

CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION

J-3
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CJCSI 3710.01A
30 March 2004

DOD COUNTERDRUG SUPPORT

References: See Enclosure B.

1. Purpose. This instruction promulgates Secretary of Defense (SecDef) delegation of authority to approve certain counterdrug (CD) operational support missions. It also provides, in accordance with the National Defense Authorization Act of 1991, as amended, instructions on authorized types of DOD CD support to law enforcement agencies (LEA), other government agencies, and foreign nations.
2. Cancellation. This instruction supersedes CJCSI 3710.01, 28 May 1993.
3. Applicability. This instruction is applicable to combatant commands and subordinate organizations conducting and supporting CD operations.
4. Policy. See Enclosure A.
5. Definitions. See Glossary for definitions. Abbreviations and acronyms are established throughout the text of Enclosure A. Many are also included in the glossary.
6. Responsibilities. See Enclosure A.
7. Summary of Changes
 - a. Incorporates Deputy Secretary of Defense (DepSecDef) 2 October 2003 memorandum, "Department Support to Domestic Law Enforcement Agencies Performing Counterdrug Activities," emphasizing use of title 32 (National Guard) vs. title 10 (Active duty and Reserve) personnel for domestic CD missions/activities.

b. Incorporates DepSecDef 3 October 2003 memorandum, "Department of Defense International Counternarcotics Policy," emphasizing support for CD programs that contribute to the War on Terrorism and National Security.

c. Clarifies to which combatant commanders the Secretary of Defense has delegated authority to approve CD missions and deploy assigned forces in accordance with (IAW) this instruction.

d. Removes requirement for certifying that CD deployments do not provide a "greater than incidental" benefit to host nation (HN).

e. Clarifies difference between operational support CD missions under authority of Section 1004, NDAA (1991) and Detection and Monitoring (D&M) missions under the authority of 10 USC 124.

f. Incorporates provisions of the following: (1) Office of the Secretary of Defense DOD Coordinator for Drug Enforcement Policy and Support (OCDEP&S) (renamed Deputy Assistant of Defense (Counternarcotics) (DASD(CN)) memorandum outlining policy for providing support to civilian law enforcement agencies; (2) OSD DASD(CN) memorandum outlining policy for providing DOD fixed-wing transportation support to federal LEAs; (3) OSD DASD(CN) memorandum outlining the priorities for providing DOD CD support to LEAs; and (4) DepSecDef memorandum outlining DOD policy for providing advanced military training to US civilian law enforcement agencies.

g. Changes format to facilitate easier use and include a Table of Contents, and Glossary.

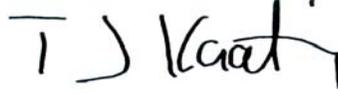
h. Incorporates provisions of Section 8077 of the FY 04 DOD Appropriations Act, which prohibits the use of DOD funds to support training of foreign security forces if SecDef has received credible information from the Department of State (DOS) that the unit to be trained has committed a gross violation of human rights, unless necessary corrective steps have been taken.

i. Adds two new categories of domestic CD support, including command, control, communications, computer, and intelligence (C4I) and network support as well as demonstrations of technology.

8. Releasability. This instruction is approved for public release; distribution is unlimited. DOD components (to include the combatant commands), other federal agencies, and the public may obtain copies of this instruction through the Internet from the CJCS Directives Home Page--
http://www.dtic.mil/cjcs_directives. Copies are also available through the Government Printing Office or the Joint Electronic Library.

9. Effective Date. This instruction is effective upon receipt.

For the Chairman of the Joint Chiefs of Staff:

A handwritten signature in black ink, appearing to read "T J Keating". The signature is written in a cursive style with a horizontal line above the first few letters.

T. J. KEATING
VADM, USN
DIRECTOR, JOINT STAFF

Enclosures:

- A - DOD Counterdrug Operational Support
- B - References
- GL - Glossary

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ENCLOSURE A

DOD COUNTERDRUG OPERATIONAL SUPPORT

1. General

a. This instruction supersedes CJCSI 3710.01, 28 May 1993, "Delegation of Authority for Approving Operational Support to Law Enforcement Agencies and Counterdrug-Related Deployment of DOD Personnel." The Secretary of Defense has delegated authority, as specified in this instruction, to the geographic combatant commanders (GCCs) to approve requests for DOD CD support to the following agencies:

(1) Domestic LEAs, including US federal, state, territorial, tribal, and local agencies.

(2) Other US government departments or agencies with CD responsibilities.

(3) Foreign law enforcement agencies with CD responsibilities, to include foreign military forces with CD responsibilities, pursuant to requests from US federal LEAs or other US government agencies with CD responsibilities.

b. The Secretary of Defense retains approval authority for all CD support not specifically delegated and outlined in this instruction. SecDef expressly reserves approval authority for:

(1) All DOD support requiring the transfer of operational control (OPCON) of forces between combatant commanders, except as otherwise described and delegated herein.

(2) Requests for listening and observation posts and mobile patrols.

(3) Requests (pursuant to reference d, section 1004(b)(6)), to target or track suspicious buildings, vehicles, vessels, or persons in the United States to provide their continuing coordinates to LEAs or to conduct systematic and deliberate observation on a continuing basis, unless the activity is a proper continuation of an approved ground, aerial or maritime detection, and monitoring mission under provisions of 10 USC 124 (reference a). This prohibition is not intended to preclude approval of continuing visual observation from a fixed point on the ground as a part of otherwise approved military training missions.

(4) Requests (pursuant to reference d, section 1004(b)(6)), for the monitoring of suspected illegal drug air, sea, and surface traffic (for handoff to

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an LEA), first detected outside the boundary of the United States, to within 25 miles of the US boundary.

2. DOD Support Not Covered By This Instruction. This instruction does not apply to the following activities:

a. Detection and Monitoring (D&M). D&M operations are military missions conducted to detect and track the aerial and maritime transit of illegal drugs into the United States, under the authority of 10 USC 124. While not conducted at their request, D&M operations support the CD enforcement efforts of federal, state, local, and foreign LEAs. GCCs are delegated the authority to support D&M within their AORs with theater assigned forces. However, D&M missions conducted under the authority of 10 USC 124, using forces not assigned to the GCC, are addressed in separate execute orders and not covered by this instruction.

b. Request from law enforcement to use DOD equipment without operators and buildings and facilities. Requests for this support will be processed in accordance with (IAW) departmental and agency regulations and procedures.

c. Military working dog support. (DODI 5525.10)

d. Sensitive support to special activities. (DODD S-5210.36)

3. DOD CD Support. This instruction applies only to DOD CD support specifically requested by LEAs provided by or involving DOD personnel in connection with CD missions, including training and associated technical and administrative support (as described in reference d, section 1004(a)). Types of CD support include the following:

a. Equipment Maintenance

(1) Loaned Defense equipment (reference d, section 1004(b)(1)).

(2) Loaned Defense equipment (reference d, section 1004(b)(2)).

b. Transportation support (reference d, section 1004(b)(3)).

c. Establish and/or operate bases or training facilities (includes engineer support) (reference d, section 1004(b)(4)).

d. CD-related training of law enforcement personnel (reference d, section 1004(b)(5)).

e. Detect, monitor, and communicate the movement of air and sea traffic detected outside US borders for up to 25 miles within the United States (reference d, section 1004(b)(6)(A)).

f. Detect, monitor, and communicate the movement of surface traffic detected outside US borders for up to 25 miles within the United States (reference d, section 1004(b)(6)(B)).

g. Engineering Support (roads, fences, and lights) at US borders (reference d, section 1004(b)(7)).

h. Command, control, communications, computer, and intelligence (C4I) and network support (reference d, section 1004(b)(8)).

i. Linguist Support (reference d, section 1004(b)(9)).

j. Intelligence Analyst Support (reference d, section 1004(b)(9)).

k. Aerial reconnaissance support (reference d, section 1004(b)(10)).

l. Ground Reconnaissance support (reference d, section 1004(b)(10)).

m. Diver Support (10 USC 371).

n. Tunnel Detection Support (10 USC 371).

o. Use of Military Vessels for LEA Operating Bases (10 USC 379).

p. Technology Demonstrations.

4. CD Support – General

a. Aerial Reconnaissance Support

(1) GCCs may authorize the use of the following:

(a) Radar and sensors, to include synthetic aperture radar, forward-looking infrared, and electro-optic devices.

(b) Unmanned aerial vehicles.

(c) Aerial visual and photographic reconnaissance, and national overhead and aerial imagery.

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(2) However, if recording devices are used or imaging is to take place in the United States, Commander, USNORTHCOM (CDRUSNORTHCOM)/Commander, USPACOM (CDRUSPACOM), must obtain a proper use statement from DIA and the concurrence of the component General Counsel, as applicable, per DIA message 231845ZDEC96.

b. Ground Reconnaissance Support

(1) GCCs may authorize the use of the following:

- (a) Unattended ground sensors.
- (b) Ground surveillance radar.

(2) If recording devices are used or imaging is to take place in the United States, CDRUSNORTHCOM/CDRUSPACOM must obtain a proper use statement from DIA and the concurrence of the component General Counsel, as applicable, per DIA message 231845ZDEC96.

(3) Initial detection and reporting of the presence or movement of buildings, vehicles, vessels, or persons within surface areas are permitted.

c. Tunnel Detection Support. GCCs may approve missions to support LEA Tunnel Detection operations IAW provisions within this instruction. DOD personnel may not search, enter, or otherwise participate directly in law enforcement operations.

d. Diver Support. During missions approved to conduct subsurface hull inspections and training, divers may visually inspect and report to LEAs any unusual physical hull configurations. Divers may not attempt entry, search, or alter features detected.

e. Linguist Support and Intelligence Analyst Support. GCCs may approve requests for support under the authority of reference d, section 1004(b)(9), subject to the requirements outlined in references f and i (for intelligence analysts only) and concurrence by the service or agency General Counsel. This delegation does not include the authority to approve cryptologic support, real-time translation of oral or wire intercepts, direct participation in interrogation activities or the use of counterintelligence assets for CD purposes.

f. Transportation Support

(1) GCCs may approve requests for CD activity-related transportation support under the authority of reference d, section 1004(b)(3), subject to the policy guidance outlined in reference g. US Transportation Command

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(USTRANSCOM) concurrence is required for use of its assets for Special Assignment Airlift Missions (SAAM) when inadequate airframes exist for equivalent priority DOD missions. This delegation is constrained by subparagraph (4) below.

(2) GCCs may approve requests for transportation support under the authority of 10 USC 372, pursuant to the procedures outlined in reference h and the policy guidance outlined in reference g. Such transportation requests must be coordinated with the Attorney General and, if the transportation is to or from foreign locations, the Secretary of State. GCCs approving transportation requests under this authority will provide notification to the DOD Office of General Counsel (OGC). This delegation is constrained by subparagraph (4) below.

(3) Except for extradition requests, federal LEA requests for transportation support will be submitted to the supported GCC (or as further delegated IAW this instruction) in whose area of responsibility the mission is to originate. The responsible federal LEA, through its parent or national headquarters, must forward extradition requests to the DOD Executive Secretary, who will forward approved requests to the Joint Staff for action.

(4) GCCs are **not** authorized to approve transportation support in direct tactical support of the operational portions of ongoing LEA or foreign LEA operations, or of any activities where CD-related hostilities are imminent. If criminal evidence or prisoners seized by LEAs are brought aboard DOD aircraft, vehicles, or vessels being used to provide transportation support, such evidence and/or prisoners will remain solely within the control and custody of the LEAs.

g. Use of Military Vessels for LEA Operating Bases. The use of military vessels as a base of operations for LEAs, except when approved under reference d, requires SecDef and Attorney General approval. SecDef has not delegated authority to approve use of military vessels for LEA operating bases in the territorial waters of an HN. Such approval coordination will be pursued in the same manner as for linguist support described in subparagraph 4e above and include prior notification to DOD OGC.

h. Equipment Maintenance and Operation Support. Authority is delegated to approve maintenance and operation support IAW references d and h, but does not include the cost of parts or equipment to be funded under reference d or other sources.

i. Command, Control, Communications, Computer, and Intelligence (C4I) and Network Support. Assistance in establishing and maintaining C4I and networking support to provide improved integration of law enforcement, active

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military, and National Guard activities will be IAW reference d, section 1004(b)(8).

j. Technology Demonstrations. Technology demonstrations may be conducted in coordination with the DOD Counterterrorism-Terrorism Technology Program Office, and technology requirements may be developed based on stated LEA needs (10 USC, section 373).

5. CD Support – Domestic

a. General Delegations. With regard to the general delegations in paragraph 4 above and the delegations contained in this paragraph, SecDef has delegated approval authority to CDRUSNORTHCOM or CDRUSPACOM, as appropriate, for the following:

(1) CD support involving no more than 400 personnel for any one mission.

(2) CD support not exceeding 179 days for any one mission.

(3) DOD personnel are not authorized to accompany LEAs on actual CD field operations nor may they participate in activities where CD-related hostilities are imminent.

(4) CDRUSNORTHCOM/CDRUSPACOM will first determine if the State National Guard (title 32 forces) can provide the requested support. If the State National Guard cannot provide the forces, CDRUSNORTHCOM/CDRUSPACOM will determine if the request is feasible, supportable, and consistent with DOD policy IAW reference j.

b. CD-Related Training of Law Enforcement Personnel. CDRUSNORTHCOM/CDRUSPACOM may approve training for LEA personnel in the United States. Per reference j, no advanced military training will be provided to LEA personnel. However, the US Army Military Police School may continue to train LEA personnel in the Counterdrug Special Reaction Team Course, Counterdrug Tactical Police Operations Course, and Counterdrug Marksman/Observer Course (reference s). On an exceptional basis, Commander, USSOCOM (CDRUSSOCOM), may approve such training by special operations forces (reference s).

c. Engineering Support. CDRUSNORTHCOM/CDRUSPACOM may approve engineering support in the United States. Per reference j, military engineering support is limited to the Southwest Border and defined as mobility and countermobility (fences, lights, roads) efforts. This includes approval of materiel purchases necessary to support DOD mission personnel, but does not include

military construction or provision of other materials. See reference d, section 1004(b)(7).

6. CD Support – Foreign

a. General Delegations. With regard to the general delegations in paragraph 4 above and the delegations contained in this paragraph, SecDef has delegated approval authority for CD support outside the United States; SecDef has delegated approval authority for CD support to GCCs for:

(1) Planning and Coordination Visits. Planning and coordination visits to American Embassies (contingent on Embassy approval) may be conducted with theater-assigned or allocated forces for planning of intertheater or multinational operations.

(2) Intelligence Analyst Support. Intelligence analyst support may be provided to US Ambassadors using theater-assigned or allocated forces (consistent with references f and i). This approval is subject to DOD Component General Counsel concurrence when military intelligence component and/or Service personnel are used in support of LEAs, per reference f and components implementing directives:

(a) At respective US Embassies or consulates.

(b) At US regional analysis centers.

(3) Planning and Coordination Visits. Planning and coordination visits of 10 personnel or less for 60 days or less to HN headquarters (contingent on American Embassy approval) may be conducted with theater-assigned or allocated forces to accomplish the GCC's D&M mission or to support the US Ambassador's CD effort with expert advice or assistance to the US Country Team.

(4) Linguist Support. Includes translator and interpreter support consistent with reference f. This approval is subject to DOD Component General Counsel approval when military intelligence components and/or personnel are used to support LEAs, as defined in reference f and component implementing directives. This delegation does not include authority to approve cryptologic support, real-time translation of oral or wire intercepts, direct participation in interrogation activities, or the use of counterintelligence assets for CD purposes. Linguist missions to locations outside American Embassies will be limited to short-duration visits (not to exceed 30 days) of no more than 10 persons to primary HN and US C4I headquarters for the express purpose of accomplishing the mission of supporting the Ambassador's CD effort.

(5) CD-Related Training of Law Enforcement Personnel

(a) GCCs may approve CD-related training of foreign law enforcement personnel requiring no more than 50 theater-assigned personnel for no more than 45 days with HN and Country Team approval and notification.

(b) GCCs may approve CD-related technical and administrative support team deployments no more than 25 personnel for no more than 179 days with HN and Country Team approval and notification.

b. Transportation Support. Transportation, consistent with the provisions of subparagraph 4f, may be provided. Delegated authority does not authorize supported GCCs to approve transportation support of personnel in direct tactical support of the operational portions of ongoing LEA or foreign law enforcement agency operations. If transportation support is provided to foreign law enforcement agencies IAW reference d, additional notification to the Office of the Secretary of Defense DOD Coordinator for Drug Enforcement Policy and Support (OSD(OCDEP&S/DEP-LPC)), IAW subparagraph 8j(5) of this CJCSI, will be sent in order to facilitate required congressional and other notifications.

7. SecDef Preapproved CD Operational Support Plans. Supported GCCs may approve LEA requests for operational support that are part of SecDef pre-approved operations subject to the following:

a. Supported GCCs must gain approval of the overall concept of operations from SecDef prior to commencing operations. Supported commanders (CDRs) will provide the concept of operations to the Joint Staff (J-3/JOD) for review and interagency staffing at least 90 days prior to the scheduled start date.

b. Proposed activities must be consistent with policy, fiscal, and legal constraints.

c. Foreign CD operational support must have HN and US Ambassador approval.

d. Supporting GCC and/or Service coordination concerning resource availability, deployment times, and dates are required prior to forwarding plan for approval.

e. SecDef approval of the overall plan authorizes the supported GCCs to issue deployment orders and to approve participants' travel for coordinating mission details.

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f. Requests for location changes, mission changes, and mission extensions to the approved plan that exceed the authority of the GCCs delegated in this instruction will be forwarded to the Joint Staff (J-3) for action.

g. The supported GCC must provide notification IAW subparagraph 8j, within the required timeframes (whenever feasible), prior to executing each specific support activity that is a part of preapproved operations plan (whether involving one or several countries).

h. Requests to conduct planned reconnaissance support will be submitted IAW reference e, if applicable.

8. Coordinating Instructions

a. Requests for DOD CD support to a department or agency of the Federal Government must originate with an appropriate department or agency official responsible for CD activities. Request for DOD CD support to a state or local government agency must come from an appropriate official of the state or local government agency. Support to foreign law enforcement agencies must be requested by an official of a department or agency of the US Federal Government who has CD responsibilities and must have the concurrence of the US Ambassador of the HN in which the mission will be conducted as well as concurrence of an appropriate HN CD authority. See reference d, section 1004(a).

b. LEA Support Request Processing

(1) Domestic LEA requests for DOD operational and other types of CD support will be submitted through Operation ALLIANCE (OPALL) to either Joint Task Force-Six (JTF-6) (or IAW CDRUSNORTHCOM policy) for Continental US, Alaska, Puerto Rico and the US Virgin Islands; CDRUSPACOM for Hawaii (or IAW CDRUSPACOM policy); or the appropriate State National Guard CD Coordinator.

(2) Foreign requests for DOD operational and other types of CD support should be submitted directly to the appropriate Joint Interagency Task Force or supported commander for consideration.

(3) OPALL establishes priority of continental United States (CONUS) support. Approval authorities will give full consideration to priorities established by OPALL consistent with published DOD policy. In the absence of an OPALL support priority list, approval authorities will establish the priority of support, consistent with published DOD policy.

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(4) IAW reference's j and k, the following criteria must be met before requests for DOD support are approved.

(a) The requested support must have a valid CD activities nexus.

(b) Each request for domestic CD operational support and other types of CD support must originate with a federal, state, or local government agency that has responsibility for CD operations. Support to foreign LEAs must originate with a US federal LEA or federal agency with CD responsibilities per reference d, section 1004(a).

(c) Each request must solicit support that the Department of Defense is authorized to provide pursuant to law and subject to the provisions of this instruction.

(d) Support must clearly assist the requesting agency with the CD activities of the agency.

(e) Support must be consistent with DOD implementation of the National Drug Control Strategy.

(f) All approved CD operational and other types of CD support must have military training value to the supporting unit or be consistent with the DOD policy (references j and K).

c. LEA Fixed-Winged Transportation Support Requests. Supported GCC has approval authority, with USTRANSCOM and Deputy Assistant Secretary of Defense for Counternarcotics concurrence for use of USTRANSCOM assets for SAAM missions, for fixed-wing transportation support to federal LEAs (reference g).

(1) DOD policy is to support federal, state, and local LEA transportation requests to the maximum extent possible. State and local LEAs requesting fixed-wing transportation support must first submit requests to their state National Guard (NG) CD coordinators. If the NG cannot provide the support, state or local LEAs should coordinate with a federal LEA to sponsor and forward their request to the Department of Defense for consideration. Federal LEA requests and Federal LEA-sponsored requests for controlled deliveries and other personnel and equipment movements should be submitted in writing by the national/Washington, D.C., headquarters of the requesting department or agency and should be signed by the national-level director of operations or other equivalent authority.

(2) Requests should include required date, time, and location of pickup and delivery points; detailed cargo and passenger descriptions; detailed

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rationale for DOD support; and a 24-hour point of contact at the on-load and off-load location.

(3) Priority of support is listed below and is IAW reference g.

(a) The first priority will be controlled delivery requests that involve on-going, real-time, time-sensitive operations, and a significant amount of drugs, or the disruption of a major organization.

(b) The second priority will be to support other personnel and equipment movements that are directly linked to ongoing CD operations. To the maximum extent possible, these missions will be supported with regularly scheduled channel aircraft. When necessary, because of mission requirements and size of the load, dedicated aircraft (SAAM sorties) may be used to support these missions. DOD will not support administrative-type movements, such as conferences, routine personnel and equipment deliveries that can be accomplished with commercial aircraft and other similar missions.

d. Intelligence Support Processing

(1) All intelligence activities of DOD intelligence components and/or personnel must be conducted IAW reference f. Commanders exercising delegated authority under the terms of this instruction will ensure Service Component General Counsel concurrence is obtained for use of Service intelligence personnel in direct support of LEAs.

(2) Per reference 1, Defense Intelligence Agency (DIA) has responsibility for validating, registering, assigning, recommending priorities for, and monitoring DOD collection activities. DIA also retains responsibility for maintaining and operating facilities for DOD imagery indexing, processing, duplication, evaluation, exploitation, and central repository services in support of the Department of Defense and other authorized recipients. DIA point of contact is DIA Counterdrug Division, (703) 602-3212 (STU III).

(3) Any requests for support involving cryptologic resources must be approved by the Director of Crime and Narcotics (DCN) and National Security Agency (NSA). Also, the Department of Defense, including the Department of Defense General Counsel, must concur in such requests. Notify DCN of any requests for cryptologic support outside the United States or its territories. NSA point of contact is the Office of the DCN, 301-688-0080 (commercial/STU III)(DIRNSA FT GEORGE G MEADE MD//DCN//).

(4) In considering all requests, supported GCCs will be mindful that reference i requires SecDef to advise appropriate committees of Congress on

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operational support requests involving the obligation or expenditure of intelligence funds not specifically appropriated for CD activities.

(5) Reference i also requires SecDef to keep the Select Committees on Intelligence fully and currently informed concerning all ongoing intelligence activities.

e. Operations on Private Property. Any requests involving DOD personnel operating on domestic private land without the written permission of the landowner must be forwarded to the Joint Staff (J-3) for action.

f. DOD Participation in LE Activities. Supported GCCs will ensure that DOD personnel do not directly participate in law enforcement activities such as search, seizure, arrest, or other similar activities unless otherwise authorized to do so by law.

g. Redelegation of Authority

(1) Supported GCCs may further delegate approval authority (subject to the limitations of paragraphs 4 through 6) to general/flag officers within their chains of command. Supported GCCs will provide instructions (within the limitations of this instruction) for delegation of approval authority to their delegates. Instructions will include a requirement for legal review of all proposed support before it is approved. Initial denial authority rests with the first general/flag officer in the support request process. Supported GCCs will make final disposition on appeals.

(2) Delegation or redelegation of approval authority neither constitutes nor implies tasking authority over forces not under the OPCON of the supported CDR. Supported GCCs and their delegates, when so specified in the delegation, are authorized direct liaison with Services and other CDRs to coordinate use of non-theater-assigned forces. In situations involving individual augmentation, the provisions of reference's j and k also apply.

h. CD Operations in Another CDR's AOR. When performing counterdrug support missions, forces may temporarily cross combatant commander AOR boundaries. When this situation occurs, the combatant commander whose boundary is crossed must be immediately notified. All efforts should be made prior to operations to obtain concurrence from the combatant commander whose AOR could be crossed during missions. Minor missions of limited duration may be telephonically coordinated with follow-up message.

i. Minor Changes to SecDef-Approved Missions. For minor changes to CD operational and other types of support missions already approved by SecDef:

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(1) The supported GCC may approve minor changes in dates for deployment (up to 30 days after, but not earlier than, the date approved by SecDef) and minor changes in redeployment (plus or minus 30 days from the date previously approved). Dates of deployment (vice execution) and redeployment are defined as the dates of travel. This subparagraph does not authorize the supported GCC to extend the duration of the employment or mission support phase; however, it does authorize the supporting CDR to deploy an advance party to prepare for mission execution. This subparagraph authorizes the supported GCC to make only minor changes to the dates of travel. When dates of deployment or redeployment slip more than 7 days, supported GCC will info all concerned via record message to addressees listed in original request for deployment order (RDO) as reference (a) and approved deployment order (DEPORD) as reference (b).

(2) The supported GCC may approve minor changes in numbers of deploying or deployed personnel (plus or minus 5 persons, but not more than 10 percent of the approved deployment number, and the total mission number is not to exceed 400 persons for domestic support and 50 for foreign support). Supporting CDR concurrence is required when non-theater personnel are involved.

(3) For change of locations within the country in which a deployment is taking place, the supported CDR is authorized to approve location changes when the HN and/or the US Embassy requests the change to enhance the security of US personnel. Supported GCC will notify via record message the CJCS, SecDef and all addressees listed in note 19 using original request for RDO as reference (a) and approved DEPORD as reference (b).

j. Significant Changes to SecDef-Approved Plans. SecDef approval is required for changes to a SecDef-approved plan when:

(1) Changes in deployment or redeployment dates are more than 30 days or changes increase the duration of the mission.

(2) Numbers of deploying or deployed personnel exceed that reported in the initial notification by 5 persons or 10 percent of the total approved deployment number (whichever is greater).

(3) The change would cause a CDR-approved mission to exceed authorities delegated to the supported CD CDR.

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k. GCC Procedures for Approving CD Operational Support Missions

(1) Whenever a request for operational and other types of CD support is received by a supported GCC, that GCC will either take the request for action (approval or disapproval) or forward it to the Joint Staff (J-3)¹ for action.

(2) Requests for SecDef approval will be forwarded to the Joint Staff (J-3) at least 45 days prior to execution date with information specified in subparagraph 8n below.²

(3) Requests for SecDef approval involving special operations forces will be forwarded to the Joint Staff (SOD) at least 45 days prior to execution date with information specified in subparagraph 8n below.

(4) When mission requests or changes to missions are approved under delegated authority, GCCs will notify the Joint Staff at least 15 calendar days before execution (whenever feasible) with information specified in subparagraph 8n below and indicate the specific provision of this instruction under which support was approved. An info copy of the deployment order is appropriate. Expedient notification of activities near the US-Mexican border is especially important. Approving GCC will verify receipt by Joint Staff (J-3).

(5) A notification of intent to support foreign LEAs under reference d, clearly labeled as support to foreign LEAs and containing the same information required by subparagraph 8n, will be sent to OSD (DASD-CN/OGC), info to Joint Staff (J-3) not less than 5 working days in advance of execution.³

1. Public Affairs. When supported GCCs or their delegates take requests for action, they will also issue related public affairs guidance. Include this guidance in the notification process (subparagraph 8j).

m. Requests Received by Non-GCCs. When a CDR not authorized IAW subparagraph 1a or paragraph 4 to approve CD missions, OSD, a Defense agency, or a Service receives a request for DOD operational and other types of

¹ Use J3/ROD for reconnaissance assets, J3/SOD for special operation forces, J3/DDIO for psyop assets and J3/JOD for all other missions.

² Message address should include the following as applicable: Joint Staff (J3/SOD/JOD/ROD/DDIO), OSD (DASD-CN), OSD (ISA), DUSD (PS), State Department (PM-ISO/INL/applicable region (ARA, EAP, etc.)), the applicable DLEA Headquarters, and appropriate Military Department points of contact (Army-HQDA WASHINGTON DC//DAMO-ODD/SAGC/SAILE//, Air Force-HQ USAF WASHINGTON DC//XOFI//, Navy-UNSECNAV WASHINGTON DC//OGC-OPA//, CNO WASHINGTON DC//N515//, and Marine Corps-CMC WASHINGTON DC//POS/JA/CL//).

³ This notification may be the same as the notification required in subparagraphs 8j(2)&(3), but must be clearly marked and contain the required message addresses. Requester must verify receipt with OSD (DASD-CN/DEP-LPC) when combined with notification in subparagraphs 8j(2)&(3).

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CD support directly from a LEA or other government agency, forward the request to the Joint Staff (J-3) for action.

n. Human Rights Verification. IAW with references k and q, GCCs will obtain verification that Department of State possesses no credible information of gross violations of human rights relative to the HN units or their members with whom DOD intends to train.

o. Required Information for Mission Approvals or Changes. When SecDef approval and deployment order are required, or when notifying SecDef of a CDR-approved mission or change, IAW reference's j and k, provide the following information:

(1) Origin of the request (include name, title, and requesting LEA point of contact and mission of the supporting unit detailed and the unit sourced.

(2) Concept of operations including a description of command relationships, an explanation of the CD activities nexus for the mission, an explanation of how the requested deployment is related to CD, and information relating to the benefit to the DOD War on Terrorism; security cooperation objectives; readiness; or national security.

(3) Citation of the statutory authorities for providing the support, analysis of the pertinent legal issues, and the name of the judge advocate who reviewed the request for legal sufficiency.

(4) Deployment, mission execution start/stop, and redeployment dates. Include dates arriving and departing HN (if applicable).

(5) Staging and operations location (specifically including the proximity to the US southwest border, if applicable).

(6) Type (composition), size, and force component of supporting unit or deploying force.

(7) Required number of personnel.

(8) Military Occupational Specialty, Naval Designators, or Air Force Specialty Code of intelligence component specialty personnel, if any, and intelligence oversight guidance, as applicable.

(9) Type and amount of equipment.

(10) Transportation arrangements, coordination, and priority.

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(11) Whether or not personnel will be armed and applicable rules of engagement (ROE) or, in the case of domestic CD support missions, rules for the use of force policy.

(12) Status afforded deploying forces (legal status applying to soldiers outside the continental United States). Note: If legal protections (e.g., a status of forces agreement) do not exist, requesting agency should provide a risk assessment and justification for conducting the mission.

(13) Force protection measures and responsibilities.

(14) Source of DOD funding (to include specific project code) and estimated amount, if applicable.

(15) Proposed public affairs guidance.

(16) Name or specific position of official granting host government and US Ambassador approval, if applicable.

(17) For supported CD CDR-approved missions, extensions, or changes involving non-theater assigned personnel, provide the name, rank (O-6 minimum), office, and telephone number of the person providing the supporting CD CDR or Service concurrence.

(18) Country or theater clearance and passport requirements.

(19) All requests for deployment orders in which foreign forces will be trained will include the following statement: "Embassy verifies that the Department of State possesses no credible information of gross violations of human rights by the (name of designated unit), or a member of that unit, as of this date." This certification must be made within 270 days of the starting date of the proposed training.

(20) Miscellaneous administrative or logistics requirements (immunizations, special or required training, uniforms, interpreter or language requirements, special equipment, and billeting).

(21) Explanation of why existing title 32 resources cannot execute the mission (domestic requests only).

(22) Explanation of why the Department of Homeland Security cannot provide the requested support (domestic requests only).

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(23) Status of approval of the deployment by the host country (name and specific position of the HN official granting approval), US Chief of Mission, and appropriate commander.

p. Command and Control Relationships

(1) Transfer (of OPCON) of forces from a supporting CDR to a supported CDR requires SecDef approval and a Joint Staff deployment order.

(2) SecDef authorizes CDRUSJFCOM, CDRUSPACOM, and CDRUSSOCOM to provide tactical control of combatant commanders assets to CDRUSNORTHCOM to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

(3) SecDef authorizes CDRUSJFCOM, CDRUSPACOM, and CDRUSSOCOM to provide tactical control of COCOM assets to CDRUSSOUTHCOM to conduct CD operational support to US LEAs for missions that have combatant commander approval delegation.

q. Standing Rules of Engagement/Use of Force Policy. The CJCS Standing Rules of Engagement (SROE) apply to US forces during all military operations and contingencies outside of the territory of the United States, unless otherwise directed. Reference m provides SROE-related policy and guidance on use of force by DOD personnel in CD support operations outside the territory of the United States. During CD support missions in the United States, use of force policy is governed by reference q, unless otherwise directed.

9. Funding and Reimbursement

a. It is imperative that DOD CD funds be obligated only for the specific activity for which appropriated and transferred. Coordinate with the Military Department that has the fiduciary funding responsibility for the proposed activity as required. Support provided must be IAW reference d or other statutory authority. Unless support is provided pursuant to reference A, the requesting LEA must reimburse the Department of Defense (Economy Act) unless the mission satisfies the conditions of reference h (10 USC, section 377(b)) below:

(1) Support provided in the normal course of military training or operations.

(2) Support is substantially equivalent to that which would otherwise be obtained from military operations or training.

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b. LEA reimbursement is not required for support provided to an LEA under reference d, as long as the support is consistent with a specific project that has been approved for funding, is available to the CDR or military department with fiduciary funding responsibility IAW subparagraph 8a above, or as long as funds have been specifically transferred and made available for that type of support.

c. If reimbursement is required for the support to the LEA and the requesting agency is either unwilling or unable to reimburse the Department of Defense, CDRs, or military department with fiduciary funding responsibility will forward the request through the Joint Staff for OSD review and decision.

d. Questions involving funding propriety or availability should in all cases be referred in comptroller channels, through the Military Department to the Office of the Deputy Assistant Secretary of Defense for Counternarcotics (DASD-CN, ATTN: DIR, PB, COMM 703-696-5606).

10. Corrections, Modifications, and Additions. Corrections, modifications, and additions to this delegation of authority will be necessary from time to time to ensure it accurately reflects the authority delegated and operational needs of DOD activities involved in CD support. Recommendations for changes should be directed to the Joint Staff (J-3/JOD).

11. Guidance on Conflicting Policy. For CD operational support to US federal, state, and local (including territorial and tribal) LEAs, where this guidance is inconsistent with reference n, this instruction constitutes interim SecDef guidance modifying or revising reference n.

ENCLOSURE B

REFERENCES

- a. Title 10, United States Code, section 124.
- b. CJCS Message 262355ZSEP03, "Counterdrug (CD)/Counter-NARCO-TERRORISM (CNT) EXECUTE ORDER"
- c. DOD Directive S-5210.36, 10 June 1986, "Provision of DOD Sensitive Support to DOD Components and other Departments and Agencies of the US Government"
- d. Section 1004 of the National Defense Authorization Act for Fiscal Year 1991, Public Law No. 101-510, 104 Stat. 1629, as amended
- e. CJCSI 3250.01, 6 May 1994, "Policy Guidance for Sensitive Airborne and Maritime Surface Reconnaissance Operations"
- f. DOD Regulation 5240.1-R, December 1982, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"
- g. OSD OCDEP&S memorandum, 15 November 1994, "Department of Defense Fixed-Wing Air Transportation Support to Federal Drug Law Enforcement Agencies"
- h. Title 10, United States Code, chapter 18, sections 374 and 377
- i. Title V of the National Security Act of 1947, as amended, Accountability for Intelligence Activities, sections 501 and 502 (50 USC sections 413 and 413a)
- j. DepSecDef memorandum, 2 October 2003, "Department Support to domestic Law Enforcement Agencies Performing Counternarcotics Activities"
- k. DepSecDef memorandum, 3 October 2003, "Department of Defense International Counternarcotics Policy"
- l. DOD Directive 5105.21, 19 May 1977, "Defense Intelligence Agency"
- m. CJCSI 3121.01A, 15 January 2000, "Standing Rules of Engagement for US Forces"
- n. DOD Directive 5525.5, 15 January 1986, "DOD Cooperation with Civilian Law Enforcement Officials"

- o. CJCSI 1301.1A, 30 October 1998, "Policy and Procedures to Assign Individuals to Meet Combatant Command Mission Related Temporary Duty Requirements"
- p. Title 10, United States Code, section 373.
- q. CJCSI 3121.02, 31 May 2000, "Rules on the Use of Force By DOD Personnel Providing Support to Law Enforcement Agencies Conducting Counterdrug Operations in the United States"
- r. Joint Staff messages 010040ZDEC99 and 181946ZSEP00, "Human Rights Verification for DOD-Funded Training Programs with Foreign Personnel"
- s. DepSecDef memorandum, 31 July 2002, "Department of Defense Counternarcotics Policy"
- t. DepSecDef memorandum, 31 July 2002, "DoD Training Support to US Civilian Law Enforcement Agencies"

GLOSSARY

- area of operations (AO) – An operational area defined by the joint force commander for land and naval forces. Areas of operation do not typically encompass the entire operational area of the joint force commander, but should be large enough for component commanders to accomplish their missions and protect their forces. Also called AO. (Joint Pub 1-02)
- arrival zone (AZ) – In counterdrug operations, the area in or adjacent to the United States into which illegal drugs are smuggled and from which their initial domestic distribution begins. By air, an airstrip; by sea, an offload point on land or transfer to small boats. (Joint Pub 1-02)
- controlled delivery – The use of DOD fixed-wing aircraft for counterdrug transportation support to domestic law enforcement agencies. Support involves the acquisition and funding of aircraft to transport contraband (e.g., illegal drugs, money, etc.), agents, cooperating defendants, and commercial/private vehicles required for counterdrug operations that are time-sensitive or ongoing.
- counterdrug (CD) activities – Those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to drug trafficking. This includes, but is not limited to, measures taken to detect, interdict, disrupt, or curtail activities related to substances, materiel, weapons, or resources used to finance, support, secure, cultivate, process, or transport illegal drugs.
- counterdrug (CD) non-operational support – Support provided to law enforcement agencies/HNs that includes loan or lease of equipment without operators, use of facilities (such as buildings, training areas, and ranges), training conducted in formal schools, transfer of excess equipment, or other support provided by the Services from forces not assigned or made available to the combatant commanders. (Joint Pub 1-02)
- counterdrug (CD) operational support – Support to HNs and law enforcement agencies involving military personnel and their associated equipment and provided by the geographic combatant commanders from forces assigned to them or made available to them by the Services for this purpose. Operational support does not include support in the form of equipment alone, nor the conduct of joint law enforcement investigations with cooperating civilian law enforcement agencies. (Joint Pub 1-02)

deployment date – The date a unit or an individual leaves home station to execute a mission. Deployment may be ordered by a military deployment order or temporary duty order.

execution date – The date a unit or an individual begins the mission. Execution can be ordered by a military deployment order, an execute order, or a temporary duty order.

force protection (FP) – Security program designed to protect soldiers, civilian employees, family members, facilities, and equipment, in all locations and situations, accomplished through planned and integrated application of combating terrorism, physical security, operations security, personal protective services, and supported by intelligence, counterintelligence, and other security programs.

ground-based radar (GBR) – Land-based fixed or mobile asset that provides primary or augments existing radar coverage and is capable of long-range searches up to 240 nms and height finding up to 95,000 feet. Communications available from the unit include HF, VHF, UHF, and SATCOM.

host nation (HN) – A nation that receives the forces and/or supplies of allied nations, coalition partners, and/or NATO organizations to be located on, or to operate in, or to transit through its territory. Also called HN. (Joint Pub 1-02)

host-nation (HN) support – Civil and/or military assistance rendered by a nation to foreign forces within its territory during peacetime, crises or emergencies, or war based on agreements mutually concluded between nations. Also called HNS. (Joint Pub 1-02)

Law Enforcement Agency (LEA) – Any of a number of agencies (outside the Department of Defense) chartered and empowered to enforce laws in the following jurisdictions: the United States, a state (or political subdivision) of the United States, a territory or possession (or political subdivision) of the United States, or to enforce US laws within the borders of an HN. Also called LEA. (Joint Pub 1-02)

mobile training team (MTT) – A team consisting of one or more US military or civilian personnel sent on temporary duty, often to a foreign nation, to give instruction. The mission of the team is to train indigenous personnel to operate, maintain, and employ weapons and support systems, or to develop a self-training capability in a particular skill. The National Command Authorities may direct a team to train either military

or civilian indigenous personnel, depending upon host-nation requests. Also called MTT. (Joint Pub 1-02)

Operation ALLIANCE (OPALL) – A major multiagency initiative with primary area of coverage being the southwest border and including the entire states of Arizona, California, New Mexico, and Texas. For the purpose of coordinating DOD support to law enforcement, its area of operation is the entire continental United States, Puerto Rico, and the US Virgin Islands. Its mission is twofold: (1) create and promote channels for interagency cooperation and coordination of interdiction, intelligence, and investigative functions within its area of operation; (2) develop, administer, and coordinate the prioritization and provision of DOD support to civilian law enforcement throughout the United States, Puerto Rico, and the US Virgin Islands in conjunction with JTF-6, US Army South, and the National Guard Bureau.

operational control (OPCON) – Command authority that may be exercised by commanders at any echelon at or below combatant command. Operational control may be delegated and normally provides full authority to organize commands and forces and to employ those forces as the commander in operational control considers necessary to accomplish assigned missions. Operational control should be exercised through the commanders of subordinate organizations and does not, in and of itself, include authoritative direction for logistics or matters of administration, discipline, internal organization, or unit training. Also called OPCON. (Joint Pub 1-02)

Posse Comitatus Act – Prohibits direct participation in law enforcement activities such as search, seizure, arrest, or similar activities. (Title 18, “Use of Army and Air Force as Posse Comitatus” - United States Code, Section 1385)

rules of engagement (ROE) – Directives issued by competent military authority that delineate the circumstances and limitations under which US forces will initiate and/or continue engagement with other forces encountered.

tactical control (TACON) – Command authority over assigned or attached forces or commands, or military capability or forces made available for tasking, that is limited to the detailed and, usually, local direction and control of movements or maneuvers necessary to accomplish missions or tasks assigned. Tactical control is inherent in operational control. Tactical control may be delegated to, and exercised at, any level at or below the level of combatant command. Also called TACON. (Joint Pub 1-02)

use of force – policy guidance issued by competent authority that delineate the circumstances and limitations under which US forces may use force, up to and including deadly force. For domestic CD support missions, use of force policy guidance is found in CJCSI 3121.02, “Standing Rules on the Use of Force by DOD Personnel During Military Operations Providing Counterdrug Support to Law Enforcement Agencies in the United States.”