

122062

United States General Accounting Office

GAO

Testimony

For Release
on Delivery
Expected at
1:00 p.m. EDT
Tuesday,
October 17, 1989

DOD Counter-Drug Activities:
GAO Review of DOD's Compliance With
FY 1989 DOD Authorization Act

Statement of
Frank C. Conahan
Assistant Comptroller General for
National Security and International Affairs

Before the
Subcommittees on Legislation and National
Security, and Government Information, Justice
and Agriculture,
Committee on Government Operations,
House of Representatives

122062

U.S. Department of Justice
National Institute of Justice

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

Permission to reproduce this ~~copyrighted~~ material has been granted by
Public Domain
U.S. General Accounting Office

to the National Criminal Justice Reference Service (NCJRS).

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

NCJRS

FEB 28 1990

ACQUISITIONS

Mr. Chairmen and Members of the Subcommittees:

We are pleased to be here today to discuss the Department of Defense's (DOD) counter-drug activities pursuant to the requirements of the fiscal year 1989 DOD Authorization Act. We will discuss the results of our 3-week effort to determine how DOD has implemented its enhanced counter-drug responsibilities and what DOD has done with the \$300 million appropriated for such purposes. We will also discuss, as you requested, our recent evaluation of federal capabilities for interdicting airborne smugglers.¹

Let me emphasize that due to the short time available to prepare for this testimony, we did not independently verify or evaluate much of the testimonial and documentary information obtained by us at the DOD. I believe, however, that our testimony will provide insight into how DOD went about implementing the 1989 act.

SIGNIFICANT INCREASE IN DOD
RESPONSIBILITY MANDATED FOR 1989

Since 1981, DOD has played a significant role in the war on drugs, assisting federal, state, and local law enforcement agencies and spending hundreds of millions of dollars. Its support traditionally has been provided as an adjunct to what it considered its national security mission.

¹ DRUG SMUGGLING: Capabilities for Interdicting Private Aircraft are Limited and Costly (GAO/GGD-89-93) June 9, 1989.

However, the National Defense Authorization Act, Fiscal Year 1989 (P.L. 100-456, Sept. 29, 1988) significantly increased DOD's counter-drug responsibility by tasking DOD to (1) become the lead agency for detecting and monitoring illegal drugs entering the United States, (2) integrate U.S. command, control, communications, and technical intelligence assets (C3I) dedicated to drug interdiction into an effective communications network, and (3) enhance the expanded use of the Army and Air National Guard in supporting drug enforcement activities.

By appropriating \$300 million² for fiscal year 1989 to fund DOD's expanded role, Congress directed DOD to include its counter-drug role as a part of its overall mission. Recently, Secretary of Defense Cheney established counter-drug activities as a high priority national security mission for the military.

STATUS OF \$300 MILLION APPROPRIATED
FOR COUNTER-DRUG ACTIVITIES

The \$300 million were appropriated to DOD's operations and maintenance (O&M) and military personnel accounts. The appropriation specified that

²The 1989 Department of Defense Appropriation Act (P.L. 100-463, Oct. 1, 1988).

--not less than \$40 million of the \$300 million was to be earmarked for Army and Air National Guard drug interdiction activities;

--the Secretary of Defense must submit to the Committees on Armed Services and on Appropriations a report describing the proposed use of the funds and the relationship between those activities and the drug interdiction strategy of the United States; and

--no more than \$30 million could be obligated or expended until 30 days after the submission of this report.

Authorizing legislation differed from appropriation legislation on how much money was available and when. The authorization act denied DOD access to the entire \$300 million until 60 days after the DOD report was submitted³. As a result of the Office of the Secretary of Defense's (OSD) reading of this restriction, funds were not available to DOD until April 16, 1989, more than 6 months into fiscal year 1989.

On February 15, 1989, DOD submitted its plan and notified Congress it would allocate \$40 million to support National Guard activities, \$60 million to support C3I systems integration, and \$200 million for detection and monitoring activities. However, since legislation directed the funds into military personnel and O&M accounts, DOD undertook reprogramming actions to meet the requirements of its counter-drug program.

³Although appropriation language restricted access to funds for 30 days, OSD's General Counsel Office considered the more prohibitive 60-day restriction of the authorization act to apply.

On July 7 and 10, 1989, DOD asked the responsible congressional committees⁴ to approve the reprogramming of \$192.077 million and \$1.5 million, respectively, from the original \$300 million to procurement and research and development (R&D) appropriation accounts. These reprogramming requests covered \$59,050,000 in procurement for C3I activities, \$79,000,000 for aerostat (a radar balloon) related procurement, \$54,027,000 for other monitoring and detection procurement, and \$1.5 million for R&D. No procurement money was requested for National Guard activities. On August 8, 1989, 10 months into the fiscal year, the reprogramming actions for procurement were approved by the congressional committees.

The House Appropriations Committee denied DOD's request to reprogram \$1,500,000 into an R&D appropriation. Although the decision was made early in August 1989, the OSD did not learn about it until September 29, 1989. Rather than allow funds to expire, OSD internally reprogrammed these funds to the Defense Mapping Agency on September 30, 1989, for a counter-drug mapping survey. Table 1 shows the appropriation accounts into which DOD eventually allocated these funds.

⁴ The House and Senate Committees on Appropriations and Armed Services approved the reprogramming action.

Table 1

Allocation of Funds
By DOD Appropriation Account

Procurement Appropriation	\$192,077,000
O&M Appropriation	79,022,000
Military Personnel Appropriation	28,901,000
Total	<u>\$300,000,000</u>

Table 2 illustrates how these funds were finally allocated among DOD programs after the reprogramming. Appendix I provides greater detail of this allocation.

Table 2y

Allocation of Funds
By Mission and Appropriation Account

	<u>Procurement</u>	<u>O&M and Mil. Personnel</u>	
	(in millions)		
National Guard	\$ 0	\$ 40.000	\$ 40.000
C3I	59.050	.950	60.000
Monitoring/Detection	133.027	66.973	200.000
Total	<u>\$192.077</u>	<u>\$107.923</u>	<u>\$300.000</u>

OSD officials told us that procurement funds had not been obligated as of September 30, 1989, but that DOD expects them to be obligated by the end of fiscal year 1990. Virtually all the funds allocated to the O&M and military personnel appropriation accounts have been obligated.

Funds unobligated in the military personnel and O&M accounts as of September 30, 1989, are no longer available to DOD. DOD was unable to obligate an estimated \$13 million to \$15 million of the National Guard appropriation and \$0.5 million for Navy personnel. OSD did

not attempt to reprogram these funds because DOD's legal staff determined that the legislation too narrowly defined how the funds could be used, but it hopes to obtain congressional approval to regain and obligate these funds in fiscal year 1990.

OSD does not have a consolidated report on how much of the \$300 million has been disbursed. Officials explained that disbursement reports need 60 to 90 days to be verified for reporting purposes and are not yet available.

LEAD AGENCY FOR MONITORING
AND DETECTING NARCOTICS TRAFFICKING

DOD was designated by the 1989 authorization act as the lead agency for monitoring and detecting narcotics trafficking into the United States. OSD undertook to develop, coordinate and implement detection and monitoring plans and integrate the detection and monitoring program. DOD was already significantly involved in supporting detection and monitoring narcotics trafficking. As lead agency, DOD views itself as a consensus builder armed with coordination authority but with no authority to direct other agencies.

In December 1988, the Chairman of the Joint Chiefs of Staff tasked

the Atlantic, Pacific, NORAD, and Southern Commanders⁵ with carrying out detection and monitoring operations within their functional or geographic areas of responsibility. The commanders were to have reported by mid-October 1989 on their plans for supporting the detection and monitoring mission. Methods used by the commands for counter-drug activities will depend upon the threat and the availability of command resources. The Chairman of the Joint Chiefs of Staff is responsible for coordinating the commands' activities through a Counter-Drug Directorate in OSD.

Regional Joint Task Forces (JTF) provide command and control over the detection and monitoring effort. The Atlantic Command, covering primarily Atlantic and Caribbean areas, established JTF-4 in Key West, Florida. JTF-4, commanded by a Coast Guard Vice Admiral who reports to the Atlantic Commander, is oriented toward quick response against threats from airborne smuggling.

The Pacific Command established JTF-5 in Alameda, California. JTF-5, commanded by a Coast Guard Rear Admiral who reports to the Pacific Commander, is most concerned with drugs smuggled by ship from the Far East.

⁵These commands officially are U.S. Commander-in-Chief, Atlantic (USCINCLANT), U.S. Commander-in-Chief, Pacific (USCINCPAC), U.S. Commander-in-Chief, NORAD (USCINC NORAD), and U.S. Commander-in-Chief, South (USCINCSOUTH).

The NORAD and Southern commands have elected to carry out their operations by expanding their existing command locations in Colorado Springs, Colorado, and Panama City, Panama, respectively.

Once fully operational, the JTFs will collect sensor and intelligence information, fuse it into a form usable for interdiction purposes, and then provide this enhanced target information to the U.S. Customs Service and Coast Guard. DOD will discriminate drug targets from ordinary air and maritime traffic, monitor their activities, and at an appropriate point in time, turn control of these targets over to Customs or the Coast Guard which will then direct assets to perform interdictions. DOD assets may be used to monitor the movements of suspected smugglers after control of the interdiction operation has been turned over to law enforcement agencies, but actual searches, seizures, and arrests will be made by law enforcement authorities.

It appears too early to evaluate whether DOD's strategy will significantly affect the supply of drugs in the United States. The JTFs have been in existence since July 1989. In addition, the full range of fixed and mobile sensors and radars are not in place to provide planned coverage.

Our recent work has pointed out the limitations of drug interdiction and other supply reduction programs and has cautioned against an overemphasis of these programs in the federal drug

control strategy. In June of this year, we issued a report on federal capabilities for interdicting airborne drug smugglers as required by the National Defense Authorization Act for Fiscal Years 1988 and 1989 (see p.1). Our work was completed at the time DOD was just beginning to assume its responsibilities for detection and monitoring. However, our report raised the question of how much impact DOD's new interdiction mission will have on stemming the flow of drugs to this country.

We reported that even though air interdiction efforts by the U.S. Customs Service, Coast Guard and DOD (prior to assuming its expanded mission) have resulted in substantial seizures, the availability of drugs in the United States, particularly cocaine, has not been reduced. We concluded that even with the completion of the then planned radar network for detecting airborne smugglers, gaps would remain in radar coverage because (1) the inherent limitations of all radars restrict their ability to detect and identify airborne drug smugglers and (2) most radar systems used or planned for use in air interdiction do not provide constant coverage of smuggling routes. In addition, we noted that any future improvements in air interdiction programs may merely cause drug smugglers to switch to other methods, such as cargo containers.

DOD's integration of C3I assets and the leadership and coordination it plans to provide in detection and monitoring may

improve existing interdiction capabilities. However, until the detection and monitoring system is completed, its full impact can not be determined. Nevertheless, we are concerned that many of the limitations of the interdiction systems that we pointed out in our report will remain. In any event, we agree with the National Drug Control Strategy which states that "interdiction alone cannot prevent the entry of drugs, or fully deter traffickers and their organizations."

EFFORTS TO INTEGRATE C3I NETWORKS

The 1989 authorization act directed the Secretary of Defense to integrate into an effective communications network, the C3I assets of the United States that are dedicated to interdiction of drugs. DOD commitment to developing a secure and interoperable law enforcement communications network goes back to 1986, when National Security Directive 221 made the drug problem a national security threat. Subsequently, the Defense Resources Board directed the Assistant Secretary of Defense for C3I to develop such a system. The Interagency Working Group for Drug Enforcement Communications, chaired by NSA, was formed and developed the National Telecommunications Master Plan for Drug Enforcement (the master plan) on March 31, 1988, which provided the framework for an integrated communication network.

DOD submitted the master plan to the National Drug Policy Board, the predecessor to the Office of National Drug Control Policy, which in turn directed one of its subcommittees to develop a plan for implementation. The effect of the 1989 authorization act was to speed up the development of this implementation plan and formalize the cooperative arrangement between DOD and law enforcement agencies. The decision to commit \$59.05 million in O&M and procurement funds in fiscal year 1989 continues what was already underway.

With the implementation plan, DOD's Communication Interoperability Working Group (CIWG) is developing a common communication requirement for all drug law enforcement agencies for detection and monitoring purposes. Although DOD's master plan dealt only with civilian law enforcement communication needs, the implementation plan includes the communication needs between DOD and law enforcement agencies. The three major goals are to develop interoperability among and with civilian agencies, improve secure communications networks, and improve the level of communications performance.

The implementation plan is in the final draft stage and has gone out for agency comment. In the meantime, aspects of the plan are being implemented--for example, agencies are working toward meeting the communication standards set out in the plan. The \$0.95 million allocated to C3I O&M costs in fiscal year 1989 is being used for

the continuous updating of the plan and a series of communications-related studies.

The Defense Communications Agency (DCA) is responsible for the initial procurement of the required communications equipment identified in the plan. The plan also includes a listing of priorities, a funding schedule, and fielding information. In addition, DCA is responsible for training and managing equipment deployment, integration, operation, and use. These latter functions are just beginning to be staffed. DCA has 5 persons assigned to the total program and the office has been functioning only since late August 1989.

The \$59.05 million for fiscal year 1989 procurement became available in August 1989 with the congressional committees' approval of DOD's reprogramming request. These funds have not been obligated, but DCA expects to begin procurement in November or December 1989 and to complete it in fiscal year 1990. The total procurement package is estimated at \$1 billion in 1989 dollars. OSD plans to follow the \$59.05 fiscal year 1989 procurement with \$30 million in fiscal year 1990 and \$56 million in fiscal year 1991 (see app. II). OSD expects the law enforcement agencies to assume responsibility for funding a portion of the total procurement.

The Defense Intelligence Agency (DIA), in consultation with the National Security Agency (NSA), is responsible for the intelligence portion of the C3I program. DIA has been involved in counter-drug studies for several years and its involvement is increasing. Two years ago, approximately 10 staff years were devoted to this activity--in 1989, 60 staff-years were allocated from the DIA budget, and for fiscal year 1990, DIA is programming an additional 90-plus staff years.

DIA's responsibilities include providing intelligence assistance as requested, developing a collection strategy for DOD and the law enforcement agencies, increasing production of finished intelligence, and establishing a coordination mechanism for intelligence with law enforcement agencies, DOD agencies, and non-intelligence agencies. It is assisting DOD and law enforcement agencies in intelligence collection, product identification, training and other areas. It provides intelligence assessments and is developing a resource application framework designed to make intelligence operations more effective and efficient.

In regard to its coordination mission, DIA has established liaison directly with law enforcement agencies. Liaison has also been established with the Counter Narcotics Center at the Central Intelligence Agency.

In addition, the DIA's Intelligence Communication Architecture Project, dedicated to counter-drug operations, has been funded by DIA outside the \$300 million 1989 appropriation. The project examines intelligence communication requirements for the next 8 to 10 years at the military command and JTF levels to determine how to securely transmit intelligence information to meet these requirements. This information is provided to military commanders for planning and budgeting purposes. DIA has just completed the architecture for JTF-4 and is beginning to work with JTF-5. Also, teams of DIA personnel are visiting the supported military commands and JTFs to assess near and intermediate term needs to satisfy mission requirements.

ENHANCING ANTI-NARCOTICS ACTIVITIES
WITH INCREASED USE OF THE NATIONAL GUARD

The 1989 authorization act directed DOD to expand the counter-drug role of the Army and Air National Guard. DOD's concept for state employment of the National Guard required states and territories to submit operational plans for fiscal year 1989 to DOD for review. After review for operational feasibility and costing methodology, DOD would consult with the Attorney General, and once plans were approved, the Secretary of Defense would release funds to the states and territories for pay, allowances, clothing, subsistence, gratuities, travel, related personnel expenses and O&M

costs for equipment and facilities⁶. Congress directed that a minimum of \$40 million be used for these activities.

The National Guard Bureau (NGB) was given functional responsibility over this program. On October 14, 1988, the NGB asked 54 states and territories to prepare mission-oriented, counter-narcotics plans and submit them for review. The NGB advised states and territories that National Guard personnel and equipment could be used for interdiction and narcotics eradication programs. It is NGB policy that, for operations funded with federal money, National Guard units not be involved in search, arrest and seizure operations⁷. The NGB asked for plans which detailed each state's proposed support for activities carried out by law enforcement agencies, including costs. The NGB advised that support could include detection and monitoring, transportation, eradication, equipment loans, and use of National Guard aircraft. The general guidance provided by the NGB reflected DOD intentions to allow the states to be creative. Vermont and West Virginia initially notified the NGB that they did not intend to submit plans, but eventually did so.

⁶National Guard operations are eligible for funding if they are in addition to normal annual training and when such National Guard personnel are in state, rather than federal, status.

⁷ Posse Comitatus law prohibits U.S. military from becoming involved in arrests and seizures. This prohibition does not apply to National Guard activities while in state, rather than federal/active duty, status.

On February 15, 1989, DOD submitted a required report to Congress describing the role of the National Guard in the future, the status of operational plans submitted, and those approved. Recognizing potential National Guard operations occurring in the second quarter of fiscal year 1989, DOD's report suggested, unsuccessfully, that relief was required from the 60-day obligating restriction in the authorization act so that funds could be used for imminent National Guard interdiction activities. We were told that the National Guard was unable to obligate the total funds made available for personnel and O&M expenses partially because of this delay in releasing the funds.

The NGB advised states to consult with law enforcement agencies in preparing their plans. While we do not have information on how these plans were developed, we were told by OSD and NGB officials that OSD and NGB briefed state representatives and that state, local, and regional law enforcement agencies did participate in plan preparation. However, these officials were unaware of any coordination with the military commands regarding how state plans would complement JTF operations because the JTFs were not in operation when plans were prepared. According to NGB and OSD officials, fiscal year 1990 plans will consider how to complement JTF operations.

By August 22, 1989, all 54 plans had been approved. The total funding approved and directed by the Secretary of Defense to be

issued to the states was \$39,690,427. Funds were made available to states and territories for the first 49 plans on May 23, 1989, and for the final 5 plans on June 24 and August 22, 1989. As of September 30, 1989, all but an estimated \$13 million to \$15 million of the \$39,690,427 had been obligated. While a final total is not available on the expenses reimbursed to states for counter-drug activities, OSD reported that about \$15.6 million had been reimbursed as of August 28, 1989.

The plans were reviewed by the NGB, military service agencies, the OSD Drug Policy Office, and the Department of Justice for costing methodology, operational feasibility, legality of operations, and funding priority. Our review of these processes indicates that this was an intuitive process and with the exception of funding priority decisions, there were no consistent and measurable criteria from which to judge the costing methodology and operational feasibility of the plans. Using this intuitive process, OSD and the NGB did reject some missions suggested by the States. OSD and NGB officials advised us that they also reviewed plans from the perspective of the extent (1) of coordination with law enforcement agencies, (2) to which the interdiction aspect of operations is stressed, and (3) that missions are conducted over and above annual training. OSD and the NGB view their role as supporting National Guard activities, while States and Territories are responsible for identifying and managing their specific programs and missions.

Criteria were available for determining funding priorities. Because OSD and the NGB were not sure whether sufficient funding would be available for all plans, funding priorities were based on a 4-tier structure which gave priority to states with the most severe narcotics smuggling and cultivation problems: first, southern border states and redistribution points; second, states recently involved in marijuana eradication efforts; third, states with some problems and with the potential for more serious illicit drug activity; and, fourth, states that appeared to have no near term threat of significant problems. Over 51 percent of the total funding was allotted to 11 states and 2 territories⁸.

According to NGB officials, after-action reports are filed for each completed mission. However, we reviewed several of these reports and noted considerable differences regarding the depth of information on mission accomplishments--some detailed, others hardly mention it. Neither OSD nor the NGB believe it is their role to evaluate the effectiveness of National Guard counter-drug operations funded by DOD.

⁸Alabama, Arizona, California, Florida, Louisiana, New York, Oregon, Puerto Rico, South Carolina, Texas and the Virgin Islands and the District of Columbia.

On June 2, 1988, we issued a report⁹ on Operation Autumn Harvest, a joint National Guard-Customs anti-smuggling effort carried out in September 1987 along the Arizona-Mexico border. We reported that Autumn Harvest did not meet its primary objective of interdicting drug smugglers largely because (1) there was inadequate coordination between the Customs Service and the National Guard, (2) Customs was not sufficiently involved in operational planning, (3) publicity on the operation by the news media was premature, (4) radar capability was inadequate, (5) and Customs did not have full time interceptor aircraft available. Because of this evaluation, operations like Autumn Harvest were not part of the approved plans for 1989.

Our assessment indicated that not all National Guard efforts will be successful or worthwhile. DOD needs to be discriminating in those missions it approves. A system is in place to provide after-action performance information and, considering the problems with full monitoring of National Guard counter-drug efforts, this system should be fully used to provide oversight of National Guard operations.

⁹DRUG INTERDICTION, Operation Autumn Harvest: A National Guard-Customs Anti-Smuggling Effort (GAO/GGD-88-86) June 8, 1988.

REPROGRAMMING ACTIONS/
FUNDING ALLOCATIONS

I. \$59.050 million in Procurement for C3I

Radio networks (VHF, UHF, HF)	\$ 36.410
SATCOM procurement	1.740
Flexibility to support multi-agency contingency operations.	5.400
Secure communication units	<u>15.000</u>
	\$ 59.050

II. \$133.027 million in procurement for monitoring and
detection activities

Fixed Land Aerostats	\$ 47.500
Semi Submersible Aerostats	31.500
Computer and Communication Equipment to include the Joint Operational Tactical System/Visual Information Display System (JOTS/VIDS)	<u>54.027</u>
	\$133.027

III. \$40.000 million for the National Guard

For Military Personnel costs	\$ 28.187
For O&M expenses	<u>11.810</u>
	\$40.000

IV. \$.950 million for C3I O&M expenses:

SATCOM Requirements Study	\$ 0.500
Puerto Rico/Bahamas Study	0.200
Engineering Support to implement the Master Plan	<u>0.250</u>
	\$ 0.950

APPENDIX I

APPENDIX I

V. \$66.973 million for O&M and Military
Personnel costs associated with
detection and monitoring

Military personnel costs. Reserve forces used for staff offices in JTF-4 until permanent staff can be assigned.	\$.633
Air Force military personnel costs.	.081
O&M costs associated with National Guard personnel manning radar sights in OPBAT.	1.833
O&M costs for training, operational support costs, supplies, flying hours, steaming days, etc. in support of DOD's monitoring and detection responsibilities.	64.426
	<u>\$ 66.973</u>

DOD C3I SUPPORT BY FISCAL YEAR

	1989		1990		1991	
	<u>Procurement</u>	<u>O&M</u>	<u>Procurement</u>	<u>O&M</u>	<u>Procurement</u>	<u>O&M</u>
Fixed networks	\$18.360	\$	\$	\$	\$ 9.000	\$
Radio networks VHF/UHF/HF	35.550		25.500	1.000	34.000	2.250
SATCOM	1.740	0.500		0.250	5.000	
Transportable communication systems	3.400					
Contingency communications			1.500	0.250	2.250	0.500
Technical support		1.090	0.600	0.900	1.000	2.000
	<u>\$59.050</u>	<u>\$1.590</u>	<u>\$27.600</u>	<u>\$2.400</u>	<u>\$51.250</u>	<u>\$4.750</u>
TOTAL	<u>\$60.640</u>		<u>\$30.000</u>		<u>\$56.000</u>	