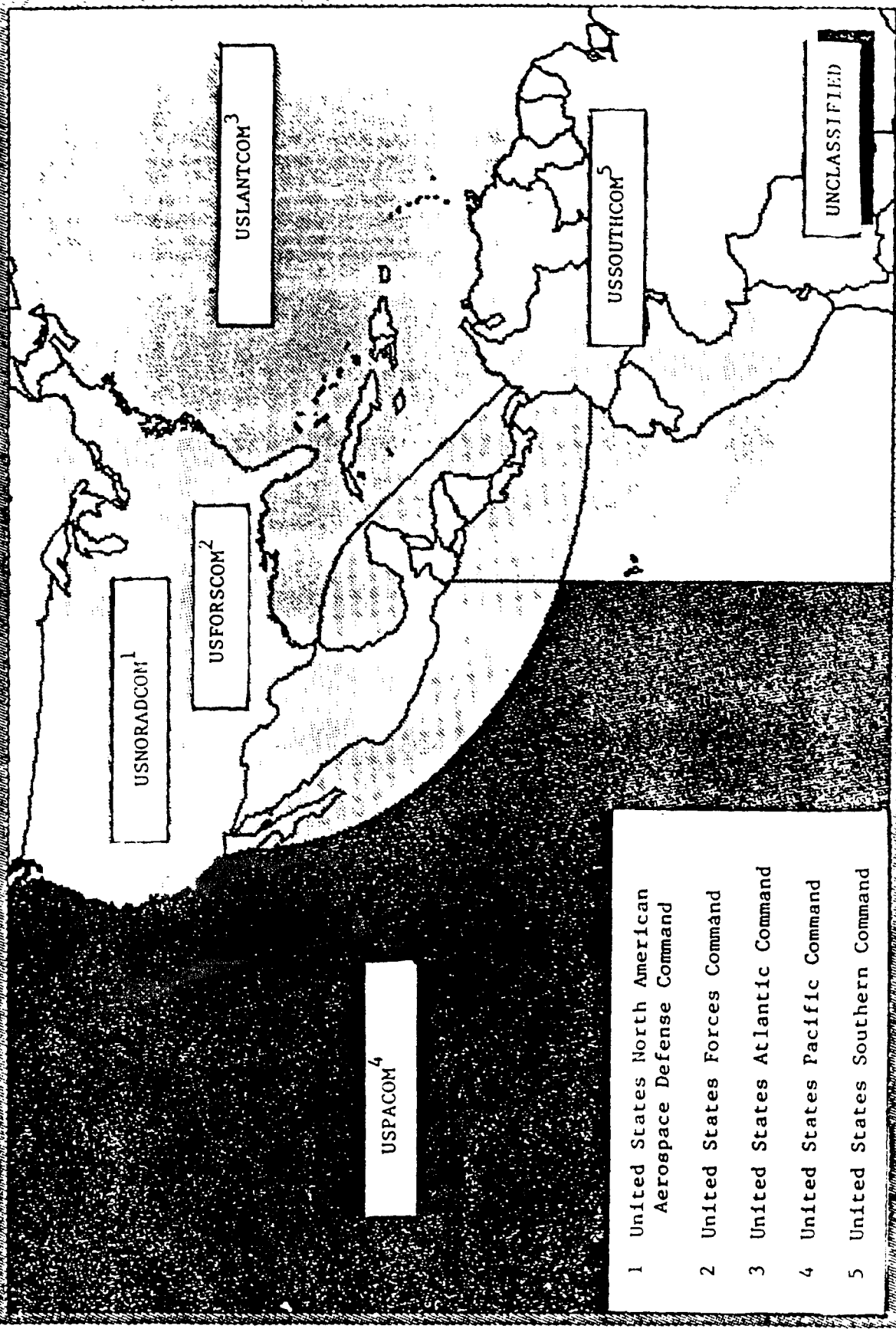
OTHER AUDIT REPORTS PERTAINING TO
COUNTERDRUG SUPPORT (U) (Continued)

(U) GAO Audit Report No. GAO/NSIAD-88-156, "Drug Control: Issues Surrounding Increased Use of the Military in Drug Interdiction," April 29, 1988, (OSD Case No. 8001). The GAO assessed the status of DoD's role at the time of the audit and its potential role in the Government's drug interdiction program. The report stated that for legal, foreign policy, and other reasons, neither DoD nor law enforcement officials supported a significant change in DoD's role, particularly with regard to DoD's involvement in seizures and arrests. GAO's report provided an overview of information and opinions concerning the issue of increased use of the military in drug interdiction. GAO made no recommendations. Because of the limited time available to meet the legislatively mandated reporting date and because GAO's objectives were to develop and compile information to assist the Congress, GAO did not request management comments on the report.

(U) GAO Audit Report No. GAO/GGD-88-113, "Drug Control: Should the Customs Command and Control Program be Continued as Currently Evolving," July 28, 1988, (OSD Case No. 7779). This report discusses changes that have been made to the counterdrug program as a result of coordination among the Federal agencies involved in drug interdiction. It also discusses the need for congressional review of the program due to changes and new legislation giving the DoD a greater role in drug interdiction. GAO indicated that Congress should review the program's direction before additional upgrades are approved. GAO did not obtain official comments on the report, but discussed its contents with U.S. Customs Service officials, who generally agreed with the facts presented.

(U) GAO Fact Sheet No. GAO/NSIAD-90-296FS "Drug Control: Status of Obligations for Fiscal Year 1990 DoD Counterdrug Funds," September 25, 1990, (OSD Case No. 8493). The fact sheet compared the DoD obligation rates for counterdrug accounts to obligation rates for similar defense program accounts. GAO found that DoD's financial obligation rates for counterdrug accounts, as of July 31, 1990, were generally lower than those for DoD programs as a whole. In addition, delays in obligating counterdrug funds were attributable to the late receipt of obligation authority, extensive and time-consuming reprogramming actions, DoD policy decisions requiring congressional approval, changes in counterdrug programs required by the final appropriations act, sequestration deliberations, and apportionment issues. GAO did not obtain official comments on the report.

COUNTERDRUG AREAS OF RESPONSIBILITY
By Unified and Specified Command



APPENDIX B

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DEPARTMENT OF DEFENSE
COORDINATOR FOR DRUG ENFORCEMENT
POLICY AND SUPPORT

WASHINGTON, DC 20301-1510

9 - AUG 1991

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING

SUBJECT: Draft Audit Report, DoD's Support to U.S. Drug Interdiction Efforts (Project No. 9RC-0052)

Thank you for the opportunity to comment on the proposed audit report. I recognize that your auditors have been examining, over an extended period of time, the dynamic and evolving processes which have been required to implement the congressional guidance and the President's National Drug Control Strategy. All of us in the Department who participate in counterdrug activities constantly evaluate and reevaluate our strategy, planning, and execution to ensure that we are implementing DoD missions in a manner that is effective, feasible, fiscally responsible and operationally sound.

I have attached detailed comments (Attachments A & B) that respond to a number of findings in the report. The comments have been coordinated with all appropriate DoD components (Attachment C). I am, of course, willing to discuss the unresolved issues with you personally, if you wish.

Stephen M. Duncan

Attachments
As stated

UPON REMOVAL OF ATTACHMENT(S)
THIS BECOMES UNCLASSIFIED

ATTACHMENT A

RESPONSE TO FINDINGS AND RECOMMENDATIONS
WITHIN THE DRAFT REPORT

FINDING

(U) DoD's counternarcotics program has not been adequately coordinated with the law enforcement agencies (LEAs) at all levels to achieve maximum effectiveness. This condition occurred because the Unified and Specified Commands were initially tasked to initiate detection and monitoring activities without sufficient recognition of their primary role of support to the LEAs. Also, counternarcotics planning was unilaterally developed without procedures that elicited coordinated assurances from the LEAs that priority missions were addressed. As a result, LEA input on objectives and strategies was not always included in DoD's counternarcotics missions, thereby making the accomplishment of mission goals more difficult.

(U) **Nonconcur:** A great deal of thought and debate took place at the highest levels within the Department, with the final decision being made by the Secretary of Defense, prior to executing the Department's new and unprecedented lead agency detection and monitoring mission and various support missions through multiple, supported Unified Commands. Due to the need for expediency in commencing activities in multiple areas of operations, it was the right decision. The Secretary and the CINCs were able to develop quickly regional concepts of operations for approval and rapid execution. Initial DoD military operations, although reflecting an increase in dedicated assets, actually did not differ a great deal from previous Department methodology for providing support to LEAs; e.g., Tactical control of naval vessels was still transferred to USCG for specific counterdrug operations.

(U) Only after the Department planned and executed ENHANCED OPERATIONS during the final months of CY 1989 did the CINCs exercise full control over their assets. It was then that DoD had fully implemented the Congressional statute directing that the Department to act as the "single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States." But because this was a change in the Department's previous concept of operations and because of the resultant increase in DoD's level of activity during ENHANCED OPERATIONS, the planning and execution of these operations were fully coordinated with the LEAs.

CLASSIFIED BY: MULTIPLE SOURCES
DECLASSIFY ON: OADR

RECOMMENDATIONS

(U) A.1.a. Program Results. Removes counternarcotics plans from various commanders' operational plans and reduces the sensitivity of plans to allow broader distribution and access to the LEAs. (Nonmonetary)

(U) Concur: Action has been taken in the forthcoming Joint Strategic Capabilities Plan (JSCAP) to have separate concept plans for counterdrug operations. This action is in accordance with the Joint Operational Planning Process; no change to the system is required to implement the recommendation. Operations orders which are derived from the counterdrug concept plans will be fully coordinated with appropriate LEAs at the command level prior to promulgation.

(U) Additionally, under the most recent update of JCS Memorandum of Policy 60, "Release Procedures for Joint Staff and Joint Staff Papers and Information," the CINCs are delegated the authority to make release determinations concerning Joint information to be exchanged with the LEAs.

(U) A.1.b. Program Results. Incorporates the LEAs' planning contributions into counternarcotics operational plans at the command level to maximize coordination and to achieve optimal results. (Nonmonetary)

(U) Concur: Incorporation of LEA contributions has always been recognized as critical in plans development. The mechanics for achieving proper level of coordination have and will continue to improve with program maturity.

(U) A.2.a. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to coordinate the priorities of DoD project submissions to be funded by the counternarcotics budget with the LEAs. (Nonmonetary)

(U) Nonconcur: The Office of National Drug Control Policy (ONDCP) is responsible for reviewing and approving the counterdrug program and budget for all Federal agencies. DoD submits its budget proposal to (ONDCP) which must certify that the budget proposal meets the National Drug Strategy.

(U) A.2.b. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to develop long-range planning, programming, and budgeting systems for counternarcotics programs in coordination with the LEAs. (Nonmonetary)

(U) Nonconcur: It is not DoD's responsibility to develop systems for other government agencies. If a long-range system is required by the law enforcement agencies, the system should be developed under the auspices of the Office of Management and Budget.

FINDING

(U) The DoD intelligence structure for the new counternarcotics mission is not ideally designed to provide maximum support to the LEAs. Intelligence support has been delegated to five relatively independent commands. Basically, the counternarcotics mission has been treated as a conventional defense mission; i.e., the commands acting autonomously in performing intelligence activities within their geographic area of responsibility. As a result, the collection, processing, and the analysis of counternarcotics intelligence was fragmented, duplicative, and not cost-effective. Restructuring of the counternarcotics intelligence elements would improve support provided to the LEAs and could result in about $71.4 million in potential monetary benefits by putting funds to better use.

RECOMMENDATIONS

(U) B.1.a. Program Results. Requires the consolidation of all DoD counternarcotics intelligence facilities at the Drug Enforcement Agency, El Paso Intelligence Center (EPIC) and nonintelligence personnel into the Command's Headquarters organizational structure. ($71.4 million of funds put to better use ($47.0 million of procurement and operation and $24.4 million of military pay))

> (U) **Nonconcur:** The finding completely disregards the functions of Joint Task Forces (JTFs) and the overall scope of the DoD counterdrug mission. While there may be merit to increasing our manning at EPIC above its present level, we do not concur with total consolidation of all intelligence efforts. Due to the unique nature of the counterdrug, detection and monitoring mission and the task to provide operational support to law enforcement agencies, the CINCs elected, with Secretary of Defense approval, to form Joint Task Forces dedicated to the execution of their counterdrug activities. As long as JTFs are required by the CINCs, a requirement for DoD intelligence support to these DoD functions will remain. The report calls the intelligence elements at the JTFs "intelligence fusion centers" and implies their primary task is the direct support of law enforcement operations. While these elements do fuse all-source intelligence and provide reports external to DoD, their primary mission is to support DoD operations. JTFs are operations centers, responsible for tactical direction of assets committed to detection and monitoring activities and, in the case of JTF-6, extensive coordination of DoD assets used in support of LEA operations. A normal J-2 intelligence element, with access to all necessary intelligence sources, is required to support these commands. The proposed consolidation would severely damage operational

responsiveness.

(U) Additionally, removing the Joint Tactical Intelligence Center (JTIC) from DIA is in not appropriate. The role and mission of the JTIC does not resemble that of the JTFs, NORTIC or EPIC. *

(U) Relocation of this activity to EPIC would have a serious impact on the ability to provide timely support to *

Also, disagree with the finding of a cost savings of $71.4M. To establish and globally network the capabilities described within the report at EPIC would be prohibitively expensive.

(U) B.1.b. Program Results. Requires the CINCs of Unified and Specified Commands to place liaison elements at major LEA headquarters where requested and warranted. (Nonmonetary)

(U) **Concur:** While a liaison net cannot be accepted as a substitute for the JTFs, the benefits of mutual exchange of liaison between LEAs and DoD elements is well recognized.

(U) B.2.a. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to review the Unified and Specified Commands' counternarcotics budgets and to determine if expenditures are commensurate with the prescribed threat. (Nonmonetary)

(U) **Concur:** The Department does review the CINCs' counter-drug budgets to determine that expenditures are commensurate with the prescribed threat, and each year's budget is

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certified by ONDCP. It should be noted that the Services develop and submit programs and budgets with inputs from the Unified and Specified Commands. Management of the DoD counterdrug program within the PPBS has established the necessary review mechanisms. Currently, the Department is conducting a budget execution review for FY 1991 and has scheduled reviews for the FY 1993 budget and FY 1994-1999 POM development. *

(U) B.2.b. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to develop a comprehensive list of all DoD data bases with counternarcotics information, confirmation of justification for these data bases, and elimination of data bases that are duplicative. (Nonmonetary)

(U) Concur: The General Accounting Office has recently completed an inventory of all Federal Agencies' Automated Data Systems (ADP) that are used in support of drug law enforcement. The inventory included DoD's automated systems. The DCI Counternarcotics Center has developed a list of intelligence data bases. This task was performed for the DoD and LEA intelligence community, and is part of a larger effort being conducted by the Data Task Team of ONDCP's ADP Working Group. Though DoD is developing some dedicated counterdrug intelligence data bases, the functions they perform are not replicated throughout the Commands or Defense Agencies. Once the data bases mature, our aim is to assess the feasibility of hosting them on common-user workstations.

FINDING

(U) The information security, operations security, and physical security aspects of DoD's recently mandated counternarcotics support mission have not been adequately addressed in DoD policies and procedures. Attempts to correct these deficiencies have been hampered by a lack of criteria that prescribe the unique aspects of security requirements for counternarcotics operations. *

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(U) **Concur:** The report deals with information security at length and highlights many of the issues that the Department coped with on an ad hoc basis for quite some time. Once it became clear that there was a significant problem in this area, we became involved in the Data Task Team (DTT) of ONDCP.

(U) C.1. Internal Control. Requires the DoD Coordinator for Drug Policy and Support to issue a counternarcotics classification guide that provides a standardized system for treatment of counternarcotics information in compliance with DoD Regulation 5200.1-R, "DoD Information Security Program Regulation." (Nonmonetary)

(U) **Concur:** DoD is an active participant in ONDCP's Data Task Team (DTT) which is a team under the Information Architecture and Integration Subgroup (IAISG). The DTT has been tasked to develop an Information Protection Guide, planned for August 1991 publication, that would have applicability across the entire counterdrug community. The guide will address classification, security and integrity issues surrounding DoD and LEA operations and data base. Also, DoD published "DoD Procedures For Handling Drug Enforcement Administration Sensitive Information" on December 11, 1990. Further, these procedures are part of the draft reissuance of DoD 5200.1-R, "Information Security Program Regulation." Because the audit was conducted from June 1989 through August 1990, the report does not include this information, although the DTT has been in existence for some time now.

(U) C.2. Internal Control. Requires the DoD Coordinator for Drug Policy and Support to establish, in conjunction with the Office of National Drug Control Policy, a joint forum to create a generic system of classifying sensitive information that will permit wide dissemination of DoD counternarcotics documents to law enforcement agency personnel. (Nonmonetary)

(U) **Concur:** The above discussion is applicable to this recommendation also. Additionally, DoD has achieved something of a consensus in the DTT on the security classification issue relating to counterdrug information. Most information of a law enforcement agency nature is not classifiable as Confidential, Secret, or Top Secret according to Executive Order 12356, "National Security Information." The notable exception is when such information also involves the foreign relations of the United States which would make the information classifiable, if not classified. The Director of the Information Security Oversight Office is known to oppose the security classification of law enforcement agency information. Other

counterdrug information may be classified because it reveals classified information about traditional intelligence sources or methods. However, it is our estimate that the bulk of counterdrug information can and should be handled like DEA Sensitive information.

(U) C.3.a. Internal Control. Requires counternarcotics activities to perform Operations Security surveys to determine the minimum counterintelligence precautions necessary to defeat drug trafficker intelligence efforts and to correct physical security deficiencies. (Nonmonetary)

(U) **Concur:** We have no objection to the operational security part of this recommendation. Regarding observations and deficiencies in physical security, we have noted similar situations and developed DoD 5200.8-R, "Physical Security Program," which was approved on 13 May 1991.

(U) C.3.b. Internal Control. Requires DoD counternarcotics activities to provide operational and mission-related information to the Assistant Secretary of Defense (Public Affairs) before its release for publication. (Nonmonetary)

(U) **Concur:** Prior to public release, DoD counterdrug operational and mission-related information is required to be submitted to the Assistant Secretary of Defense (Public Affairs) pursuant to paragraph E.1.a.(2) of DoD Directive 5230.9, "Clearance of DoD Information for Public Release."

FINDING

(U) Methods that adequately measure the effectiveness of DoD's counternarcotics support contributions or that accurately reflect the significant effort provided by DoD to assist the LEAs have not been instituted. As a result, DoD's contribution to U.S. counterdrug efforts may be misrepresented and, without clarification, may be subjected to criticism that would defer efforts from valid counterdrug support.

(U) **Nonconcur:** The supporting role of the Armed Forces, limitations of law, the complexity of the national drug problem, and a strong reluctance by the Armed Forces to judge their own performance by artificial "body count" statistics add to the confusion. It is also a fact that no set of data can, in the words of the National Drug Control Strategy, "accurately reflect the full complexity of our current drug epidemic." This is not to say the Department of Defense should not be evaluated, merely that it should be measured against a realistic standard--one that measures DoD performance against the specific and very important, but limited support missions and programs that have been

assigned to it.

(U) This challenge was attacked in two ways in FY 90. First, the Department focused on realistic goals in the use of military forces, such as what the relevant data indicated about our success in detecting and monitoring potential aerial and maritime drug traffickers, rather than our ability to seal the borders. Second, we obtained the judgment of those best suited to evaluate our support of law enforcement agencies--the agencies themselves. These measures of effectiveness were included in the Report of the DoD Coordinator for Drug Enforcement Policy and Support to the Secretary of Defense for Fiscal Year 1990 and were reported in the Department of Defense Report to Congress on Drug Interdiction and Counter-Drug Activities for Fiscal Year 1990.

Recommendations:

D.1.a. Program Results. Requires that the quarterly report on DoD's support to law enforcement include specifics on the assessment of DoD's counternarcotics performance based on two categories, intelligence support and other support. Also requires the El Paso Intelligence Center to provide a quarterly assessment of DoD's counternarcotics performance in the area of intelligence. (Nonmonetary)

(U) **Nonconcur**: The recommendation seems to suggest that the "official" evaluation of DoD intelligence effectiveness should be vested in DEA/EPIC. Although a regular assessment provided by EPIC would be welcomed as part of an overall DoD assessment, it could not stand alone as an evaluation of DoD counterdrug performance in the area of intelligence. While EPIC can assess DoD support to EPIC, it cannot assess support to the JTFs, LEA components, or to the Andean nations. While there is no objection to periodic surveys of the law enforcement community, we do not concur with limiting participation to EPIC.

(U) As the report admits, it is difficult to quantify intelligence. While the volume of intelligence reporting may appear to be an adequate unit of measure, it does not represent the full range of intelligence activities. Use of volume as a criteria of success could also lead to over-reporting in the future. While there is no objection to the inclusion of any intelligence success stories in the quarterly report, we doubt a scientifically measurable characterization of intelligence is achievable.

(U) **Concur**: With regard to reporting other support, we currently receive data in quarterly reports from the Military Departments and the Regional Logistic Support Offices (RLSOs) and monthly Situation Reports from the CINCs that provide data on the Department's responses to the LEAs'

requests for support. Additionally, we are currently refining and automating that data collection process to centralize all reporting for other support at the RLSOs.

(U) D.1.b. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to standardize the element that must be reported under the other support category to include staff hours, all loans of equipment, types of training, and other support assistance directly attributable to the counternarcotics mission. (Nonmonetary)

(U) **Concur:** Concur with the need for standardized reporting. However, we do not believe the benefit of accounting for staff hours would justify the administrative cost of the accounting. A macro view of the staff effort could be obtained by reviewing the number of personnel assigned to a support task or staff, or by reviewing personnel pay accounts.

(U) D.2. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to use assessments in the quarterly reports to identify weaknesses and areas for adjustment in other support categories. (Nonmonetary)

(U) **Nonconcur:** Concur with the value of assessments in all areas except that of adjusting intelligence sources commensurate with interdiction capabilities. It is widely recognized that interdiction capabilities are generally inadequate for the threat. Intelligence collection efforts are continually reviewed and adjusted according to shifting international priorities. DIA works closely with the LEAs, the unified and specified commands, and the national intelligence community to ensure collection is appropriate to the requirements and is not duplicative. The result is the focused application of intelligence collection resources in addition to those under the direct control of DoD.

FINDING

(U) Support provided to the LEAs conducting counternarcotics operations was not maximized because procedures were not established to identify, quantify, and prioritize the functional requirements of the various LEAs. Consequently, delays in conducting counternarcotics operations were experienced, and uncertainty and confusion existed among the LEAs regarding the capabilities of DoD to support their counternarcotics activities.

(U) **Nonconcur:** Use of military personnel in support of law enforcement activities was approached cautiously by DoD. On the other hand, LEA requirements were not always within DoD's legal authority to accomplish. This determination has been left to DoD vice the LEAs who consider their

requirements, but not necessarily DoD's legal or policy limitations.

(U) E.1.a. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support in conjunction with DoD General Counsel to develop comprehensive policy and legal guidance on DoD's new expanded counternarcotics mission and to incorporate future DoD General Counsel counternarcotics operations decisions in existing guidance and distribute the changes to DoD's counternarcotics community. (Nonmonetary)

(U) **Nonconcur:** As the draft audit states, DoD's enhanced counternarcotics role has been "sensitive" and "unique." Accordingly, the Secretary and other DoD policy makers initially called for more centralized review and control over counterdrug operations to avoid, to the extent we could, unnecessary adverse publicity, international debacles, and civil and criminal lawsuits against military members. In support of these concerns, individual missions are reviewed for legal sufficiency by the General Counsel.

(U) To expedite the legal review process at the OSD level, however, the General Counsel established a counterdrug advisory panel made up of the Military Department General Counsels. This group meets frequently with the DOD General Counsel to discuss broad legal and policy issues. The General Counsel also established a working group level meeting that lawyers from the Office of the DoD General Counsel, the CJCS Legal Advisor's Office, the Services, and the DoD Drug Coordinator's Office attend regularly.

(U) As patterns in the legal issues have become apparent and we could refer to past legal guidance as precedent applicable to new proposals, the Secretary has approved delegation of authority to CINCs providing them expanded authority to execute numerous categories of operational support to LEAs. This document is revised periodically to reflect the most recent legal guidance available. This gradual shift from case-by-case reviews at the OSD level has minimized political and legal controversy involving DoD personnel.

(U) Currently, DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," is being significantly revised by the DoD Coordinator's Office to determine its consistency with current legislation and case law. Specific guidance required in addition to the Directive has been issued in various messages, instructions, and policy letters. As the areas of DoD involvement and support stabilize, new directives will be issued.

(U) E.1.b. and E.1.d. Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to develop and furnish the LEAs a list of DoD training courses that have potential counternarcotics applicability, to establish procedures

for identifying the LEA community's requirements for DoD training, and to provide joint utilization of LEAs counternarcotics-related courses to DoD personnel when warranted. (Nonmonetary)

(U) **Nonconcur:** The training requirements of the LEAs have ranged from Ranger School to Cook's School. Providing the LEAs an extensive printout of DoD schools and available training would most likely produce a volume of unused material. In fact, most of the training DoD has provided has been especially designed to meet an agency's needs and is often provided by a Military Training Team (MTT) vice a formal school. The current method of having the LEAs describe to DoD what their requirements are and allowing DoD to determine the type of training best suited to meet those requirements remains the more effective method of meeting the LEA training needs.

(U) **Concur:** Procedures exist for LEAs to identify their training requirements to DoD and for DoD to provide classes to satisfy their requirements. These procedures have been promulgated by a DoD message throughout the DoD and LEA communities. Although DoD has not had extensive requirements to attend LEA schools, when necessary procedures were established for specific needs. For instance, DIA and DEA have an agreement that permits DoD personnel to attend DEA intelligence training courses.

(U) E.2. Program Results. Requires the Director, Defense Advanced Research Project Agency (DARPA) to identify all research and development projects within DARPA that may have application to the counternarcotics community and to provide this list to the DoD Coordinator for Drug Enforcement Policy and Support. (Nonmonetary)

(U) **Concur:** In fact, DARPA provided a list and completed detailed briefings of its programs to the DoD Coordinator for Drug Enforcement Policy and Support on December 6, 1990. Additionally, on January 11, 1991, DARPA briefed the DoD Coordinator for Drug Enforcement Policy and Support on DARPA programs and on the Congressionally mandated RDT&E programs for container inspection and contraband detection. All of these RDT&E programs have been approved by ONDCP and have been briefed to various Congressional Committees.

ATTACHMENT B

COMMENTS ON TEXT OF THE DRAFT REPORT

Final Report Page No.

(U) Numerous Pages: Delete "counternarcotics" and replace with "counterdrug." Rationale: The term "counterdrug" is more descriptive and less restrictive than the term "counternarcotics."

(U) Page 1, 2nd paragraph: Delete "$200 million" and "$60 million." Rationale: Accuracy. No specific dollar amounts were stipulated for these areas in the September 1988, Defense Authorization Act. 1

(U) Page 3, 1st paragraph: As written, the information on funding presented in the paragraph is misleading because the dollar amount figures for FY 89 and FY 90 do not include DoD funds obligated towards optempo and demand reduction. Total counterdrug funding is shown in the FY 91 figures because all counterdrug funds were placed into a centralized transfer account. The paragraph should read "The cost of DoD's counter-drug program increased from $438.8M in FY 89 to $745.8M in FY 90. The cost of the FY 91 program is expected to exceed $1B." 2

(U) Page 5, Other Matters of Interest: Discussion about the creation of a new infrastructure, the RLSOs, is incomplete. The RLSOs were organized to replace the previously operating NNBIS offices, which the LEAs were familiar and comfortable with as places to go for DoD non-operational support. 3

(U) Page 14, 1st paragraph: For accuracy, the top paragraph should be corrected to indicate that active duty members of the Army, Navy, Air Force, and Marine Corps, while in the U.S., are prohibited by law from performing any act of seizure. Because neither the Posse Comitatus Act nor 10 USC 375 have extra-territorial application, it is policy, as set forth in DoD 5525.5, and not law, that prohibits such acts outside the U.S. 7

(U) Page 15, 2nd paragraph: Delete $877.6M and replace with $745.8M. Rationale: Accuracy. 8

(U) Page 18, * : Discussion about DoD support to the U.S. Customs Service request * is inaccurate. DoD did not fund the first * operation. We provided the support, but USCS agreed to reimburse DoD in accordance to the Economy Act. The delay in execution was the result of DoD trying to find a legal way to provide the support. Following the recommendation 9

CLASSIFIED BY: MULTIPLE SOURCES
DECLASSIFY ON: OADR

* Classified Material Deleted

contained in the draft report would have required DoD to violate U.S. law.

(U) Page 35, discussion of data base proliferation: The draft report states that DoD is providing more information than the LEAs can handle due to a lack of refinement of the data base. DoD agrees that there is certainly room to improve data base requirements. However, consolidating all data bases may not necessarily be the answer, and filtering out too much information in a data base could result in the loss of valuable trend information. Some of our programs are relatively immature and will improve with as we and the LEAs gain further experience. 20

(U) Page 58, line 1: Delete "guard dogs" and replace with "military working dogs." Rationale: Accuracy. 36

(U) Page 65, lines 1 and 2: Delete "format used by all the Military Departments" and replace with "format." Rationale: Reporting of "other support" has been assumed by the Regional Logistical Support Offices (RLSOs) vice the Services. 37

(U) Page 65, lines 19 and 20: Delete "support and other support" and replace with "support." Rationale: Reporting of "other support" has been assumed by the RLSOs vice the Services. 38

(U) Page 71, para 2: In 1989, DASD(DEP&S) advised the Federal LEAs of methods by which to obtain information on all DoD courses available to their agencies. Subsequently, DEP&S met with LEAs to review the available courses. DIA also distributed a memorandum on February 1, 1990, offering LEAs training in DIA-sponsored courses. 45

(U) Page 73, "Legal Issues:" The statement that "the Posse Comitatus Act specifically restricts direct use of US military forces in civilian law enforcement activities" is overbroad and misleading. If this were true, most DoD counternarcotics activities would be illegal. 46

(U) Page 74, 3rd paragraph: The draft report implication that Legal Counsel "provides guidance" to Command Staff Judge Advocates (SJAs) connotes Legal Counsel authority over those SJAs, and to that extent is inaccurate. There is no chain of command from Legal Counsel to SJAs. 46

(U) Page 74, 4th paragraph: Command SJAs are responsible for issuing legal advice to their commanders. Legal Counsel issued minimal legal "guidance" to Command SJAs because minimal guidance was requested. The statement that Legal Counsel failed to anticipate and provide guidance on numerous questions that were never asked by Command SJAs is faulty because it assumes, without factual basis, that there were such questions. 46

(U) Page 75, 2rd paragraph: Discussion implies a lack of effort in arriving at and promulgating legal direction on use of 47

drug detector dogs. In fact, the DoD General Counsel issued a legal decision concerning the use of military working dogs on May 31, 1990. Soon thereafter, a DoD Instruction, "Using Military Working Dog Teams to Support Law Enforcement Agencies in Counterdrug Missions," dated September 17, 1990, was published and forwarded to the field. It provides detailed guidance on the DoD authority to loan military working dog teams to LEAs.

(U) Page 75, 3rd paragraph: Discussion on the authority of DoD personnel to access private lands is incomplete. The Secretary of Defense personally reviewed a draft proposal to authorize military personnel to enter onto private lands without a search warrant. He chose not to forward this draft legislation to Capitol Hill for a number of sound reasons. Thus, the issue was not only resolved, but resolved at the highest level. 47

(U) Page 75, 4th paragraph: Discussion in this paragraph implies the need for anticipatory legal advice. Legal analysis depends to a large extent on facts. It is, therefore, imprudent as a general matter, to offer "anticipatory" legal advice on any subject because the facts to which that advice will ultimately be applied are not only unknown but, in the vast majority of cases, unpredictable. Notwithstanding general reluctance to address anticipated legal issues, the DoD General Counsel did provide on several occasions legal opinions in anticipation of counterdrug-related legal issues. Additionally, DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," is being significantly revised by the DoD Drug Coordinator's Office to reflect current legislation and case law. 47

ATTACHMENT C

COMPONENTS INVOLVED IN COORDINATION

Under Secretary of the Navy
Principal Deputy Assistant Secretary
of the Army (IL&E)
Principal Deputy Assistant Secretary
of the Air Force (SAF/MIR)
Deputy Assistant Secretary of Defense (IA), (ISA)
Director, Defense Research and Engineering (R&AT)
Director, Joint Staff
Director, Counternarcotics Office, OASD (C3I)
Deputy Comptroller (P/B)
Assistant General Counsel (PH&P)
Assistant Deputy Under Secretary (C&S), OUDSD(P)

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D C 20301-1600

May 2, 1991

5/7/91

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Audit Report on the U.S. Drug Interdiction Efforts

Final Report Page No.

I have studied the attached proposed audit report, subject as above, paying particular attention to its discussion entitled, "Legal Issues" beginning on page 73. I am somewhat troubled by 46
its apparent implication that DoD drug missions have suffered somehow from case-by-case legal reviews conducted at the OSD level (as opposed to a more decentralized review process whereby broad policy guidance is issued at the OSD level while detailed legal reviews of missions are conducted at the operational level). I am also concerned about several specific findings contained in this discussion.

As the draft audit states, DoD's enhanced counternarcotics role has been "sensitive" and "unique." Accordingly, the Secretary of Defense and other DoD policy makers initially called for more centralized review and control over counterdrug operations to avoid, to the extent we could, unnecessary adverse publicity, international debacles, and civil and criminal lawsuits against military members. In support of these concerns, I insisted that individual missions be reviewed for legal sufficiency by members of my staff and, in many instances, by me personally.

Predictably, operators in the field were sometimes frustrated by the amount of time it took to conduct comprehensive OSD level legal reviews of what were oftentimes <u>novel</u> military missions that placed military members closer than ever before to real-world law enforcement operations. Nevertheless, I continued to support a "hands-on" approach by my staff as DoD broke new ground in the drug fight. To expedite the legal review process at the OSD level, however, I established a counternarcotics advisory panel made up of the Military Department General Counsels. This group meets frequently with me to discuss broad legal and policy issues spawned by the "war on drugs." I also tasked a lawyer on my staff to chair a weekly counternarcotics working group meeting to resolve legal issues at the action officer level. A lawyer from the Chairman, JCS Legal Advisor's Office, along with lawyers from the three Military Departments and a lawyer from the DoD Drug Coordinator's Office attend regularly. This working group has been instrumental in

expeditiously reviewing countless proposed counterdrug operations.

As we began to recognize patterns in the legal issues, it became apparent that DoD could refer to past legal guidance as precedent applicable to new proposals (thereby diminishing the need for case-by-case legal reviews for certain categories of activities). Thus, a revised delegation of authority message was sent to the CINCs of the unified and specified commands providing them expanded authority to approve numerous categories of operational support to law enforcement agencies. This message also outlined legal parameters for certain categories of support. This document will be revised periodically to reflect the most recent legal guidance available. I believe that this gradual shift from case-by-case reviews at the OSD level to expanded approval authority for the CINCS has minimized political controversy and lawsuits against DoD personnel.

More specifically, I must take issue with several comments in the audit report (See pages 75-77). First, my legal decision concerning the use of military working dogs was issued on 31 May 1990 (copy attached). Soon thereafter, DoD Instruction, entitled "Using Military Working Dog Teams to Support Law Enforcement Agencies in Counter-Drug Missions," dated September 17, 1990, was published to the field. It provides detailed guidance on the authority of DoD to loan military working dog teams to law enforcement agencies. Second, the Secretary of Defense personally reviewed a draft proposal to authorize military personnel to enter onto private lands without a search warrant. He chose not to forward this draft legislation to Capitol Hill for a number of sound policy reasons. Thus, the issue was not only resolved, but resolved at the highest level. Third, the DoD General Counsel's Office has routinely provided legal guidance in the absence of an actual fact pattern when the issues could be framed with precision. (Legal analysis depends to a large extent on facts. It is, therefore, imprudent as a general matter, to offer "anticipatory" legal advice on any subject because the facts to which that advice will ultimately be applied are not only unknown but, in the vast majority of cases, unpredictable.) Notwithstanding my general reluctance to address anticipated legal issues, we have done so routinely in the counternarcotics arena. To demonstrate my point, I have attached one of several compilations of legal opinions my office provided in anticipation of counternarcotics related legal issues. Had we been aware of the IG auditors' interest in opinions in this subject area they would have been made available earlier.

46-47 (attachment not in file)

Finally, DoD Directive 5525.5, entitled, "DoD Cooperation with Civilian Law Enforcement Officials," is being significantly

revised by the DoD Drug Coordinator's Office to reflect current legislation and caselaw. Contrary to the audit's suggestion that my office publish "comprehensive policy and legal guidance on DoD's new, expanded counternarcotics mission," I believe a well conceived, updated DoD Directive 5525.5 should be completed and sent to the field expeditiously by the office responsible for that directive.

I appreciate the opportunity to comment on this report. As you know I am a great supporter of DoD's efforts to stem the flow of illegal drugs into the United States and take great pride in the outstanding contributions that have been made by attorneys at all levels of DoD to "win the war."

Terrence O'Donnell

Attachments

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STATUS OF RECOMMENDATIONS (U)

(U)

Number	Addressee	Response to Final Report Should Cover: Reconsideration of Position	Proposed Action	Completion Date	Related Issues[1]
A.1.a.	Joint Staff	N/A	N/A	N/A	N/A
A.1.b.	Joint Staff	N/A	X	X	N/A
A.2.a.	Drug Coordinator	X	X	X	IC
A.2.b.	Drug Coordinator	X	X	X	IC
B.1.a.	Chairman, JCS 2/	X	X	X	M
B.1.b.	Chariman, JCS	N/A	X	X	N/A
B.2.a.	Drug Coordinator	N/A	X	X	N/A
B.2.b.	Drug Coordinator	N/A	N/A	N/A	N/A
C.1.	Drug Coordinator	N/A	N/A	N/A	N/A
C.2.	Drug Coordinator	N/A	N/A	N/A	N/A
C.3.a.	Drug Coordinator	N/A	N/A	N/A	N/A
C.3.b.	Drug Coordinator	N/A	N/A	N/A	N/A
D.1.a.	Drug Coordinator	X	X	X	N/A
D.1.b.	Drug Coordinator	N/A	N/A	N/A	N/A
D.2	Drug Coordinator	X	X	X	N/A
E.1.a.	Drug Coordinator	X	X	X	IC
E.1.b.	Drug Coordinator	X	X	X	N/A
E.1.c.	Drug Coordinator	X	X	X	N/A
E.1.d.	Drug Coordinator	N/A	X	X	N/A
E.2.	Director, DARPA 3/	N/A	N/A	N/A	N/A

1/ M = Monetary Benefits, IC = Internal Control Weakness, N/A = Not Applicable

2/ JCS - Joint Chiefs of Staff

3/ DARPA = Defense Advanced Research Projects Agency

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SUMMARY OF POTENTIAL MONETARY AND OTHER BENEFITS RESULTING FROM AUDIT (U)

Recommendation Reference	Description of Benefits	Amount and/or Type of Benefit
A.1.a.	Program Results. Removes counterdrug plans from various commanders' operational plans and reduces the sensitivity of plans to allow broader distribution and access to the law enforcement agencies (LEA's).	Nonmonetary
A.1.b.	Program Results. Incorporates the LEA's planning contributions into counterdrug operational plans at the command level to maximize coordination and to achieve optimal results.	Nonmonetary
A.2.a.	Internal Control. Requires the DoD Coordinator for Drug Enforcement Policy and Support to coordinate the priorities of DoD project submissions to be funded by the counterdrug budget with the LEA's.	Nonmonetary
A.2.b.	Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to develop long-range planning, programming, and budgeting systems for counterdrug programs in coordination with the LEA's.	Nonmonetary
B.1.a.	Program Results. Requires the consolidation of all DoD counterdrug intelligence facilities at the Drug Enforcement Agency, El Paso Intelligence Center and	$71.4 million of funds put to to better use. ($47.0 million of procurement and operation

SUMMARY OF POTENTIAL MONETARY AND OTHER BENEFITS RESULTING FROM AUDIT (Continued) (U)

Recommendation Reference	Description of Benefits	Amount and/or Type of Benefit
B.1.a. (Continued)	nonintelligence personnel into the Commands' Headquarters organizational structure.	and maintenance and $24.4 million of military pay).
B.1.b.	Program Results. Requires the Commanders in Chief of the Unified and Specified Commands to place liaison elements at major LEA headquarters where requested and warranted.	Nonmonetary
B.2.a.	Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to review the Unified and Specified Commands' budgets for counterdrug support and to determine if expenditures are commensurate with the prescribed threat.	Nonmonetary
B.2.b.	Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to develop a comprehensive list of all DoD data bases with counterdrug information, confirmation of justification for these data bases, and elimination of data bases that are duplicative.	Nonmonetary
C.1.	Internal Control. Requires the DoD Coordinator for Drug Enforcement Policy and Support to issue a counterdrug classification guide that provides a standardized system for treatment of counterdrug information in compliance with	Nonmonetary

SUMMARY OF POTENTIAL MONETARY AND OTHER BENEFITS RESULTING FROM AUDIT (Continued) (U)

Recommendation Reference	Description of Benefits	Amount and/or Type of Benefit
C.1. (Continued)	DoD Regulation 5200.1-R, "DoD Information Security Program Regulation."	
C.2.	Internal Control. Requires the DoD Coordinator for Drug Enforcement Policy and Support to establish, in conjunction with the Office of National Drug Control Policy, a joint forum to create a generic system of classifying sensitive information that will permit wide dissemination of DoD counter-narcotics documents to law enforcement agency personnel.	Nonmonetary
C.3.a	Internal Control. Requires counterdrug activities to perform Operations Security surveys to determine the minimum counterintelligence precautions necessary to defeat drug trafficker intelligence efforts and to correct physical security deficiencies.	Nonmonetary
C.3.b.	Internal Control. Requires DoD counterdrug activities to provide operational and mission-related information to the Assistant Secretary of Defense (Public Affairs) before its release for publication.	Nonmonetary
D.1.a.	Program Results. Requires that the quarterly report on DoD's support to law enforcement include specifics on the	Nonmonetary

SUMMARY OF POTENTIAL MONETARY AND OTHER BENEFITS RESULTING FROM AUDIT (Continued) (U)

Recommendation Reference	Description of Benefits	Amount and/or Type of Benefit
D.1.a. (Continued)	assessment of DoD's counter-narcotics performance based on two categories, intelligence support and "other support." Also requires the El Paso Intelligence Center to provide a quarterly assessment of DoD's counterdrug performance in the area of intelligence.	
D.1.b.	Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to standardize the elements that must be reported under the "other support" category to include staff hours, all loans of equipment, types of training, and other support assistance directly attributable to the counterdrug mission.	Nonmonetary
D.2.	Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to use assessments in the quarterly reports to identify weaknesses and areas for adjustment in "other support" categories.	Nonmonetary
E.1.a.	Internal Control. Requires the DoD Coordinator for Drug Enforcement Policy and Support in conjunction with General Counsel, DoD, to develop comprehensive policy and legal guidance on DoD's new expanded counterdrug mission and to incorporate future General Counsel counter-drug operations decisions in	Nonmonetary

SUMMARY OF POTENTIAL MONETARY AND OTHER BENEFITS RESULTING FROM AUDIT (Continued) (U)

Recommendation Reference	Description of Benefits	Amount and/or Type of Benefit
E.1.a. (Continued)	existing guidance, and distribute the changes to DoD's counterdrug community.	
E.1.b. thru E.1.d.	Program Results. Requires the DoD Coordinator for Drug Enforcement Policy and Support to develop and furnish the LEA's a list of DoD training courses that have potential counterdrug applicability, to establish procedures for identifying the LEA community's requirements for DoD training, and to provide joint utilization of LEA's counterdrug-related courses to DoD personnel when warranted.	Nonmonetary
E.2.	Program Results. Requires the Director, Defense Advanced Research Projects Agency, to identify all research and development projects within the Defense Advanced Research Projects Agency that may have application to the counterdrug community, and to provide this list to the DoD Coordinator for Drug Enforcement Policy and Support.	Nonmonetary

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ACTIVITIES VISITED OR CONTACTED (U)

(U)

Office of the Secretary of Defense

Office of the Assistant Secretary of Defense (Command, Control Communications and Intelligence), Washington, DC
Office of the Assistant Secretary of Defense (Reserve Affairs), Washington, DC
DoD Coordinator for Drug Enforcement Policy and Support Washington, DC
  Regional Logistics Support Office, Honolulu, HI
  Regional Logistics Support Office, Miami, FL
Joint Staff, Washington, DC

Department of the Army

Headquarters, Department of the Army, Washington, DC
United States Army Pacific, Fort Shafter, HI

Department of the Navy

Chief of Naval Operations, Washington, DC
Headquarters, United States Marine Corps, Washington, DC
Pacific Fleet, Pearl Harbor, HI
Naval Ocean Systems Center, San Diego, CA

Department of the Air Force

Headquarters, Department of the Air Force, Washington, DC
Tactical Command, Langley Air Force Base, Hampton, VA
Electronic Security Command, Kelly Air Force Base, San Antonio, TX

Unified Commands

Commander in Chief, U.S. Atlantic Command, Norfolk, VA
  Joint Task Force-4, Key West, FL
  Caribbean Regional Operations Command Center
Commander in Chief, U.S. Forces Command, Atlanta, GA
  Joint Task Force-6, El Paso, TX
Commander in Chief, U.S. North American Aerospace Defense Command, Colorado Springs, CO
  Sector Operational Control Center, March Air Force Base, Riverside, CA
  Sector Operation Control Center, Tyndall Air Force, Panama City, FL
Commander in Chief, U.S. Pacific Command, Camp H.M. Smith, HI
  Intelligence Center, Pacific, Camp H.M. Smith, HI

ACTIVITIES VISITED OR CONTACTED (U)
(Continued)

(U)

Unified Command (Continued)

Commander in Chief, U.S. Southern Command, Panama City, Panama
Special Operations Command, Alameda, CA

Defense Agencies

Defense Intelligence Agency, Washington, DC
Defense Logistics Agency, Alexandria, VA
National Security Agency, Fort George G. Meade, MD

National Guard Activities

National Guard Bureau, Washington, DC
California National Guard, Sacramento, CA
District of Columbia National Guard, Washington, DC
Florida National Guard, St. Augustine, FL
Hawaii National Guard, Honolulu, HI
New York National Guard, Albany, NY
Kentucky National Guard, Lexington, KY
Texas National Guard, Austin, KY

Non-DoD Activities

Department of Justice
  Headquarters, Drug Enforcement Administration, Washington, DC
    Field Offices: Albany, NY
                   Honolulu, HI
                   Los Angeles, CA
                   Miami, FL
                   New York, NY
                   San Diego, CA
                   San Francisco, CA

    El Paso Intelligence Center, El Paso, TX
  Headquarters Immigration and Naturalization Services, Washington, DC
  Western Regional Office, Los Angeles, CA
  United States Border Patrol, Laguna Nigel, CA
Department of Transportation
  Headquarters, U.S. Coast Guard, Washington, DC
    Pacific Area Headquarters, Alameda, CA
      11th Coast Guard District, Long Beach, CA
      Tactical Law Enforcement
      14th Coast Guard District, Honolulu, HI

ACTIVITIES VISITED OR CONTACTED (U)
(Continued)

(U)

Non-DoD Activities (Continued)

Atlantic Area Headquarters, Governors Island, NY
7th Coast Guard District, Miami, FL

Department of Treasury
Headquarters, U.S. Customs Service, Washington, DC
Western Regional Intelligence Division, Long Beach, CA
Field Offices: Albany, NY
Austin, TX
Coronado, CA
Los Angeles, CA
Jacksonville, FL
Miami, FL
New York City, NY
Sacramento, CA
San Diego, CA
San Francisco, CA

Operation Alliance, El Paso, TX
Command, Control, Communication, and Intelligence Center West, Riverside, CA
Command, Control, Communication, and Intelligence Center East, Miami, FL
Central Intelligence Agency, Counterdrug Center, Washington, DC

State Activities

Florida Department of Law Enforcement, Jacksonville, FL
Kentucky, Governor's Drug Task Force, Lexington, KY
Kentucky State Police Department, Lexington, KY
Texas Department of Public Safety, Austin, TX
Texas General Counsel to the Governor, Austin, TX

Non-Government Activity

BTAC Corporation, Rosslyn, VA

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Office of the Secretary of Defense

Assistant Secretary of Defense (Command, Control, Communications and Intelligence)
Assistant Secretary of Defense (Force Management and Personnel)
Assistant Secretary of Defense (Legislative Affairs)
Assistant Secretary of Defense (Public Affairs)
Assistant Secretary of Defense (Reserve Affairs)
DoD Coordinator for Drug Enforcement Policy and Support
Comptroller of the Department of Defense
General Counsel, Department of Defense
Assistant to the Secretary of Defense (Intelligence Oversight)
Assistant to the Secretary of Defense (Intelligence Policy)

Joint Staff

Director, Joint Staff

Department of the Army

Secretary of the Army
Assistant Secretary of the Army (Financial Management)
Army Audit Agency

Department of the Navy

Secretary of the Navy
Commandant of the Marine Corps
Assistant Secretary of the Navy (Financial Management)
Comptroller of the Navy
Naval Audit Service
Inspector General of the Marine Corps

Department of the Air Force

Secretary of the Air Force
Assistant Secretary of the Air Force (Financial Management and Comptroller
Air Force Audit Agency

Unified Commands

Commander in Chief, U.S. Pacific Command
United States Army, Pacific
Commander in Chief, U.S. Atlantic Command
Commander in Chief, U.S. Southern Command
Commander in Chief, U.S. Forces Command
Commander in Chief, North American Aerospace Defense Command

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(Continued)

Defense Agencies

Director, Defense Intelligence Agency
Director, National Security Agency
Director, Defense Advanced Research Projects Agency
Director, Defense Logistics Agency

National Guard

Chief, National Guard Bureau

Non-DoD Activities

Department of Justice
  Administrator, Drug Enforcement Administration
    El Paso Intelligence Center
  Commissioner, Immigration and Naturalization Service
  Office of Inspector General
Department of State
  Assistant Secretary of State, International Narcotics Matters
  Assistant Secretary of State, Bureau of Intelligence and Research
  Office of the Inspector General
Department of Transportation
  Commandant, United States Coast Guard
  Office of the Inspector General
Department of Treasury
  Director, Operation Alliance
  Commissioner, United States Customs Service
  Office of the Inspector General
Central Intelligence Agency
  Chief of Staff, Counterdrug Center
  Office of the Inspector General
Office of National Drug Control Policy
U.S. General Accounting Office,
  NSIAD Technical Information Center
Office of Management and Budget
Director, Operation Alliance

Congressional Committees

Senate Committee on Appropriations
Senate Select Committee on Intelligence
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Subcommittee on Manpower and Personnel, Committee on Armed Services
Senate Subcommittee on Preparedness, Committee on Armed Services

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(Continued)

Congressional Committees (Continued)

Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Subcommittee on Military Personnel and Compensation, Committee on Armed Services
House Subcommittee on Readiness, Committee on Armed Services
House Permanent Select Committee on Intelligence
House Subcommittee on Oversight and Evaluation, Permanent, Select Committee on Intelligence
House Committee on Government Operations
House Subcommittee on Legislation and National Security, Committee on Government Operations

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