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Report to the Congress

November 1988

DRUG LAW ENFORCEMENT

Military Assistance for Drug Enforcement Agencies



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Comptroller General
of the United States

B-229113

November 15, 1988

To the President of the Senate and
the Speaker of the House of Representatives

The National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) requires the Comptroller General to report on the Department of Defense's compliance with certain provisions of the Act requiring the Department to report on the nature and status of its providing military resources to drug law enforcement agencies. (See app.II.) Specifically, section 1243 of the Act requires the Department annually to prepare a list of available assistance and equipment and a detailed plan for providing this assistance to drug law enforcement agencies and to convene a conference of such agencies to reach agreement on the distribution of this assistance. (See app.III.)

We found that the Department of Defense prepared an assistance list and distribution plan and convened a conference, but these requirements were not performed within the statutory timeframes. Further, the Department did not enter into the required memorandums of agreement with civilian agencies within the specified timeframe. The detailed results of our review are in appendix I.

We provided a copy of our draft report to the Secretary of Defense, and we were advised that the Department concurs with our findings and does not believe it is necessary to provide official written comments.

We are sending copies of this report to concerned House and Senate Committees, the Secretary of Defense, and other interested parties and will make copies available to others upon request.

This review was performed under the direction of Nancy R. Kingsbury, Associate Director. Other major contributors are listed in appendix IV.



Charles A. Bowsher
Comptroller General
of the United States

Contents

Letter		1
Appendix I		4
Assessment of	Assistance List and Distribution Plan	4
Defense's Compliance	Interagency Conference	6
With Drug Law	Wide Range of DOD Assistance Requested	7
Enforcement	Objective, Scope, and Methodology	8
Requirements in the		
National Defense		
Authorization Act for		
Fiscal Years 1988 and		
1989		
Appendix II		10
National Defense		
Authorization Act for		
Fiscal Years 1988 and		
1989		
Appendix III		12
DOD Conference		
Recommendations		
Appendix IV		15
Major Contributors to	National Security and International Affairs Division,	15
This Report	Washington, D.C.	
	Office of the General Counsel	15

Abbreviations

DEA	Drug Enforcement Administration
DOD	Department of Defense
GAO	General Accounting Office
NNBIS	National Narcotics Border Interdiction System

Assessment of Defense's Compliance With Drug Law Enforcement Requirements in the National Defense Authorization Act for Fiscal Years 1988 and 1989

Since 1981, the Department of Defense (DOD) has become increasingly involved in supporting civil agencies' drug law enforcement efforts. While DOD is prohibited from direct involvement in such efforts as search and seizure; interdicting vehicles, vessels, or aircraft; and arresting, stopping and frisking,¹ it contributes extensively to drug law enforcement, including equipment loans, training for law enforcement agency officials, and radar coverage of major drug trafficking routes. In fiscal year 1987, DOD reported spending \$389 million for drug law enforcement assistance.

Section 1243 of the National Defense Authorization Act for Fiscal Years 1988 and 1989,² requires DOD to report annually to Congress listing assistance and equipment it proposes to make available to civil drug law enforcement agencies and a plan for promptly providing the assistance to these agencies. This report is to be submitted at the same time as the President's budget. The Act also requires that not earlier than 30 days and not later than 45 days from the submission of the annual report, DOD convene a conference of federal drug law enforcement agencies to reach agreement on the appropriate distribution of the equipment and assistance. The Act further requires that not later than 60 days after the conference convenes, DOD and these agencies are to enter into appropriate memorandums of agreement specifying the distribution of such assistance. The Act also requires GAO to monitor DOD's compliance with these requirements and to report to Congress within 90 days of the conference on DOD's compliance with the Act.

We found that DOD (1) prepared a report to Congress on the assistance and equipment it could provide to law enforcement agencies and a plan for doing so and (2) convened a conference of the heads of all federal law enforcement agencies to determine appropriate distribution of DOD assistance. DOD did not, however, meet the statutory timeframes for developing the list and holding the conference. In addition, DOD did not enter into the required memorandums of agreement with civil agencies within the specified timeframe.

Assistance List and Distribution Plan

Section 1243 requires DOD to submit a report to Congress, at the same time the President submits his budget, listing the equipment and other forms of assistance that DOD can provide to law enforcement agencies.

¹Public Law 97-86, Dec. 1, 1981, 10 U.S.C. 375.

²Public Law 100-180, Dec. 4, 1987, 10 U.S.C. 380.

Appendix I
Assessment of Defense's Compliance With
Drug Law Enforcement Requirements in the
National Defense Authorization Act for Fiscal
Years 1988 and 1989

The list must contain specific categories, such as surveillance equipment suitable for detecting air, land, and sea drug smuggling activities; communications equipment; support by the Armed Forces Reserves; intelligence information on foreign drug production and shipments; aircraft and marine vessels suitable for detection, interception, tracking, and seizure; and land vehicles appropriate to support operations by civilian law enforcement agencies.³ In addition, DOD must provide a detailed plan of procedures for lending the equipment and rendering other forms of drug-related assistance included on the list.

DOD's report to Congress listed equipment which included all the categories specified by the Act. For example, assistance offered under the surveillance category included long- and short-range air search radar, night vision goggles, infrared detectors, and sensor seismic intrusion detection squads and the land vehicle category offered various high-mobility, multi-purpose wheeled vehicles. Other categories also offered specific assistance related to the needs of the civil law enforcement agencies.

DOD has established mechanisms for processing and coordinating routine and non-routine requests for assistance, which were described in its drug assistance report. Routine requests are normally planned and therefore not time-sensitive. They are sent through command channels to military service headquarters or through the National Narcotics Border Interdiction System (NNBIS). NNBIS's quarterly scheduling conference is the principal forum where agencies formalize their requests for DOD resources. The Deputy Assistant Secretary of Defense for Drug Policy and Enforcement receives the requests from NNBIS and, in turn, tasks commanders of unified and specified commands through the Chairman, Joint Chiefs of Staff to evaluate resources and respond accordingly. When appropriate, the Deputy Assistant Secretary may ask the military services and the Defense agencies to evaluate requests for assistance and identify available resources.

Non-routine requests generally involve unanticipated, short-notice, or urgent requests for which agencies can contact the military service units directly. Unit commanders have approval authority for many forms of support or can forward requests rapidly to the proper level—the concerned commander of a unified or specified command or Departmental Secretary.

³For details on the categories of assistance, see excerpt from P.L. 100-180 included in app. II.

Appendix I
Assessment of Defense's Compliance With
Drug Law Enforcement Requirements in the
National Defense Authorization Act for Fiscal
Years 1988 and 1989

The President's budget concerning DOD was submitted to Congress on February 18, 1988, but DOD did not submit its drug assistance report to Congress until May 23, 95 days later. According to DOD, the report was late because there was not enough time to develop a useful report given the limited staff available to assign to this task. In addition, DOD noted that its role in drug interdiction was being debated in Congress at the time and that if its role were expanded, some assistance included in the report might no longer be available because it would be required for DOD's expanded role in drug fighting.

Interagency Conference

Section 1243 also requires that DOD convene a conference of the heads of all federal drug law enforcement agencies within 30 to 45 days after it submits its drug assistance report to Congress to determine how to distribute assistance. The conference was held in Long Beach, California, on August 17, 1988, 86 days after the report was submitted and 41 days later than required. The conference was conducted by NNBIS because of its experience in matching law enforcement agency needs with available DOD support.

DOD's report to Congress was distributed to drug enforcement agencies on July 11, 1988, 48 days after it was submitted to Congress and 38 days prior to the conference. On July 18, 1988, NNBIS formally announced the conference and asked the agencies to identify appropriate headquarters working-level representatives that would be attending the conference and to ensure that their representatives understood agency requirements as determined by a review of the DOD report and were prepared to represent their agencies on issues that might arise.

Representatives from 13 of the 14 federal agencies with drug enforcement responsibilities invited attended the conference; the Customs Service, Coast Guard, Drug Enforcement Administration (DEA), Immigration and Naturalization Service, State Department, Federal Bureau of Investigation, and U.S. Marshals Service. Also in attendance were representatives from each military service, the Joint Chiefs of Staff, and the Office of the Deputy Assistant Secretary of Defense for Drug Policy and Enforcement, which coordinates DOD's handling of requests for drug law enforcement support.

DOD and NNBIS officials stated that the conference was late because DOD believed that its uncertain role should be defined before convening the conference. In addition, to save cost, enhance lines of communication among law enforcement agencies, DOD, and NNBIS personnel, and provide

Appendix I
Assessment of Defense's Compliance With
Drug Law Enforcement Requirements in the
National Defense Authorization Act for Fiscal
Years 1988 and 1989

additional time for DOD to coordinate the conference, the decision was made to hold the conference concurrently with the scheduled August 1988 NNBIS/DOD quarterly conference.

Three of the agencies attending—the Customs Service, DEA, and the State Department—requested assistance. Although the agencies were supposed to limit their requests to the equipment and assistance contained in DOD's report, according to DOD and NNBIS officials, many of the requests were for forms of assistance that were not included in the report. For example, UH-1H helicopters and certain training were requested. Since this type of equipment and training was not included in the drug assistance program, the officials said that the request would need to be considered under other DOD request/support processes.

DOD and NNBIS officials expressed concern over the outcome of the conference, stating that many of the agencies apparently were unaware or did not follow procedures for requesting assistance. We asked representatives from the agencies why their requests exceeded the assistance listed in the DOD report. Reasons included (1) they had reviewed the report but decided to request additional assistance to get a feel for how DOD could accommodate them for future programs, (2) their agencies' headquarters had reviewed the report, but they had not, and, (3) they were not familiar enough with the requesting process.

Many representatives at the conference did not request assistance, citing as reasons that (1) their agencies' needs were being met by DOD through other request/support processes, (2) they had no requirements for additional DOD support, (3) they had not come prepared to request any assistance, and (4) they would use DOD processes already in place to request assistance when needed.

Wide Range of DOD Assistance Requested

Section 1243 requires DOD to enter into appropriate memorandums of agreement with requesting agencies to specify asset distribution no later than 60 days after the conference is convened, which for this year would have been October 16, 1988.

Although no memorandums of agreement have been entered into, DOD is negotiating with DEA, Customs, and the State Department concerning specific assistance it will provide. Requests include equipment, such as trucks, forklifts, generators; protective masks; survival training; and other technical assistance under the Act.

The Customs Service requested loans and/or transfers of equipment, such as forklifts, truck tractors, sensors, and vessels; engineering assistance for construction at marine interdiction bases; and military advisors for countering surface vessels and land-smuggling.

DEA requested (1) the loan/transfer of one fuel truck, 20 four-wheel drive pickup trucks, and personal field gear for its Domestic Marijuana Eradication Programs, (2) formal language training in Spanish and Portuguese and student instructional materials for DEA personnel, portable radios, generators, and protective masks for its South American Narcotics Control Operations, and (3) loan/transfer of fuel trucks and fire trucks, emergency generators, and survival training for both DEA and Bahamian personnel for its "BAHAMAS AND TURKS AND CAICOS" (OPBAT) operations.

The State Department requested support in examining and/or providing long-range and short-range, ground-based, temporary air surveillance radar in Jamaica and in the Dominican Republic and survival training for aircrew and aircraft maintenance personnel for both U.S. and foreign national personnel.

On September 6, 1988, NNBIS forwarded the draft conference report of recommendations for distribution of DOD support, citing Customs, DEA, and State Department requirements to the Office of the Secretary of Defense, to the requesting agencies for review and comments. (See app. III.) DOD is working with the three requesting agencies to further define the quantity and level of some assistance requested. As of November 3, 1988, no memorandums of agreement had been signed and, according to DOD officials, much has to be accomplished before they can sign the memorandums.

Objective, Scope, and Methodology

To assess DOD's compliance with section 1243 of the National Defense Authorization Act for Fiscal Years 1988 and 1989, we (1) reviewed section 1243 to identify its specific requirements, (2) reviewed the list of available assistance compiled by DOD, (3) attended the 1988 DOD/Law Enforcement Annual Resource Conference for determining distribution of DOD assistance, (4) discussed with key law enforcement agencies identified by DOD their reasons for requesting or not requesting DOD assistance, (5) reviewed the conference report prepared by NNBIS of recommendations for distribution of DOD assistance, and (6) interviewed DOD and NNBIS officials for their views on DOD's preparation and development of the report and on DOD's convening of a conference.

**Appendix I
Assessment of Defense's Compliance With
Drug Law Enforcement Requirements in the
National Defense Authorization Act for Fiscal
Years 1988 and 1989**

Our work was conducted from July 1988 to September 1988 in accordance with generally accepted government auditing standards.

National Defense Authorization Act for Fiscal Years 1988 and 1989

PUBLIC LAW 100-180—DEC. 4, 1987

101 STAT. 1019

Public Law 100-180
100th Congress

An Act

To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Dec. 4, 1987
[H.R. 1748]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National
Defense
Authorization
Act for Fiscal
Years 1988 and
1989.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1988 and 1989".

SEC. 1243. ANNUAL PLAN ON DEPARTMENT OF DEFENSE ASSISTANCE FOR CIVILIAN DRUG LAW ENFORCEMENT

(a) IN GENERAL.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 380. Department of Defense drug law enforcement assistance: annual plan

10 USC 380

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, the Secretary of Defense shall submit to Congress a report containing the following:

Reports

"(A) A detailed list of all forms of assistance under this chapter that is proposed to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies (including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service) during the fiscal year for which the budget is submitted.

"(B) A detailed plan for lending equipment and rendering other drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following:

Appendix II
National Defense Authorization Act for Fiscal
Years 1988 and 1989

101 STAT. 1164

PUBLIC LAW 100-180—DEC. 4, 1987

Communications and telecommunications. "(A) Surveillance equipment suitable for detecting drug smuggling activities by air, by land, and by sea.
"(B) Communications equipment, including secure communications.
"(C) Support available from the reserve components for drug interdiction operations of civilian drug law enforcement agencies.
"(D) Intelligence on the production, processing, and shipment of drugs in countries that are the source of illegal drugs in the United States and the transshipment of drugs between those countries and the United States.
"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

Aircraft and aircraft carriers "(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies.

Maritime affairs "(G) Vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies.

Motor vehicles "(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies.

Reports "(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a report submitted under subsection (a), shall convene a conference of the heads of all Federal law enforcement agencies having jurisdiction over drug law enforcement (including the Customs Service, the Coast Guard, and the Drug Enforcement Administration) and of the Secretary of State to determine the appropriate distribution of the assets, items of support, and other assistance to be made available by the Department of Defense under this chapter to those agencies during the fiscal year for which the report is submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.
"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b)."
(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:
"380. Department of Defense drug law enforcement assistance: annual plan."

DOD Conference Recommendations

CONFERENCE
RECOMMENDATIONS FOR DISTRIBUTION OF ADDITIONAL DOD ASSISTANCE
TO UNITED STATES FEDERAL DRUG LAW ENFORCEMENT AGENCIES AS
REQUIRED BY SECTION 1243 OF THE FY 88-89 NATIONAL DEFENSE
AUTHORIZATION ACT (P.L. 100-180)

1. As noted by the Deputy Assistant Secretary of Defense for Drug Policy and Enforcement (OSD/DP&E letter dated 11 Jul 1988), the Office of the Vice President/National Narcotics Border Interdiction System (OVP/NNBIS) agreed to convene a conference of representatives of the heads of all Federal law enforcement agencies having jurisdiction over drug law enforcement (including the Customs Service, the Coast Guard and Drug Enforcement Administration) and of the Secretary of State to determine appropriate distribution of assets, items of support, and other assistance to be made available by DOD. This conference, held in Long Beach, CA, on August 17, 1988, was conducted using the listing of additional DOD assistance as described in the Secretary of Defense (SECDEF) report to Congress (dated 23 May 1988) and as required by Section 1243 of the FY 88-89 National Defense Authorization Act (P.L. 100-180). Using the report from this conference, OSD/DP&E will translate support level determinations into memoranda of agreement between DOD and each respective agency.

2. The following listing represents those specific agency requests for support under this legislation and the recommendations of the joint conferees for DOD support as described in Appendices A, C, and D of the cited SECDEF report to Congress:

- Customs Service:

-- Provide loan and/or transfer of the following cargo handling equipment: forklifts, truck tractors (mules), roller racks, hydraulic pallet jacks, heavy duty drills, weight scales, light carts, and industrial fans (USCS will quantify specific needs once level of availability by DOD is known).

-- Provide photographic reconnaissance of suspect, clandestine airstrips along the U.S./Mexico Border (*).

-- Provide ground sensors for detecting aircraft landing at remote airstrips. (*).

-- Provide mobile civil engineering team assistance for construction at marine interdiction bases in the Bahama Islands (*).

-- Provide expert military advisors to the USCS for countering surface vessel and land smuggling intrusions along U.S. borders.

Appendix III
DOD Conference Recommendations

- Drug Enforcement Administration:

-- Domestic Marijuana Eradication Programs:

--- Provide loan and/or transfer: one fuel truck (1,200/5,000 gallons), twenty four-wheel drive pick-up trucks, and personal field gear.

--- Provide recurring support with seismic intrusion equipment and passive ground sensors (*); airborne photographic reconnaissance (*); helicopter transportation by the Hawaiian Army/Air National Guard (*); and patrol/reconnaissance flights by Civil Air Patrol aircraft.

-- South American Narcotics Control Operations:

--- Provide formal language training quotas for five DEA personnel in Spanish and two in Portuguese, plus exportable Spanish language student instructional materials for 100 DEA personnel (DEA would reimburse the latter).

--- Provide loan and/or transfer of ten PRC-70 (or equivalent) HF portable radios with antennae and carrying packs and forty PRC-77/25 VHF portable radios with antennae and - carrying packs (plus establish contact point(s) for training in use and maintenance of the above radio equipment by DEA personnel to be employed in Peru and Ecuador).

--- Provide loan and/or transfer of six 10 KW power generators with operator and maintenance training for DEA personnel.

--- Provide loan and/or transfer of three 2.5 ton M-Series trucks, plus operator and maintenance training for DEA personnel; one fuel truck (1,200/5,000 gallons); and one 500-gallon water trailer.

--- Provide loan and/or transfer of two-hundred M17A1 protective masks.

-- Operation "BAHAMAS AND TURKS AND CAICOS" (OPBAT):

--- Provide loan and/or transfer of two R-8 (1500-gallon) fuel trucks; two A/S 32P-13 fire trucks; three 30 KW emergency generators; one 3/4-ton pick-up truck; and two 5- to 10-ton diesel forklifts.

--- Provide training for 10 DEA personnel and 70 Bahamian Police Strike Force officers in small unit field operations, including basic outdoor survival, methods of concealment and ambush, M-16 rifle use and maintenance, and use of radios and night vision equipment.

Appendix III
DOD Conference Recommendations

--- Provide recurring water survival training for DEA OPBAT helicopter crew personnel at Pensacola, FL.

-- Department of State:

--- Assist in examining and/or providing an added long-range, ground-based, temporary air surveillance radar in Jamaica (*).

--- Assist in examining and/or providing a third temporary, but short-range, ground-based, air search radar in the Dominican Republic (*).

--- Examine the availability of potentially surplus night vision equipment, HF/VHF/UHF communications equipment, and generators/vehicles for potential transfer and use by foreign cooperating countries in narcotics control efforts.

--- Ensure the Department of State's Bureau for International Narcotics Matters is advised if alternative uses are proposed for presently "moth-balled" C-123 aircraft.

--- Provide training for up to 110 aircrew and aircraft maintenance personnel, including field survival training, for both U.S. and foreign national personnel.

3. Where there is an asterisk (*) indicated after the above specific validated requests, the joint participants recommended that each request should be handled through the recurring NNBIS/DOD quarterly support process to ensure that support to such requests are responsive to specific operational requirements and to ensure that such requests are properly prioritized within competing national requirements. The joint conferees generally expressed confidence in using the proven, recurring NNBIS/DOD support process since the requests for DOD support can be tailored to specific drug law enforcement operational needs on a near real-time basis.

4. All other invited participants noted that their agency's needs were being met by DOD through other request/support processes and/or that they had no specific additional requirements for additional DOD support based on the cited SECDEF report.

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