



April 2025

DRUG CONTROL

DOD and National Guard Align Counterdrug Policies and Guidance with Federal Laws

GAO Highlights

Highlights of [GAO-25-107590](#), a report to congressional committees

Why GAO Did This Study

Drug overdose deaths in the U.S., including from synthetic opioids such as fentanyl, surged during the past 25 years, according to the Office of National Drug Control Policy. Congress appropriated approximately \$1.33 billion dollars for the National Guard Counterdrug Program during fiscal year 2019 through fiscal year 2024. This program supports federal, state, local, and tribal law enforcement with drug interdiction activities in 50 states, the District of Columbia, Puerto Rico, Guam, and U.S. Virgin Islands.

The joint explanatory statement for the Consolidated Appropriations Act, 2024, includes a provision for GAO to review certain DOD and National Guard Bureau counterdrug instructions and examine whether they limit support for counterdrug efforts under the law. This report evaluates the extent to which (1) DOD and National Guard Bureau align their counterdrug policies with applicable federal counterdrug laws; and (2) DOD's changes in guidance during fiscal year 2019 through fiscal year 2024 clarified how counterdrug activities could be conducted.

GAO identified and reviewed federal counterdrug laws; evaluated relevant DOD and National Guard Bureau policies; and reviewed changes in DOD policies and guidance related to the implementation of domestic counterdrug activities during the past 6 fiscal years. GAO also interviewed DOD, federal law enforcement, and state National Guard officials. GAO also conducted site visits to locations in California and Texas.

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What GAO Found

As of February 2025, the Department of Defense (DOD) and the National Guard Bureau align their respective counterdrug policies with current federal laws. GAO did not find that the policies created limitations in terms of the counterdrug activities that DOD and the National Guard can conduct under the law. Section 284 of title 10, U.S. Code establishes categories of authorized counterdrug activities that DOD's counterdrug instruction groups into mission categories. Additionally, under section 112 of title 32, U.S. Code, members of the National Guard can perform counterdrug activities in accordance with a drug interdiction and counterdrug activities plan submitted by a state governor and approved by the Secretary of Defense.

Helicopter Used by the National Guard for Aerial Reconnaissance and Illegal Drugs Seized



Source: GAO; U.S. Army National Guard/Master Sgt. Michael Leslie (left to right). | GAO-25-107590

DOD updated counterdrug policies and guidance during fiscal year 2020 through fiscal year 2024 to clarify limitations on implementation of counterdrug activities. However, GAO did not find that these changes prevented DOD personnel from conducting these activities. For example:

- In February 2021, the Secretary of Defense issued a memorandum that prohibits DOD counterdrug program-funded analysts from engaging in activities that would require additional authorities for collecting intelligence. According to DOD officials, this change was made to clarify what types of information counterdrug program-funded analysts are allowed to collect in accordance with the law and DOD guidance.
- In March 2022, DOD issued guidance that limited counterdrug support to community-based organizations that are specifically identified in federal law. According to DOD officials, this change was made to ensure that National Guard outreach aligned with federal law.
- In April 2024, DOD updated guidance to clarify that, while National Guard counterdrug analysts can analyze data extracted from digital devices such as cell phones, they cannot perform the extraction themselves. According to DOD officials, this change in guidance was made to ensure that National Guard counterdrug analysts were not involved in the handling of evidence.

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Abbreviation

DOD	Department of Defense
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April 15, 2025

Congressional Committees

Over the last 25 years, drug overdose deaths in the United States from synthetic opioids, including fentanyl, have risen to more than 100 times their 1999 levels. In addition, the rate of fatal overdoses from other drugs, including cocaine and methamphetamine, has also surged, according to the Office of National Drug Control Policy.¹ To support the Department of Defense's (DOD) counterdrug activities, Congress appropriated approximately \$1.33 billion dollars to DOD to fund the National Guard's participation in counterdrug programs in 50 states, the District of Columbia, Puerto Rico, Guam, and U.S. Virgin Islands from fiscal year 2019 to fiscal year 2024.² These counterdrug programs provide military support—including analytic and linguistic support, and air and ground reconnaissance—to assist federal, state, local, and tribal law enforcement organizations with counterdrug activities. DOD also provides domestic and foreign law enforcement partners with foreign intelligence, including information on the use of cyber or maritime domains to traffic drugs.³

In April 2024, we reported that DOD had not assessed the agency-wide effectiveness of its counterdrug and counter-transnational organized

¹Office of National Drug Control Policy, *National Drug Control Strategy* (May 2024).

²The National Guard's Counterdrug Program supports the detection, interdiction, disruption, and curtailment of drug trafficking activities and use through the application of military unique skills and resources. See National Guard Bureau Fact Sheet, *National Guard Counterdrug Program*, accessed February 11, 2025, [https://www.nationalguard.mil/Portals/31/Resources/Fact%20Sheets/Counterdrug%20Fact%20Sheet%20\(Dec.%202017\).pdf](https://www.nationalguard.mil/Portals/31/Resources/Fact%20Sheets/Counterdrug%20Fact%20Sheet%20(Dec.%202017).pdf).

³The Department of Defense (DOD) collects information to understand how drug trafficking and other illicit threats operate, interact within their environment, and how they may impact the security and safety of the United States. This is referred to generally as domain awareness. A domain can be either physical, i.e., maritime domain of a sea, ocean, or other navigable waterway, or conceptual, i.e., cyber domain of networked systems. DOD, *Framework to Counter Drug Trafficking and Other Illicit Threat Networks* (May 2019).

crime activities and did not have a plan for future assessments.⁴ We made recommendations to address these findings, including that DOD should develop a plan to assess agencywide progress. DOD partially agreed with these recommendations.⁵ In 2019, we reported that DOD's strategy and guidance for the National Guard Counterdrug Program were out of date, and DOD funded state counterdrug programs without first approving states' plans for their respective counterdrug activities. We made recommendations to address these issues, which DOD has implemented.⁶ For example, we recommended that DOD issue and update its counterdrug and global threats strategic framework that incorporates relevant national-level strategies and reflects current drug threats. In response, DOD issued the *Framework to Counter Drug Trafficking and Other Illicit Threat Networks*.⁷

The joint explanatory statement for the Consolidated Appropriations Act, 2024 (Pub. L. No. 118-47 (2024)) includes a provision for us to review DOD and the National Guard Bureau's counterdrug instructions and examine whether such documents limit DOD and the National Guard Bureau support for counterdrug efforts under the law.⁸ This report evaluates the extent to which (1) DOD and National Guard Bureau align their counterdrug policies with applicable federal counterdrug laws; and

⁴In the April 2024 report, as in certain U.S. government documents that were reviewed, the terms "drugs" and "narcotics" were used interchangeably to refer to opioids, such as heroin and fentanyl, or to stimulants, such as cocaine. GAO, *Counternarcotics: DOD Should Improve Coordination and Assessment of Its Activities*, [GAO-24-106281](#) (Washington, D.C.: Apr. 16, 2024). Similarly, the terms "counterdrug," "counter-drug," and "counternarcotic" are often used interchangeably, according to DOD officials. For the purposes of our report, we use the term counterdrug.

⁵GAO, *Counternarcotics: DOD Should Improve Coordination and Assessment of Its Activities*, [GAO-24-106281](#) (Washington, D.C.: Apr. 16, 2024). As of October 2024, DOD officials said that they will continue collecting data and analyze DOD-wide progress toward its counterdrug and counter-transnational organizational crime efforts.

⁶GAO, *Drug Control: DOD Should Improve Its Oversight of the National Guard Counterdrug Program*, [GAO-19-27](#) (Washington, D.C.: Jan. 17, 2019).

⁷DOD, *Framework to Counter Drug Trafficking and Other Illicit Threat Networks* (May 16, 2019).

⁸170 Cong. Rec. H1,720 (daily ed. Mar. 22, 2024); see DOD Instruction 3000.14, *DOD Counterdrug and Counter-Transnational Organized Crime Policy* (Aug. 28, 2020) and Chief of the National Guard Bureau Instruction 3100.01B, *National Guard Counterdrug Support Program* (Mar. 6, 2020). For the purposes of this report, we will refer to the DOD Instruction 3000.14 as "DOD's counterdrug instruction." We will refer to the Chief of the National Guard Bureau Instruction 3100.01B as the "National Guard Bureau's counterdrug instruction."

(2) DOD's changes in guidance during fiscal year 2019 through fiscal year 2024 clarified how counterdrug activities could be conducted.

For both objectives, we focused on DOD and the National Guard's counterdrug support to domestic law enforcement agencies under titles 10 and 32 of the U.S. Code. We interviewed relevant DOD, federal law enforcement, and state National Guard officials regarding DOD and National Guard counterdrug policies, as well as DOD and National Guard counterdrug support efforts to domestic law enforcement agencies. We also reviewed DOD and National Guard domestic counterdrug support efforts through site visits to locations in California and Texas. California and Texas are two of the top five states that received the most DOD counterdrug funds from fiscal year 2019 through fiscal year 2024.

To address our first objective, we identified and reviewed applicable federal counterdrug laws and evaluated relevant DOD and National Guard Bureau policies.⁹ We compared the applicable federal counterdrug laws with DOD and National Guard Bureau counterdrug policies to determine the extent to which the policies align with applicable laws.

To address our second objective, we reviewed DOD and National Guard Bureau policies that establish guidance and provide direction on implementation of counterdrug support to domestic law enforcement activities. We reviewed changes in DOD policies and guidance related to the implementation of domestic counterdrug activities from fiscal year 2019 through fiscal year 2024. Appendix I provides a detailed description of our objectives, scope, and methodology.

We conducted this performance audit from May 2024 to April 2025 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁹Specifically, our report identified and reviewed section 284 of title 10, U.S. Code, and section 112 of title 32, U.S. Code. 10 U.S.C. § 284; 32 U.S.C. § 112.

Background

Department of Defense Counterdrug Strategy

DOD's counterdrug vision is for DOD to help disrupt and degrade drug trafficking and other illicit threat networks to a level that allows law enforcement agencies, local or regional security forces, or other elements of national power to manage the threat.¹⁰ DOD identified three objectives to implement this vision: 1) disrupt and degrade threat networks, 2) reduce drug trafficking and criminal activity, and 3) strengthen partners.¹¹ Active duty military personnel may provide certain types of support for law enforcement agencies' counterdrug activities.¹²

National Guard Counterdrug Program

The role of the National Guard is to provide trained, ready, and interoperable units in the event of conflict and in support of communities in the homeland in times of crisis.¹³ The National Guard Counterdrug Program is part of DOD's broader counterdrug mission. The program was originally conceived as a reconnaissance support mission largely focused on marijuana eradication efforts. In 1977, the Hawaii National Guard became the first state National Guard to assist law enforcement agencies in counterdrug missions. By 1994, the program was in operation in 54 states and territories across the U.S.

Legal Authorities for Use of National Guard Personnel for Counterdrug Program

The National Guard may conduct counterdrug program activities with federal funding in accordance with provisions specified in titles 10 and 32 of the U.S. Code. The individual state National Guards can also conduct counterdrug activities without federal approval or federal funding under

¹⁰DOD, *Framework to Counter Drug Trafficking and Other Illicit Threat Networks* (May 2019). According to the framework, counter-transnational organized crime is defined as activities to detect, monitor, disrupt, interdict, or degrade transnational criminal organizations, and networks trafficking in, or deriving support or resources from, illicit drugs, weapons, natural resources, wildlife, or people that threaten U.S. interests or cause instability to regional partners.

¹¹Section 124 of title 10, U.S. Code states that DOD shall serve as the single lead agency of the federal government for the detection and monitoring of aerial and maritime transit of illegal drugs into the U.S. and that this responsibility shall be carried out in support of the counterdrug activities of federal, state, local, and foreign law enforcement agencies. 10 U.S.C. § 124.

¹²Specifically, the Secretary of Defense may provide support for the counterdrug activities or activities to counter transnational organized crime of any other federal department or agency or of any state, local, tribal, or foreign law enforcement agency for the purposes specified in section 284 of title 10, U.S. Code. 10 U.S.C. § 284.

¹³See Chief of the National Guard Bureau Memorandum, *2023 National Guard Bureau Guidance on the 2022 National Defense Strategy* (May 3, 2023).

state active duty authority. National Guard personnel may operate in one of several duty statuses (see table 1).

Table 1: Summary of Title 10, Title 32, and State Active Duty Authorities for Use of the National Guard

	Title 10	Title 32	State active duty authority
Command and control	President	State governor	State governor
Duty status	Federal Active Duty in Reserves of Army and Air Force	Full-time National Guard duty (e.g., 32 U.S.C. § 502(f))	State Active Duty
Where duty is performed	Worldwide and within the U.S.	Within the United States, U.S. territories and possessions, and the District of Columbia	Within the United States, U.S. territories and possessions, and the District of Columbia
Funding Source	Federal	Federal	State

Source: GAO analysis of federal laws. I GAO-25-107590

Under title 10, National Guard personnel in an active duty status may support counterdrug activities. Under title 10, the Secretary of the Army or Air Force may, at any time, order a member of the National Guard, under the respective secretary’s jurisdiction, to active duty with the consent of the service member and governor of that service member’s state.¹⁴ Under section 284 of title 10, DOD provides support to a number of partners, such as federal agencies, to support their counterdrug activities using federal funding, including through National Guard personnel on active duty.

Under title 32, National Guard personnel may support state counterdrug efforts with federal funding. Under section 502(f) of title 32, a member of the National Guard may, with or without consent, be ordered to perform training or other duty under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force.¹⁵ In addition, section 112 of title 32 authorizes personnel of the National Guard of a

¹⁴10 U.S.C. § 12301(d). Section 12301 also authorizes the secretaries to order National Guard members to active duty under other circumstances, such as a time of war or national emergency declared by Congress.

¹⁵32 U.S.C. § 502(f). Specifically, the statute states that, if ordered to perform such training or duty, it will either be (a) without a National Guard member’s consent, but with the pay and allowances provided by law or (b) with consent, either with or without pay and allowances. This training or other duty is to be conducted in addition to the drill, instruction, and training requirements outlined in section 502. National Guard Bureau officials told us that, for conducting counterdrug activities under section 112 of title 32, U.S. Code, it is standard operating procedure to activate National Guard members to such duty only with their consent.

state, under regulations prescribed by the Secretary of Defense and in accordance with the relevant State Plan, to be ordered to perform full-time National Guard duty under section 502(f) for the purposes of carrying out drug interdiction and counterdrug activities.¹⁶ Section 112 also authorizes the Secretary of Defense to provide federal funding for National Guard personnel in full-time National Guard duty status to support the approved State Plans of state governors.

State active duty authority. Additionally, state governors may place members of their state National Guard on a state active duty status, including for emergency response activities or to provide support for state-operated counterdrug activities, under the provisions of their own state laws and policies. National Guard members in a state active duty status are state employees, state funded including receiving pay and benefits as determined by state law, and controlled by their individual state governors.¹⁷

DOD and National Guard Entities Responsible for Counterdrug Support

Multiple DOD and National Guard officials and entities have responsibilities for providing counterdrug support. For example:

- **The Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy** develops DOD counterdrug and counter-transnational organized crime strategy and policy. It also issues applicable guidance, establishes priorities, and directs, oversees, and monitors resource allocations for DOD counterdrug and counter-transnational organized crime missions.¹⁸ According to the office, its primary activities include (1) coordinating and monitoring DOD and interagency efforts for the detection and

¹⁶32 U.S.C. § 112. Governors and the Commanding General of the National Guard of the District of Columbia each annually submit a state drug interdiction and counterdrug activities plan that, among other things, specifies how National Guard personnel within their state are to be used in drug interdiction and counterdrug activities and includes a certification that those operations are to be conducted at a time when the personnel involved are not in federal service. For purposes of this report, we refer to state drug interdiction and counterdrug activities plans as State Plans.

¹⁷See National Guard Bureau Fact Sheet, *National Guard Duty Statuses*, accessed February 4, 2025, <https://www.nationalguard.mil/Portals/31/Resources/Fact%20Sheets/NGB-Fact-Sheet-Duty-Status-Reference-FINAL.pdf>.

¹⁸DOD Instruction 3000.14, *DOD Counterdrug and Counter-Transnational Organized Crime Policy* (Aug. 28, 2020). DOD's counterdrug instruction assigns these responsibilities to the Deputy Assistant Secretary of Defense for Counter-Narcotics and Global Threats. However, DOD officials told us the position is now referred to as the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy.

monitoring of the maritime and aerial transit of illegal drugs into the United States; (2) directing, overseeing, and monitoring planning, programming, and budget (formulation, justification, and execution) processes for DOD drug interdiction and counterdrug activities programs, in coordination with other DOD components; and (3) reviewing, evaluating, coordinating, and monitoring DOD counterdrug and counter-transnational organized crime plans and programs to ensure adherence to approved policy and standards.

- **Joint Task Force-North**, an element of U.S. Northern Command, provides counterdrug support to U.S. law enforcement agencies. This support includes National Guard personnel in an active duty status. Joint Task Force-North provides a variety of categories of counterdrug support such as intelligence analysis and air and ground reconnaissance.¹⁹
- **Chief of the National Guard Bureau** is responsible for assisting the Secretary of Defense through the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy with oversight responsibilities as set forth in that office's current guidance to the Chief of the National Guard Bureau concerning the National Guard Counterdrug Program.²⁰ The National Guard Bureau also develops, communicates, implements, and oversees National Guard Counterdrug Program policies and procedures between the DOD and the 54 state National Guard counterdrug programs, federal operations involving National Guard personnel in a title 32 status, and the National Guard Counterdrug Schools.²¹
- **National Guard Counterdrug Schools** provide training, as prescribed by DOD and under an appropriately approved State Plan, in military unique capabilities and skills not readily available outside DOD to federal, state, local, and tribal law enforcement, community-based organizations, and military personnel to improve drug

¹⁹Department of Homeland Security officials stated that counterdrug support received from Joint Task Force-North decreased during fiscal years 2023 through 2024. Joint Task Force-North officials stated the types of support they used to provide to agencies requesting assistance has changed, in part because Joint Task Force-North transitioned from interdiction to countering drug trafficking networks, which has improved the overall "return on investment" of their counterdrug efforts.

²⁰Chief of the National Guard Bureau Manual 3100.01, *National Guard Counterdrug Support* (July 30, 2021).

²¹There are 54 National Guard State Counterdrug Activities Plans from the 50 states, the District of Columbia, Puerto Rico, Guam, and U.S. Virgin Islands.

interdiction and drug-demand reduction activities.²² The National Guard operates five regional counterdrug training centers.²³ National Guard Counterdrug Schools offer training on various subjects such as drug identification, interviewing and interrogation, and dark web investigations. National Guard Counterdrug Schools utilize both National Guard personnel and contractors as instructors, according to state National Guard officials.²⁴

DOD and National Guard Bureau Policies and Guidance for Counterdrug Support

DOD and the National Guard Bureau each have policies and other guidance documents that direct how personnel can support counterdrug activities in 50 states, the District of Columbia, Puerto Rico, Guam, and U.S. Virgin Islands.

DOD Counterdrug Instruction. DOD's counterdrug instruction requires DOD to develop counterdrug and counter-transnational organized crime policies, plans, and programs to support national and DOD strategies to target, deny, disrupt, or degrade national security threats enabled by illicit drug trafficking and other forms of transnational organized crime.²⁵ Specifically, according to DOD's counterdrug instruction, it is DOD policy to, among other things, (1) leverage counterdrug and counter-transnational organized crime authorities to support operations with any other department or agency of the federal government or of any state, local, tribal, or foreign national security force and (2) support requests for

²²Chief of the National Guard Bureau Instruction 3100.01B, *National Guard Counterdrug Support Program* (Mar. 6, 2020). The instruction defines militarily unique capabilities and skills as unique skills and capabilities possessed by DOD personnel that civilian law enforcement agencies lack or cannot practically replicate with a similar level of expertise.

²³The five National Guard Counterdrug Schools are: The Midwest Counterdrug Training Center, Camp Dodge, Iowa; The Multi-Jurisdictional Counterdrug Task Force Training, Camp Blanding, Florida; The Northeast Regional Counterdrug Training Center, Fort Indiantown Gap, Pennsylvania; The Regional Counterdrug Training Academy, Naval Air Station Meridian, Mississippi; and, The Western Regional Counterdrug Training Center, Camp Murray, Washington.

²⁴For the purposes of our report, we use "state National Guard officials" when referring to National Guard personnel who are conducting counterdrug activities in a title 32 duty status as part of a state's National Guard, such as the California National Guard or the Texas National Guard.

²⁵Department of Defense Instruction 3000.14, *DOD Counterdrug and Counter-Transnational Organized Crime Policy* (Aug. 28, 2020). National and DOD strategies such as the Office of National Drug Control Policy's National Drug Control Strategy and the DOD Framework to Counter Drug Trafficking and Other Illicit Threat Networks, are used to prioritize activities, including disrupting fentanyl, heroin, and methamphetamine trafficking from Mexico, as well as countering the Sinaloa and Jalisco New Generation cartels, according to DOD officials.

assistance from any other department or agency of the federal government or of any state, local, tribal, or foreign national security force as appropriate and in accordance with section 284 of title 10, U.S.C.²⁶

National Guard Bureau Counterdrug Instruction. The National Guard Bureau's counterdrug instruction authorizes the National Guard to assist federal, state, and local agencies with military-specific capabilities in support of those agencies' drug interdiction and counterdrug law enforcement activities under the authority of a State Governor's National Guard State Interdiction and Counterdrug Activities Plan (referred to as State Plan).²⁷

National Guard Bureau Manual. The National Guard Bureau's counterdrug support manual provides procedural guidance for National Guard counterdrug activities in accordance with the National Guard Bureau's counterdrug instruction and section 112 of title 32, U.S. Code.²⁸ The manual addresses authorized activities the National Guard Counterdrug Program performs when supporting law enforcement agencies, community-based organizations, and federal agencies that support a state law enforcement purpose.

Memorandums and Program Guidance. DOD issues memorandums to update, change, or clarify its policies to ensure counterdrug activities remain in accordance with federal laws. For example, the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy generally provides yearly guidance that includes updated instructions for submitting National Guard State Plans and the National Guard Counterdrug Schools Curriculum and Program Structure.

DOD's Process for Funding and Approving State Drug Interdiction and Counterdrug Activities Plans

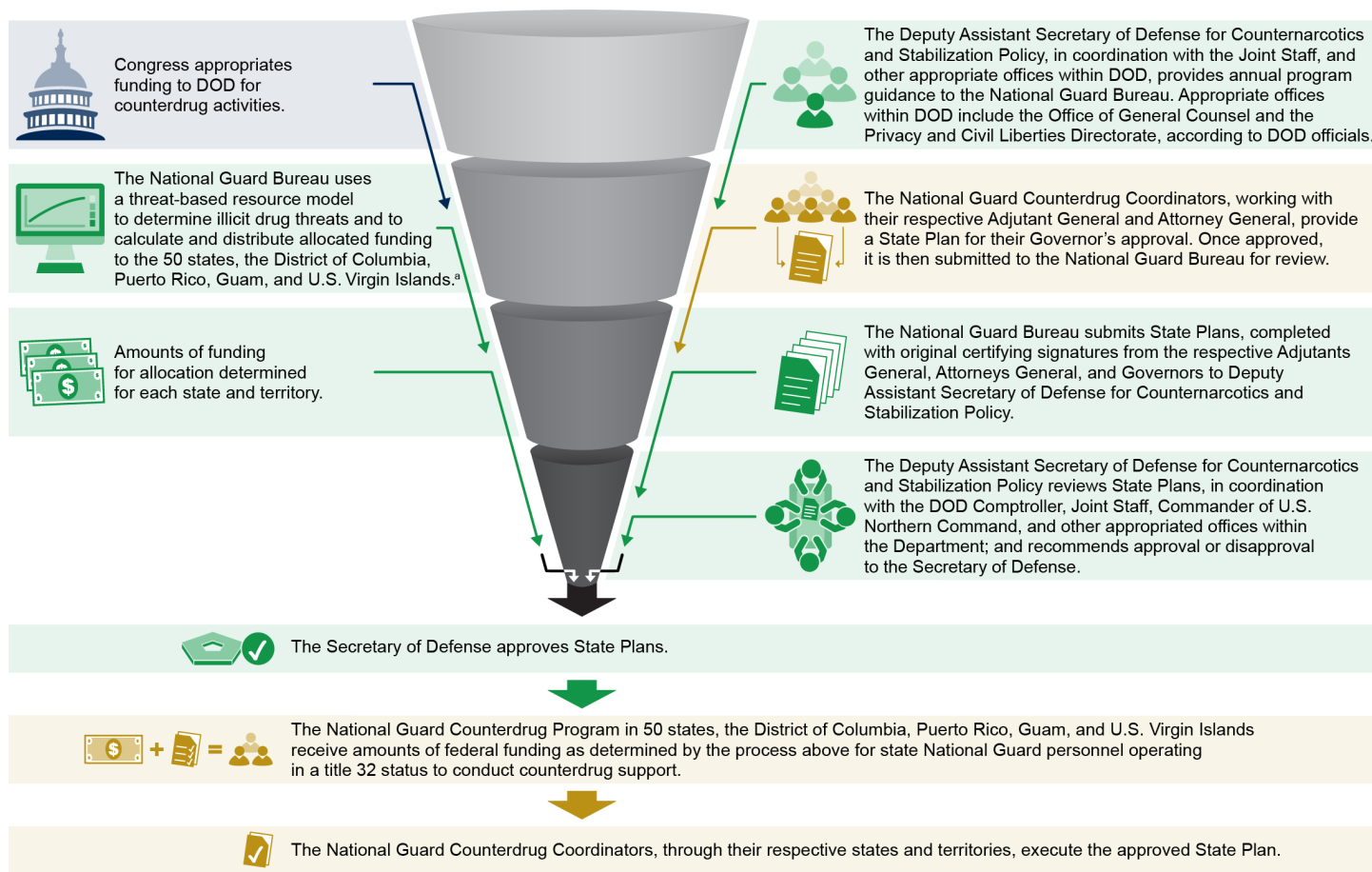
DOD has a process for funding and approving the State Plans for the 50 states, the District of Columbia, Puerto Rico, Guam, and U.S. Virgin Islands. Figure 1 provides an outline of the process to fund and approve State Plans for their counterdrug activities.

²⁶Department of Defense Instruction 3000.14, *DOD Counterdrug and Counter-Transnational Organized Crime Policy* (Aug. 28, 2020).

²⁷Chief of the National Guard Bureau Instruction 3100.01B, *National Guard Counterdrug Support Program* (Mar. 6, 2020).

²⁸Chief of the National Guard Bureau Manual 3100.01, *National Guard Counterdrug Support* (July 30, 2021).

Figure 1: DOD's Process for Funding and Approving State Plans



Source: GAO analysis of Department of Defense (DOD) and National Guard Bureau information; GAO (icons). | GAO-25-107590

^aThe National Guard Bureau's threat-based resource model is used to determine the percentage of allocated funds that each state should receive for a given fiscal year based on the model's assessment of the drug threats, according to National Guard Bureau officials. The model draws on information over the last 5 years such as drug overdose deaths and drug seizure incidents to determine the severity of the drug threat in each state, according to National Guard Bureau officials.

Activities conducted under the authority of the State Plan should support strategic objectives outlined by the Director of National Drug Control Policy. To develop the annual State Plans, National Guard counterdrug coordinators in each state use guidance provided by DOD in the form of annual program guidance. According to the guidance, State Plans should identify the state's counterdrug priorities and how each state counterdrug program intends to obligate its available funds. Also, the National Guard Bureau's counterdrug instruction states that all National Guard

counterdrug activities must serve a state law enforcement purpose and require a valid, written support request from the federal, state, tribal, or local law enforcement agency or community-based organization official with responsibility for the requesting organization's counterdrug activities.

In addition, section 112 of title 32, U.S. Code, provides some specifications for the approval of counterdrug activities, plans, and personnel. Specifically, the Secretary of Defense must ensure that the State Plan does not degrade the training and readiness of National Guard units and personnel.²⁹ According to National Guard Bureau's counterdrug instruction, all State Plans require that National Guard counterdrug activities within the State Plan provide a readiness benefit to the unit and personnel. Specifically, the National Guard Bureau's counterdrug instruction states that DOD-funded National Guard counterdrug support is limited to activities that employ skills unique to the military, align with DOD priorities, support DOD readiness requirements, and prioritize the use of DOD resources and capabilities to satisfy capability gaps that law enforcement agencies cannot practically replicate.³⁰

DOD and the National Guard Bureau Align Counterdrug Policies with Federal Laws

As of February 2025, DOD and the National Guard Bureau align their policies to support counterdrug activities in accordance with current federal laws. We did not find that the policies created limitations, rather they provided greater detail for implementing counterdrug activities at the operational level. DOD and state National Guard officials stated that they did not see limitations or challenges associated with the two relevant counterdrug instructions that prevented them from carrying out counterdrug activities listed in statute.

DOD Aligns Counterdrug Instruction in Accordance with Title 10

DOD personnel and National Guard members in an active duty status may be authorized to conduct counterdrug activities under title 10. DOD's August 2020 counterdrug instruction groups and aligns counterdrug

²⁹Section 112 of title 32, U.S. Code also states that the Secretary of Defense must ensure that the State Plan does not adversely affect the quality of National Guard training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit and will not degrade National Guard personnel's military skills. Additionally, the statute requires that National Guard personnel carrying out counterdrug activities do so only under regulations prescribed by the Secretary of Defense and while continuing to participate in their regular required training and drill duties. 32 U.S.C. § 112.

³⁰Chief of the National Guard Bureau Instruction 3100.01B, *National Guard Counterdrug Support Program* (Mar. 6, 2020).

activities into nine mission categories based on activities established in section 284 of title 10, U.S. Code (see table 2).³¹

Table 2: Authorized Counterdrug Mission Categories and the Department of Defense’s (DOD) Counterdrug Instruction, as of February 2025

Mission categories	Selected provisions from 10 USC 284	Relevant excerpts from Department of Defense Instruction 3000.14
Maintenance, Repair, or Upgrading of Equipment	Maintenance and repair of equipment that has been made available to any federal, state, local, and tribal law enforcement agencies for the purposes of preserving potential future use of such equipment for DOD and upgrading such equipment to ensure compatibility with other equipment used by DOD; or the maintenance, repair, or upgrading of any other equipment (including computer software), for the purposes of or ensuring the equipment is, or upgrading it to be, compatible with DOD equipment. 10 USC § 284(b)(1), (2)	DOD may use counterdrug funds for the maintenance and repair of equipment.
Transportation and Logistics	DOD may provide support for federal, state, local, and tribal law enforcement agencies in the transportation of personnel of the U.S. and foreign countries, and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter-transnational organized crime within or outside of the U.S. 10 USC § 284(b)(3)	DOD may use counterdrug funds for transportation of personnel of the U.S. and foreign countries, and for the transportation of supplies and equipment for the purpose of facilitating counterdrug or counter-transnational organized crime activities within or outside of the U.S.
Establish and Operate Bases or Training Facilities	Establishment and operation of bases of operations or training facilities, including through unspecified minor military construction projects, for the purpose of facilitating counterdrug activities or activities to counter-transnational organized crime of DOD or federal, state, local, or tribal law enforcement agency. 10 USC § 284(b)(4)	Combatant commands and defense agencies may establish and operate bases of operations or training facilities for the purposes of facilitating counterdrug or counter-transnational organized crime activities of DOD or of any federal, state, local, or tribal law enforcement agency.
Training	Counterdrug or counter-transnational organized crime training of law enforcement personnel of the federal government or of state, local, and tribal governments, including associated expenses for trainees and the provision of materials necessary to carry out such training. 10 USC § 284(b)(5)	Counterdrug or counter-transnational organized crime training of law enforcement personnel of the federal government or of state, local, and tribal governments is authorized. This includes associated expenses for trainees and the provision of consumable materials and training aids necessary to carry out such training.

³¹Department of Defense Instruction 3000.14, *DOD Counterdrug and Counter-Transnational Organized Crime Policy* (Aug. 28, 2020).

Detection and Monitoring	The detection, monitoring, and communication of the movement of air and sea traffic within 25 miles of and outside the geographic boundaries of the U.S.; and surface traffic outside the geographic boundary of the U.S. and within the U.S. not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary. 10 USC § 284(b)(6)	DOD may provide detection and monitoring support to law enforcement agencies that includes air and sea traffic within 25 miles of and outside of the geographic boundaries of the United States; and surface traffic outside the geographic boundary of the U.S. and within the U.S. not to exceed 25 miles from the boundary if the initial detection occurred outside the boundary.
Construction of Roads and Fences and Installation of Lighting	Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the U.S. 10 USC § 284(b)(7)	DOD may provide counterdrug support that consists of construction of roads and fences, and the installation of lighting, to block drug-smuggling corridors across international boundaries of the United States.
Command, Control, Communications, and Computers (C4) Network Activities	Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities. 10 USC § 284(b)(8)	Combatant commands and defense agencies may establish command, control, communications, and computers networks to provide improved integration with any other department or agency of the federal government or of any state, local, or tribal law enforcement agency.
Linguist, Intelligence Analysis, and Planning Services ^a	The provision of linguist, intelligence analysis, and planning services. 10 USC § 284(b)(9)	DOD may employ linguist and intelligence analysis services, such as translator and interpreter services that support a counterdrug or counter-transnational organized crime mission.
Reconnaissance Activities	Aerial and ground reconnaissance. 10 USC § 284(b)(10)	Domestic aerial and ground reconnaissance activities may be conducted within the U.S.

Source: GAO analysis of DOD counterdrug instruction, mission and activities, and federal statutes. | GAO-25-107590

^aIn December 2023, the National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, amended section 284(b)(9) to add “planning.” DOD Instruction 3000.14 has not been updated to reflect this change as of February 2025.

Based on our analysis and discussions with DOD and state National Guard officials, we did not find that this instruction created limitations in terms of allowable counterdrug activities.

National Guard Bureau Aligns Its Counterdrug Instruction With Title 32 Authorities

National Guard members may also carry out certain counterdrug activities in a title 32 duty status if approved by DOD. Specifically, under section 112 of title 32, U.S. Code, regulations prescribed by DOD, and in accordance with an approved State Plan, members of the National Guard of a state may be ordered to perform full-time National Guard duty in a title 32 status for the purpose of carrying out drug interdiction and counterdrug activities.³²

The Secretary of Defense annually reviews submitted State Plans and can determine what specific counterdrug activities in the plan the state

³²32 U.S.C. § 112.

National Guard is authorized to carry out using federal funding. Specifically, section 112 states that the Secretary of Defense shall examine the adequacy of State Plans submitted by state governors. Among other things, the secretary must ensure that the use of state National Guard units and personnel under a State Plan does not degrade the training and readiness of such units or personnel. In doing so, the statute states that the following requirements apply:

- The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.
- National Guard personnel will not degrade their military skills as a result of performing the activities.
- The performance of the activities will not result in a significant increase in the cost of training.
- In the case of drug interdiction and counterdrug activities performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.³³

Table 3 provides excerpts of activities described in the National Guard Bureau's March 2020 counterdrug instruction, which may be authorized by the Secretary of Defense only when they are included in an approved State Plan.³⁴ Based on our analysis and discussions with DOD and state National Guard officials, we did not find that this instruction created limitations in terms of allowable counterdrug activities. We also found that it provided greater detail for implementing counterdrug activities at the operational level. Additionally, neither DOD nor state National Guard officials identified specific limitations associated with the instruction that prevented them from carrying out counterdrug activities.

³³32 U.S.C. § 112(b)(2)(C). According to National Guard Bureau officials, the National Guard does not conduct counterdrug activities as a unit.

³⁴Chief of the National Guard Bureau Instruction 3100.01B, *National Guard Counterdrug Support Program* (Mar. 6, 2020).

Table 3: Counterdrug Activities in National Guard Bureau’s Counterdrug Instruction, as of February 2025

Counterdrug Activity which May Be Authorized in a State Plan^a	Relevant excerpts from Chief of the National Guard Bureau Instruction 3100.01B
Program Management	National Guard personnel performing drug interdiction and counterdrug activities manage personnel and equipment and oversee the legal and operational functions required to execute approved activities. States must keep program management costs to a minimum.
Linguist and Transcription Services	Qualified National Guard personnel may conduct post-collection transcription and translation of audio files, seized documents, or other analog or digital media. ^b
Investigative Case and Analysis Support	Analysts that have received appropriate training may provide counterdrug-focused investigative case and analysis support to civilian law enforcement. Analysts may conduct post-collection analysis of appropriately seized documents and other analog or digital media. ^b
Communications Support	National Guard network and communication specialists establish command, control, communications, and computer networks to improve the integration of law enforcement and National Guard activities. Such activity includes National Guard personnel establishing, operating, and maintaining communication stations, bases, and equipment to improve the integration of law enforcement and National Guard counterdrug support activities.
Engineer Support	National Guard personnel may perform authorized engineering activities that have a counterdrug nexus for federal, state, local, or tribal authorities to construct road and fences and to install lights at U.S. borders to block drug-smuggling corridors.
Diver Support	Service-trained divers may conduct subsurface hull inspections and training. Divers may visually inspect and report to law enforcement agencies any unusual hull configurations. Divers may not attempt to enter or search a vessel or alter any features detected.
Transportation Support	National Guard ground and aviation units may provide ground and airlift to support controlled deliveries and logistics. Transportation support does not include administrative movements or logistic transport that law enforcement agencies can resource organically or through commercial means.
Training	National Guard personnel may provide training in militarily unique capabilities and skills, such as tactical casualty medicine, that are not readily available outside DOD to federal, state, local, and tribal law enforcement agencies, community-based organizations, and military personnel to improve drug interdiction and drug-demand reduction activities. ^c
Reconnaissance	National Guard personnel may use ground and aerial platforms to conduct reconnaissance and observation, and report suspected drug production or cultivation sites and transportation routes.
Civil Operations	National Guard personnel may provide support and training in militarily unique skills, leadership planning, and decision-making processes and may provide cross-organization coordination to promote community-led efforts to develop and execute counterdrug supply-and-demand strategies.
State-to-State Support	States that support operational counterdrug missions within the borders of other states will, to the extent required by and in accordance with the laws of the involved states, establish a written memorandum of understanding between the involved states unless such agreements are already in force under existing interstate compacts.
Counter-Threat Finance	Counter-threat finance activities and the corresponding funding under Project Code 9301 are not approved for Fiscal Year 2020 due to a lack of established policy and guidance from the Services. ^d
New Initiatives	Any new programmatic or training initiatives with service proponents must be coordinated with the National Guard Bureau and authorized by the Deputy Assistant Secretary of Defense for Counter-Narcotics and Global Threats prior to resourcing. ^e This includes intelligence-related training such as open-source intelligence, cyber, digital forensics, or analyst training.

Source: GAO analysis of National Guard counterdrug instruction. | GAO-25-107590

^aChief of the National Guard Bureau Instruction 3100.01B states that all National Guard counterdrug activities must serve a state law enforcement purpose and require a valid, written support request from the federal, state, tribal, or local law enforcement agency or community-based organization official with responsibility for the requesting organization's counterdrug activities. National Guard elements performing counterdrug activities approved by the Secretary of Defense will not act unilaterally, be the lead agency for counterdrug operations, or conduct investigative activities to gather criminal information on non-DOD persons. The instruction states that the Secretary of Defense has authorized the National Guard to perform the activities in this table only when they are included in a State Plan and when the plan is appropriately approved.

^bChief of the National Guard Bureau Instruction 3100.01B states that National Guard personnel will not participate in real-time intercepts or interviews. State National Guard officials stated that National Guard personnel that work as analysts come from different military occupational specialties such as IT network technician, parachute rigger, and medic. National Guard personnel who become analysts go through training that helps them develop their critical thinking abilities, which contributes to their wartime readiness, according to state National Guard officials.

^cSection 112 of title 32, U.S. Code, states that certain requirements apply to the determination of which counterdrug activities National Guard personnel may perform, including that the performance of the activities may not adversely affect the quality of a National Guard member's training or otherwise interfere with the ability of the member to perform their military functions and National Guard personnel will not degrade their military skills as a result of performing the activities. Chief of the National Guard Bureau Instruction 3100.01B defines militarily unique capabilities and skills as unique skills and capabilities possessed by DOD personnel that civilian law enforcement agencies lack or cannot practically replicate with a similar level of expertise.

^dAccording to National Guard Bureau officials, the National Guard is no longer involved with counter-threat finance activities because DOD decided this was a U.S. Special Operations Command mission.

^eAccording to DOD officials, the Deputy Assistant Secretary of Defense for Counter-Narcotics and Global Threats is now referred to as The Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy.

DOD Updated Guidance That Clarified Limitations on Conducting Counterdrug Activities

DOD periodically updated guidance to clarify how domestic counterdrug activities should be conducted. However, these changes did not prevent DOD personnel from conducting these activities. DOD issued memorandums to clarify implementation of some title 10 counterdrug activities. DOD and National Guard Bureau updated program guidance to authorize title 32 counterdrug activities and clarify implementation of some of these activities.

DOD Issued
Memorandums to Clarify
Limitations on
Implementation of Some
Title 10 Counterdrug
Activities

DOD issued memorandums that changed and clarified its policy for counterdrug-funded intelligence analysis and planning support activities under title 10 during fiscal year 2021 through fiscal year 2024. While these memorandums may have included necessary procedural steps for counterdrug activities, we did not find that they prevented DOD personnel from conducting these activities.³⁵

Intelligence analysis. In February 2021, the Secretary of Defense issued a memorandum that prohibits DOD counterdrug program-funded analysts from engaging in activities that would require additional authorities for collecting intelligence such as human intelligence, signals intelligence, geospatial intelligence, or counterintelligence.³⁶ According to DOD officials, this change was made not to limit the analysis that can be conducted, but to clarify what types of information counterdrug program-funded analysts can collect. The memorandum states that these provisions are in place to ensure the continued provision of robust analytical support to DOD's law enforcement partners and other government agencies and that these provisions are in accordance with federal laws.³⁷ Joint Task Force-North analysts said they are only allowed to collect publicly and commercially available information. They noted that these restrictions make it more difficult to conduct analysis because it can be time consuming to consolidate and evaluate information from multiple sources. These analysts noted that they recognized that they can still request information from intelligence agencies when needed, but this

³⁵For more information on DOD counterdrug activities, see GAO, *Counternarcotics: DOD Should Improve Coordination and Assessment of Its Activities*, [GAO-24-106281](#) (Washington, D.C.: Apr. 16, 2024).

³⁶Secretary of Defense Memorandum, *Department of Defense Counterdrug-Funded Analytical Support* (Feb. 22, 2021). This prohibition also applies to counterdrug-funded analysts in a title 32 duty status. According to the memorandum, DOD components, personnel, and contractor personnel are authorized to collect, retain, and disseminate information, including information concerning U.S. persons, in accordance with the procedures approved by the Secretary of Defense and the U.S. Attorney General in DOD Manual 5240.01, *Procedures Governing the Conduct of DOD Intelligence Activities* (Aug. 8, 2016).

³⁷Specifically, the memorandum states that the provisions are in accordance with section 284(b)(9) of title 10, U.S. Code and, when authorized, section 1022 of the National Defense Authorization Act for Fiscal Year 2004, as amended. 10 U.S.C. § 284(b)(9); Pub. L. No. 108-136, § 1022 (2003) (as amended).

results in additional time which can slow down their analysis of illicit drug activity.³⁸

Planning support. In 2024, the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict issued a memorandum that outlines how DOD can provide strategic planning support to law enforcement agencies, including an approval process involving the Assistant Secretary.³⁹ According to DOD officials, the approval process was instituted to manage the limited number of DOD personnel who are qualified to provide strategic planning support. There have not yet been any requests from law enforcement for planning support, according to the same officials. Joint Task Force-North officials we spoke with raised concerns that this new approval process may create unnecessary constraints but stated that Joint Task Force-North has yet to pursue planning support.

DOD and National Guard Bureau Provided Guidance to Clarify Limitations of Some Title 32 Counterdrug Activities

DOD may determine which specific counterdrug activities are authorized for a given fiscal year as part of approving the annual State Plan submissions. For example, National Guard Bureau officials told us that, currently, not every activity listed in the National Guard Bureau's counterdrug instruction is being carried out. Specifically, they told us that the currently approved National Guard counterdrug program activities are listed in the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy's April 2024 *National Guard Counterdrug Program Guidance*: 1) Program Management, 2) Linguist/Transcription Services, 3) Analysis Support, 4) Communications Support, 5) Engineer Support, 6) Diver Support, 7) Transportation Support, 8) Training, 9) Drug Demand Reduction Outreach, and 10) Reconnaissance and

³⁸For example, analysts from Joint Task Force–North conducting intelligence analysis stated they use various sources to analyze connections in drug trafficking networks and pass that information on to law enforcement agencies.

³⁹Assistant Secretary of Defense for Special Operations/Low Intensity Conflict Memorandum, *Department of Defense Counter-drug Funded Planning Support* (Apr. 1, 2024). The memorandum describes how a provision in the National Defense Authorization Act for Fiscal Year 2024 amended section 284(b)(9) of title 10, U.S. Code, to add another counterdrug activity which DOD may conduct to support law enforcement partners. Specifically, the amendment struck “linguist and intelligence services,” from the section and inserted “linguist, intelligence analysis, and planning.” See 10 U.S.C. § 284(b)(9); Pub. L. No. 118-31, § 1010 (2023).

Observation.⁴⁰ According to our analysis of program guidance, these authorized counterdrug activities have remained consistent since 2018.

DOD changed its title 32 counterdrug program guidance to clarify the implementation of investigative case and analysis support, National Guard Counterdrug School training, and outreach to reduce drug use during fiscal year 2020 through fiscal year 2024. While DOD's changes have added requirements for some counterdrug activities, we did not find that the changes prevented state National Guard personnel from conducting these activities. Additionally, in 2021 the National Guard Bureau issued a new counterdrug support manual which did not include legal and paralegal support as an authorized counterdrug activity.

Investigative case and analysis support. In April 2024, the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy updated guidance on investigative case and analysis support from state National Guard personnel under title 32.⁴¹ Specifically, they updated guidance on the use of digital forensic tools, such as Cellebrite, to extract and analyze data from devices such as cell phones.⁴² The program guidance update allows state National Guard personnel to set up the digital forensic tools and analyze the data the tools receive from phones, but the initial extraction of the data must be conducted by a law enforcement agent. According to DOD officials, this guidance update was issued to ensure that only law enforcement agency

⁴⁰Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy Memorandum, *National Guard Counterdrug Program (CDP) Guidance* (Apr. 4, 2024). The guidance described the drug demand reduction outreach activity as training and support concerning militarily unique skills in leadership, mission analysis, planning, decision-making, and cross-organization coordination to promote community-led efforts to develop and execute counterdrug supply and demand-reduction strategies for state, local, tribal, and territorial organizations, as well as eligible community based organizations with a substance abuse prevention nexus.

⁴¹Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy Memorandum, *National Guard Counterdrug Program (CDP) Guidance* (Apr. 4, 2024). National Guard Bureau officials said that investigative case and analysis support includes link analysis, document exploitation, financial analysis, and case construction. For example, National Guard Bureau officials said that a Delaware National Guard counterdrug analyst provided analytical support such as phone toll and data analysis that led to creating and maintaining charts for drug trafficking connections. This analysis supported law enforcement operations in 2023 that led to five arrests and the seizure of large quantities of multiple drugs, including 7.6 kilograms of fentanyl, according to National Guard Bureau officials.

⁴²Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy Memorandum, *National Guard Counterdrug Program (CDP) Guidance* (Apr. 4, 2024).

officials are extracting information from phones because of concerns regarding privacy, collection of information on U.S. persons, and keeping state National Guard analysts out of the chain of custody of evidence.⁴³

Some state National Guard officials we spoke with stated that this change made sense, as extraction of data is similar to serving a search warrant and would place state National Guard personnel in the chain of custody of the evidence.⁴⁴ Other state National Guard officials we spoke with questioned the requirement that the phone data extraction be carried out by law enforcement prior to state National Guard personnel conducting their analysis, rather than the state National Guard personnel extracting the data themselves. However, they noted that this change did not prevent them from doing their work. Some law enforcement officials we spoke with said that they found the change unnecessary, while others said they thought the change made sense given their understanding of DOD policies regarding chain of custody.

National Guard Counterdrug School training. In 2020, the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy updated guidance for the counterdrug schools that states “to the maximum extent possible, that National Guard Counterdrug Program service members will provide instruction using subject matter expertise resulting from their formal military education, operational experience, and knowledge of DOD capabilities.”⁴⁵ According to some

⁴³In criminal law, the chain of custody is a recorded means of verifying where the evidence has travelled and who handled it before the trial. The reason for establishing a chain of custody is to prevent substitution of, tampering with, mistaking the identity of, damaging, altering, contaminating, misplacing or falsifying the evidence. The chain of custody verifies both the legal integrity and the authenticity of all evidence. Without proof of an intact chain of custody, the evidence may be excluded from trial or afforded less weight by the judge or jury. Department of Justice, National Institute of Justice, *Law 101: Legal Guide for the Forensic Expert, Chain of Custody* (last accessed Jan. 28, 2025); see also Federal Rule of Evidence 901: Authenticating or Identifying Evidence.

⁴⁴Chief of the National Guard Bureau Instruction 3100.01B states that National Guard personnel will not become part of the evidentiary chain of custody, and only law enforcement agency personnel will seize or maintain custody of physical objects that may be considered evidence. Only under exigent circumstances where National Guard personnel incidentally encounter potential evidence that is in immediate danger of destruction may action be taken by National Guard personnel to prevent its destruction.

⁴⁵Deputy Assistant Secretary of Defense for Counter-Narcotics and Global Threats Memorandum, *Guidance for the States' National Guard Counterdrug Program (CDP)* (May 18, 2020). DOD officials told us the Deputy Assistant Secretary of Defense for Counter-Narcotics and Global Threats is now referred to as the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy.

state National Guard officials we spoke with, the updated program guidance could result in additional costs to the schools and limit their ability to leverage contracted instructors with specific subject matter expertise.⁴⁶ State National Guard officials stated that these concerns were communicated to DOD officials. Other state National Guard officials we spoke with said the guidance did not create any difficulties, and that most of their schools' instructors were state National Guard personnel.

According to DOD's guidance, the use of state National Guard instructors was the optimal training construct as it provided a training benefit to state National Guard personnel as well as valuable skills to law enforcement. Officials from the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy told us the intent of updating the guidance is to build proficiency and wartime skills to benefit DOD service members, including state National Guard personnel. Specifically, by using military instructors to the greatest extent possible, not only can the National Guard share their relevant militarily unique skills with law enforcement officers, but service members can also increase their professional education by gaining teaching experience, according to officials. Also, National Guard Bureau policy states that federally funded National Guard counterdrug activities, which include providing instruction through the counterdrug schools, are limited to those that, among other things, align with DOD priorities and support DOD readiness requirements.

According to state National Guard officials, the ratio of classes taught by military personnel versus contractors varies among the National Guard Counterdrug Schools. Officials from one counterdrug school we spoke with said that about 75 percent of their courses were taught by contractors, while 25 percent were taught by state National Guard personnel. Officials from another counterdrug school we spoke with said that about 65 percent of their instructors were state National Guard personnel, and 35 percent were contractors. According to DOD officials, there have never been any hard requirements for schools to have a certain ratio of military personnel as instructors versus using contractors as instructors.

Outreach to reduce drug use. In March 2022, the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization

⁴⁶Additionally, officials from one counterdrug school noted that increases in enlisted personnel salaries, without similar increases in the school's operating funds, created additional burdens for them to use military instructors.

Policy updated counterdrug program guidance to include restrictions that limited counterdrug support to entities not currently identified as community-based organizations under the law.⁴⁷ Prior to this change, support to community organizations was offered and provided to more organizations, according to National Guard Bureau officials. According to DOD officials, DOD issued this guidance to ensure that National Guard outreach to prevent illicit drug use was aligned with federal law.

State National Guard officials we spoke with said they have adjusted to this change and provide direct support only to those community organizations identified in law; however, they may also provide indirect support to other community-based organizations that are partnering with a law enforcement agency.⁴⁸ State National Guard officials from five of the six state counterdrug programs we spoke with said this change has not created any significant challenges for them. State National Guard officials from one state counterdrug program said that this change in guidance prevented them from working with an effective community-based organization that is not partnered with a law enforcement agency. However, they also said they were still in the process of adjusting to this change and had not yet tried to mitigate this challenge.

Legal and paralegal support. In 2021, the National Guard Bureau updated guidance on counterdrug support by releasing its new manual, which does not list legal and paralegal support as an authorized activity

⁴⁷Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy Memorandum, *National Guard Counterdrug Program (CDP) Guidance* (Mar. 7, 2022) and 32 U.S.C. § 508, which specifically identifies eligible youth and charitable organizations such as The Boy Scouts of America and The Girl Scouts of America. Chief of the National Guard Bureau Instruction 3100.01B defines community-based organizations as civilian agencies, coalitions, committees, councils, task forces, and similar groups that support drug abuse education, awareness, and prevention.

⁴⁸The National Guard refers to this counterdrug activity as drug demand reduction outreach. National Guard Bureau officials said that the focus of drug demand reduction outreach is to support communities and anti-drug coalitions with developing holistic and effective responses to local drug problems. For example, National Guard Bureau officials said that a Louisiana National Guard service member partnered with a district attorney's office to provide the Baton Rouge community with resources to prevent drug overdoses and connect individuals to treatment. According to the same officials, the service member conducted analysis to help a community organization partnering with the district attorney's office determine where to spread literature and naloxone. The community organization observed a drop in non-fatal overdoses by 17.5 percent, and the service member was recognized for her work, according to the same officials.

under DOD's counterdrug program.⁴⁹ The National Guard previously had guidance that allowed legal and paralegal counterdrug support. Specifically, National Guard Regulation 500-2 included legal and paralegal support as an authorized counterdrug activity.⁵⁰ State National Guard officials said that the National Guard was previously able to provide legal and paralegal support to district attorney offices. However, that regulation was rescinded in September 2014 to conform with new National Guard publications guidance, according to National Guard Bureau officials.⁵¹

The relevant federal statutes do not expressly identify legal and paralegal support as either an authorized or prohibited counterdrug activity. However, state National Guard officials stated that the National Guard could conduct legal and paralegal support, in addition to other types of activities, in a state active duty status. State active duty status can be authorized by the state governor with state funds.

Agency Comments

We provided a draft of the report to DOD, the Department of Homeland Security, and the Department of Justice for review and comment. DOD provided written comments, which are reprinted in appendix II. The Department of Homeland Security and the Department of Justice provided technical comments which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Secretary of Homeland Security, the Attorney General, the Assistant Secretary of Defense for Counternarcotics and Stabilization Policy, and the Chief of the National Guard Bureau. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

⁴⁹Chief of the National Guard Bureau Manual 3100.01, *National Guard Counterdrug Support* (July 30, 2021).

⁵⁰National Guard Regulation 500-2/Air National Guard Instruction 10-801, *National Guard Counterdrug Support* (Aug. 29, 2008) (rescinded).

⁵¹In 2019, we found that the National Guard Bureau had not issued a manual that provided detailed procedures and processes to implement updated National Guard counterdrug program policies. As a result of our recommendation, in July 2021 the National Guard Bureau released its manual. GAO, *Drug Control: DOD Should Improve Its Oversight of the National Guard Counterdrug Program*, [GAO-19-27](#) (Washington, D.C.: Jan. 17, 2019).

If you or your staff have any questions about this report, please contact me at moldafskyd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found at the end of this report. GAO staff who made key contributions to this report are listed in appendix III.

//SIGNED//

Diana Moldafsky
Director, Defense Capabilities and Management

List of Committees

The Honorable Roger Wicker
Chairman
The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Mitch McConnell
Chair
The Honorable Christopher Coons
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Mike Rogers
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Ken Calvert
Chairman
The Honorable Betty McCollum
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report evaluates the extent to which (1) the Department of Defense (DOD) and National Guard Bureau align their counterdrug policies with applicable federal counterdrug laws; and (2) DOD's changes in guidance during fiscal year 2019 through fiscal year 2024 clarified how counterdrug activities could be conducted.

For both objectives, we focused on DOD and National Guard's counterdrug support to domestic law enforcement agencies under title 10 active duty and title 32 full-time National Guard duty statuses. We conducted site visits to locations in California and Texas to review how DOD's changes to counterdrug policies impact how DOD and the National Guard are implementing their counterdrug activities. We selected California because it is the state that has received the most counterdrug funding from DOD since fiscal year 2019 and shares a southern border with Mexico. We visited Texas because it was one of the top five states receiving the most counterdrug funding from DOD since fiscal year 2019, and Joint Task Force-North is headquartered there. Texas also shares a southern border with Mexico.

To address our first objective, we identified and reviewed applicable federal counterdrug laws, including section 284 of title 10, U.S. Code, that gives DOD authority to provide support for counterdrug activities or activities to counter-transnational organized crime of other federal departments and agencies or state, local, tribal, or foreign law enforcement agencies and section 112 of title 32, U.S. Code, that authorizes federal funding for the National Guard to support individual states' counterdrug plans.¹ We identified and evaluated relevant DOD and National Guard Bureau policies, including DOD Instruction 3000.14 and Chief of the National Guard Bureau Instruction 3100.01B, that govern authorized counterdrug activities that can be performed by DOD and National Guard personnel.² We compared the applicable federal counterdrug laws with DOD and National Guard Bureau counterdrug policies to determine the extent to which DOD and National Guard Bureau's counterdrug policies align with these laws. This includes identifying where DOD and National Guard Bureau instructions provide specific activities or restrictions that mirror those found in federal

¹See 10 U.S.C. § 284; 32 U.S.C. § 112.

²Department of Defense Instruction (DOD) 3000.14, *DOD Counterdrug and Counter-Transnational Organized Crime Policy* (Aug. 28, 2020) and Chief of the National Guard Bureau Instruction 3100.01B, *National Guard Counterdrug Support Program* (Mar. 6, 2020).

counterdrug law, as well as any instances where the instructions appear to deviate from federal counterdrug law—either through creating additional restrictions or activities than stated in relevant statutes.

To address our second objective, we reviewed DOD and National Guard Bureau guidance that provides direction on implementation and execution of counterdrug support to domestic law enforcement activities. We reviewed changes in DOD policies and guidance related to the implementation of domestic counterdrug activities during fiscal year 2019 through fiscal year 2024. This included identifying where DOD annual program guidance and memorandums provide specific activities or restrictions that mirror those found in federal counterdrug law, as well as any instances where the annual program guidance and memorandums appear to have created additional restrictions or activities than stated in relevant statutes. For example, we reviewed changes to the implementation of counterdrug activities described in a Secretary of Defense memorandum and in the Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy's annual program guidance and memorandums from fiscal year 2019 through fiscal year 2024.³ We also interviewed cognizant officials on how the changes in guidance impacted implementation and execution of authorized counterdrug activities.

To support our work across both objectives, we interviewed officials from the following organizations from DOD and the National Guard:

- Office of the Deputy Assistant of Secretary of Defense, Counternarcotics and Stabilization Policy
- Joint Task Force-North
- National Guard Bureau
- Arizona National Guard
- California National Guard
- Florida National Guard
- Montana National Guard

³See generally Secretary of Defense Memorandum, *Department of Defense Counterdrug-Funded Analytical Support* (Feb. 22, 2021); Deputy Assistant Secretary of Defense for Counternarcotics and Stabilization Policy Memorandum, *National Guard Counterdrug Program (CDP) Guidance* (Apr. 4, 2024).

- New York National Guard
- Texas National Guard
- Midwest Counterdrug Training Center
- Multijurisdictional Counterdrug Task Force Training
- Northeast Counterdrug Training Center
- Regional Counterdrug Training Academy
- Western Regional Counterdrug Training Center

We also interviewed officials from other organizations that DOD and the National Guard partner with in support of the counterdrug mission:

- Department of Homeland Security, U.S. Customs and Border Protection
- Department of Justice, Drug Enforcement Administration and Organized Crime Drug Enforcement Task Forces
- Office of National Drug Control Policy
- San Diego-Imperial Valley High Intensity Drug Trafficking Area Program
- South Texas High Intensity Drug Trafficking Area Program
- West Texas High Intensity Drug Trafficking Area Program
- Texas Anti-Gang Initiative Program

We conducted this performance audit from May 2024 to April 2025 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Defense

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OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
2500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2500

March 25, 2025

Ms. Diana Moldafsky
Director, Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Ms. Moldafsky,

This is the Department of Defense (DoD) response to the GAO Draft Report GAO-25-107590, "DoD and National Guard Align Counterdrug Policies and Guidance with Federal Laws," dated March 4, 2025 (GAO Code 107590).

DoD has no further recommendations or edits to the subject report. My point of contact is Colonel Benny Smith, who can be reached at benny.w.smith4.mil@mail.mil and phone 703-614-8849.

Sincerely,

3/25/2025

X Joseph J. McMenamin

Joseph J. McMenamin

Signed by: MCMENAMIN.JOSEPH.JAMES.1032931088

Joseph J. McMenamin
Acting Deputy Assistant Secretary of Defense
for Counternarcotics and Stabilization Policy

UNCLASSIFIED

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Diana Moldafsky, moldafskyd@gao.gov

Staff Acknowledgments

In addition to the contact named above, the following staff members made key contributions to this report: Brent Helt (Assistant Director), Samuel Woo (Analyst-in-Charge), Sharon Ballinger, Richard Catherina, Carly Gerbig, Clarice Ransom, Mike Shaughnessy, Michael Silver, Carter Stevens, and Theologos Voudouris.

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