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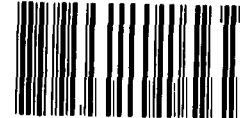
BY THE U.S. GENERAL ACCOUNTING OFFICE

**Report To The Chairman, Subcommittee On
Government Information, Justice, And Agriculture,
Committee On Government Operations,
House Of Representatives**

**Customs Service's Participation In Followup
Investigations Of Drug Smuggling
Interdictions In South Florida**

One aspect of the South Florida Task Force which makes it unique to other drug interdiction efforts throughout the country is the U.S. Customs Service's authority to perform followup investigations in cooperation with and under the direction of the Drug Enforcement Administration (DEA). Such investigations include gathering evidence and information needed for prosecution of violators by the U.S. Attorney and the collection of intelligence that can be used in future interdictions.

While such investigations did prove beneficial, the benefits were not to the extent indicated by the Treasury Department which has jurisdiction over Customs. Using the U.S. Customs Service to conduct followup investigations in other areas of the country does not appear justified solely on the basis of information provided for interdictions in South Florida. However, such authority may be desirable to augment DEA staff



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GAO/GGD-84-37
JULY 18, 1984

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-213378

The Honorable Glenn English
Chairman, Subcommittee on Government
Information, Justice, and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report is in response to your April 25, 1983, request that we investigate federal followup investigations¹ of drug smuggling interdictions in South Florida. As agreed with your office, we attempted to determine 1) whether the followup investigations provided valuable information for use in future interdictions and 2) whether the authority delegated by the Justice Department to the Treasury Department's U.S. Customs Service to conduct followup narcotics investigations in South Florida should be considered for expansion to other areas of the country where drug smuggling is a problem. Federal drug interdictions in South Florida and the purposes of followup investigations of drug interdictions are described below.

Followup investigations of drug interdictions in South Florida provided useful information but were not a major source of intelligence leading to future interdictions. Using the Treasury Department's U.S. Customs Service to conduct followup investigations in other areas of the country may be desirable to augment the Justice Department's Drug Enforcement Administration (DEA) staff but does not appear justified based solely on the amount of intelligence generated for future interdictions in South Florida.

To respond to your request we interviewed officials and reviewed written records at the Miami, Florida, headquarters of the Florida Joint Task Group which carries out federal followup

¹A followup investigation is any investigative effort undertaken after a drug interdiction is made. This includes gathering evidence and information needed for prosecution of violators by the U.S. Attorney and the collection of intelligence that can be used in future interdictions.

investigations of drug interdictions in South Florida. The Joint Task Group is composed of staff from DEA and Customs and is a major participant in the multiagency federally sponsored anticrime program known as the South Florida Task Force.

As agreed, the focus of our audit work was on whether followup investigations produced valuable information for use in future drug smuggling interdictions, and we did not assess other benefits of followup investigations. We also discussed the role of followup investigations in intelligence gathering with officials of the U.S. Coast Guard, Customs Service, DEA, and the National Narcotics Border Interdiction System (NNBIS) in Washington, D.C., and at field locations in Miami and New Orleans. Our review was conducted during the period May through September 1983 in accordance with generally accepted government auditing standards.

FEDERAL DRUG INTERDICTIONS AND
FOLLOWUP INVESTIGATIONS IN
SOUTH FLORIDA

In January 1982, the President established the South Florida Task Force and appointed the Vice President to direct its operations. The task force is a multiagency federally sponsored anticrime program in South Florida whose objectives and resources are focused primarily on drug interdictions--arresting drug smugglers and preventing illegal drugs from entering the country--and the prosecution of drug traffickers. The task force's efforts supplement but do not replace other federal drug enforcement activities, such as DEA's investigations of high level illegal drug traffickers and their criminal organizations. Participants in task force activities include U.S. Attorneys, DEA, Customs, the Coast Guard, the Immigration and Naturalization Service, the Federal Bureau of Investigation, the Department of Defense, and the Federal Aviation Administration. These participants perform the actual work of drug smuggling interdictions and the prosecution of drug traffickers. The task force itself is basically a coordinating mechanism. An on-site coordinator in Miami, representing the Vice President, facilitates cooperation among the various federal agencies involved and assists in resolution of problems that cross agency lines. Personnel assigned to federal law enforcement agencies and Department of Defense components participating in the task force operate through their normal chains of command except for personnel assigned to the Florida Joint Task Group.

The Florida Joint Task Group is a major participant in the South Florida Task Force. The joint task group is composed of personnel from DEA and the Customs Service and is separate from other DEA and Customs units in the state of Florida. The joint task group was established on February 23, 1982, and began

operations with the rest of the South Florida Task Force on March 15, 1982. On March 20, 1982, the Attorney General delegated authority to Customs special agents and patrol officers to investigate narcotics smuggling violations under the direction of DEA in the state of Florida. This delegation was needed because Reorganization Plan No. 2 of 1973 assigned the responsibility for investigating all drug law enforcement cases to the Department of Justice. Because DEA is the lead federal agency for drug law enforcement, both Customs and DEA personnel assigned to the joint task group operate under DEA's direction and follow DEA's regulations and procedures. The joint task group is headed by a director from DEA and a deputy director from Customs. It reports to the DEA special agent-in-charge of the Miami Field Division.

Joint task group officials told us that the primary function of the joint task group has been to perform followup investigations of drug smuggling interdictions. Followup investigations take place after drug smuggling interdictions. Specifically, after the Coast Guard or Customs Service arrests drug smugglers or seizes illegal drugs, investigators from the joint task group respond to the interdiction and begin a followup investigation aimed at 1) gathering evidence needed for prosecution of the drug smugglers and their accomplices by the U.S. Attorney and 2) collecting information on drug smugglers and smuggling methods that can be used in future drug smuggling interdictions or other narcotics investigations. The joint task group also initiates new investigations of drug smuggling operations. Interdiction investigations are distinct from the narcotics investigations and intelligence gathering efforts of the DEA investigators directly assigned to DEA's Miami Field Office, which focus on all aspects of illegal narcotics trafficking (such as major trafficking organizations or money laundering conspiracies) and are not limited to drug smuggling interdictions.

Followup investigations of drug interdictions are not new. Before establishment of the joint task group in 1982, followup investigations in South Florida were performed by DEA personnel directly assigned to the Miami Field Division. For example, in the 18-month period before formation of the task group, about 22 DEA agents were assigned to DEA's Miami Field Division in order to respond to Coast Guard and Customs drug interdictions and perform followup investigations. DEA agents developed confidential informants as a result of interdictions and passed on intelligence to the U.S. Coast Guard and Customs which resulted in further interdictions. Also, DEA agents conducted followup investigations known as "controlled deliveries." In controlled deliveries agents obtain cooperation of individuals arrested for drug smuggling, follow through with the originally planned delivery of the drugs, and thereby arrest other members of the

organization. An April 1981 internal evaluation of DEA operations at the Miami Airport showed that DEA agents made about 13 controlled deliveries of seized drugs in the preceding year.

The formation of the joint task group augmented DEA's capabilities to conduct followup investigations of drug smuggling interdictions. The DEA special agent in charge in Miami, to whom the joint task group reports, has described the role of the joint task group as follows:

"The Task Group (as distinguished from the overall South Florida Task Force) initiates relatively few arrests and seizures but rather responds to arrests/seizures made by the Coast Guard and permanently assigned Customs personnel in such areas as the Miami International Airport. In doing so, the Joint Task Group has relieved the Miami Field Division of a considerable burden. Historically, the DEA Miami Office has devoted up to 25% of its manpower and a considerable amount of its financial resources to responding to Customs/Coast Guard seizures. This effort was unproductive in terms of developing major investigations and is confined primarily to processing prisoners, securing, transporting and destroying marijuana and preparing Customs/Coast Guard drug interdiction cases for court presentation. Little or no effort was expended in developing these cases beyond the initial arrests or seizures. However, with the formation of the Task Group, DEA resources have been freed up to conduct major long-term investigations. In addition, the Task Group has been able to perform more adequate investigative follow-up to Customs/Coast Guard seizures."

During its peak period of operation in late 1982, 259 personnel--81 from DEA and 178 from Customs--were temporarily detailed to the joint task group. The joint task group was made permanent in 1983, and as of September 30, 1983, the staffing level was 25 DEA personnel and 51 from Customs. From its inception in March 1982 to September 30, 1983, the joint task group opened about 1,280 cases.²

On March 23, 1983, the President announced the creation of the National Narcotics Border Interdiction System (NNBIS) which assumed the drug interdiction coordination responsibilities previously carried out by the South Florida Task Force. NNBIS is headed by the Vice President and is intended to coordinate the

²A case is defined as an investigation for which a separate case number and file are created.

work of federal agencies with responsibilities for interdiction of seaborne, airborne, and crossborder importation of narcotics. Six NNBS centers have been established throughout the country, including an NNBS center in Miami.

DID FOLLOWUP INVESTIGATIONS
PRODUCE VALUABLE INFORMATION
FOR FUTURE INTERDICTIONS?

As agreed, the objective of our review was to determine whether the joint task group's followup investigations of interdicted drug smuggling operations in South Florida produced valuable information (intelligence) for use in future drug smuggling interdictions. In order to accomplish this objective, we examined whether the joint task group's followup investigations had produced information leading to the initiation of new interdiction-related narcotics investigations, additional arrests, or seizures of drugs. Specifically, we 1) assessed the accuracy of statements by the Treasury Department in a January 1983 letter to GAO describing new investigations, arrests, and drug seizures which Treasury said resulted from information produced by the joint task group's followup investigations, 2) analyzed the origins of 50 interdiction-related investigations initiated by the joint task group to determine if any were started as a result of information produced by followup investigations of drug interdictions, and 3) requested the eight group leaders of drug investigative teams assigned to the joint task group at the time of our review to provide us with examples of any cases in which followup investigations produced information leading to additional arrests and/or seizures of drugs. We found that the joint task group's followup investigations of drug interdictions produced useful information but were not a major source of information leading to additional interdictions. The potential still exists that information gathered from followup investigations could lead to future interdictions.

Treasury Department statements
regarding new investigations
initiated as a result of
information from followup
investigations

On January 28, 1983, the Treasury Department commented on a draft of our report Federal Drug Interdiction Efforts Need Strong Central Oversight, (GAO/GGD-83-52, dated June 13, 1983). In its comments the Treasury Department stated:

"[GAO's report] should reflect the fact that in Florida follow-up drug interdiction investigations have been carried out in almost every case since the inception of the Florida Task Force in March 1982. These drug interdiction investigations have developed

significant cases which have impacted, in a positive way, against drug smugglers and drug trafficking operations . . ."

The Treasury Department's letter went on to state that the joint task group's followup investigations of drug smuggling interdictions had resulted in the opening of 77 new narcotics investigations by the joint task group. It said that the new investigations led to 114 arrests and significant seizures of drugs, vessels, aircraft, firearms, and cash.

We requested the Deputy Director of the Florida Joint Task Group, who is the ranking Customs official and Treasury representative in the joint task group, to provide us with documentation for Treasury's statements. The Deputy Director told us that Treasury's statements could not be documented, and that Treasury's letter did not accurately describe the information which the joint task group provided to Customs headquarters for use by Treasury in its letter to GAO. The Deputy Director told us that prior to preparation of the Treasury letter to GAO, Treasury headquarters contacted Customs headquarters, which in turn requested information from the joint task group about its accomplishments. The joint task group interpreted this request to be for the following information: (1) the total number of confidential informants used by the joint task group (rather than just those developed from followup investigations), (2) the number of new investigations those confidential informants had generated, and (3) the number of seizures and arrests made in the new investigations. The joint task group received the request by telephone from Customs headquarters and was asked to obtain the information and telephone it to Customs headquarters within approximately 3 hours.

The joint task group surveyed current and former task group agents and supervisors by telephone and obtained estimates for each of the above items of information. At the end of a 3-hour period, the joint task group summarized the estimates collected by the telephone survey and reported to Customs headquarters that it had used 70 informants who had provided information leading to initiation of 77 new investigations. The joint task group also provided estimates of the number of seizures and arrests resulting from the new investigations. The joint task group was unable to provide us with any written documentation identifying the informants, new investigations, or arrests and drug seizures included in the estimates. Consequently, the Deputy Director told us he was unable to determine whether the 77 new investigations reported to Customs headquarters were developed as a result of the joint task group's followup investigations.

Origins of narcotics investigations
initiated by the joint task group

The joint task group does not maintain records documenting the extent to which its followup investigations of drug interdictions have produced information leading to the initiation of new narcotics investigations, additional arrests, and/or seizures of illegal drugs. We, therefore, requested the Deputy Director to provide us with a list of cases initiated by information obtained from confidential informants, based on our assumption that such cases would be among the most likely to have resulted from followup investigations. The Deputy Director provided us with a list of 62 such cases and told us that he did not know whether any of these were among the cases described in the estimates supplied by the joint task group to Customs and discussed in Treasury's January 1983 letter to GAO. We reviewed 50 of the 62 cases to see what caused the joint task group to initiate them. (Case files on the remaining 12 cases were not maintained in the Miami office so we did not review them.) Specifically, we interviewed task group officials and reviewed each case file to determine whether it was initiated as a result of information produced by followup investigations, or as a result of some other action, such as a referral from another agency or information provided by an informant who was not connected with a followup investigation. We found that 3 of the 50 cases were initiated as a result of information produced by followup investigations.

Interviews with joint task
group supervisors

In a further attempt to determine whether followup investigations produced valuable information for future drug interdictions, we interviewed the eight supervisors of drug investigative teams assigned to the joint task group at the time of our review. We asked the supervisors to provide us with examples of cases in which information produced by followup investigations led to additional arrests and/or seizures of drugs. They provided us with 17 examples of such cases. They told us they did not believe that there were many additional cases. Two of the examples they provided are described in appendix I.

SHOULD CUSTOMS' AUTHORITY TO
CONDUCT NARCOTICS INVESTIGATIONS
BE EXPANDED?

On February 6, 1984, the Justice and Treasury Departments agreed to permit certain Customs agents identified by Customs and designated by the DEA Administrator to perform followup investigations under the direction of DEA. This concept, known as "cross-designation," gives DEA added flexibility in conducting drug investigations but expands Customs' investigative

authority only on a limited, case-by-case basis. Using the U.S. Customs Service to conduct followup investigations of drug interdictions under DEA's direction in other areas of the country could be desirable if drug smuggling interdictions become so numerous that DEA does not have sufficient personnel to conduct needed followup investigations.

The effectiveness of NNBS will be a key consideration in any decision to expand Customs' authority to conduct followup investigations in other parts of the country. NNBS is intended, in part, to coordinate the dissemination of intelligence resulting from followup investigations to appropriate interdiction agencies, including Customs and Coast Guard. If NNBS is effective, Customs will have access to the intelligence it needs for drug interdictions. However, we have not fully evaluated NNBS's effectiveness at this time.

Other issues to be considered in deciding whether to expand Customs' followup authority to conduct post-interdiction investigations are: 1) What impact would the expanded authority in the drug investigations area have on other Customs' duties and responsibilities? and 2) Would expanded authority conflict with DEA's lead agency responsibility for drug investigations that was the main objective of the Reorganization Plan No. 2 of 1973?

AGENCY COMMENTS AND OUR EVALUATION

The Justice Department was in general agreement with the contents of our draft report. (See app. II.) In its January 1984 comments Justice stated that:

"While the Department agrees with GAO that the follow-up drug investigation experience in Florida does not clearly support an expansion of Customs followup investigative authority to other areas of the country, we believe GAO's report should consider cross-designation as a realistic concept of handling drug enforcement authority between DEA and Customs."

Cross-designation would allow designated Customs agents to perform followup investigations of narcotics seizures under DEA's direction in certain instances where DEA lacks sufficient investigative personnel. We agree that this concept is realistic and we have updated our report to include a discussion of the February 6, 1984, Justice-Treasury agreement on crossdesigna-tion.

The Treasury Department was critical of our draft report, stating that "several of the premises upon which it is based are incorrect." (See app. III.) However, Treasury supported the concept of cross-designation discussed above and praised the

recent Justice-Treasury agreement in this area. The following is a summary of Treasury's comments and our responses.

1) Treasury states that our draft report attempts "to evaluate an element of the Task Group's operation--the joint investigative jurisdiction held by DEA and U.S. Customs--without reference to the attainment of goals." Treasury lists four goals which the joint task group was intended to accomplish and provides statistics intended to show that those goals have been accomplished.

Pursuant to the request of the subcommittee, we focused our review specifically on the extent to which followup investigations by the joint task group produced valuable information for future interdictions, as measured by information leading to new investigations, additional arrests, or seizures of illegal drugs. We did not assess other accomplishments of the joint task group, such as development of evidence leading to successful prosecution of drug smugglers by the U.S. Attorney, because these accomplishments were not relevant to the question which the subcommittee asked us to review.

The goals and the accomplishments cited by Treasury in its comments involve the entire South Florida Task Force and cannot be attributed solely to the joint task group. For example, Treasury states that one goal of the joint task group was "an increase in the number of arrests and prosecutions of drug smugglers." This is also a goal of the entire South Florida Task Force. Treasury goes on to say that "as of December 1983 the Task Group has produced 1,769 arrests, over 1,000 indictments and over 815 convictions." These accomplishments are partially attributable to the joint task group, but also reflect the accomplishments of the Coast Guard and Customs personnel who interdicted drug smuggling operations, the U.S. Attorney who prosecuted drug smugglers, and other participants in the South Florida Task Force. As part of the task force, the joint task group contributes to but is not solely responsible for achieving the South Florida Task Force's overall goal of increasing arrests and convictions.

2) Treasury also comments on the methodology used in our report. Treasury states that the "GAO analysis consisted of assessing data from developed cases against some criteria, formulated by GAO, that were not clearly specified during the audit." Further, Treasury states that the GAO auditor who reviewed the task group's case files told Customs in an exit interview that most of the cases GAO reviewed met GAO's criteria for identifying followup investigations which produced beneficial intelligence. Treasury states that "There is not and never has been an operational need for . . ." the statistics generated by GAO. Treasury also states that GAO's statistics "appear to

have resulted from data collected from case files under significant time pressure and in response to requests that were not clearly defined."

We specified the criteria used in our review in our initial and subsequent meetings with joint task group personnel. We began our evaluation of the information produced by the joint task group's followup investigations by reviewing the accuracy of Treasury's statements describing this information in a January 1983 letter to GAO: that is, the 77 new investigations as a result of information produced by followup investigations. We told the joint task group that we were using the statistics on new investigations in Treasury's letter as the starting point in our efforts to measure the information produced by followup investigations. Our review found no documentary support for Treasury's statements in its January 1983 letter. We then analyzed 50 cases selected by the Deputy Director to determine if any of the cases were initiated by information produced by followup investigations. Three out of 50 cases met this criterion. Finally, we requested the supervisors of the joint task group's investigative staff to provide us with any other examples where followup investigations produced information leading to additional arrests or seizures of illegal drugs. In total, the supervisors were able to provide us with 17 such examples.

Statements by a GAO auditor to Customs at the exit interview reflected the findings in our report. The GAO auditor told Customs that most of the 50 case files we reviewed were what the Deputy Director of the joint task group claimed they were--cases developed by confidential informants. But he also told Customs that only 3 out of 50 cases resulted from followup investigations.

Although Treasury states that GAO required the joint task group to collect statistical data for which Treasury has no operational use, Treasury used the statistics in their January 1983 letter to GAO as a measure of the intelligence benefits of followup investigations. Finally, Treasury states that GAO did not clearly define the information it requested and implies that the task group lacked sufficient time to collect the information. We worked closely with officials of the joint task group for over 4 months, attempting to obtain the requested information and answering questions about the specific data we were requesting.

3) Treasury's third major comment relates to our question regarding the extent to which expanding Customs's investigative authority would conflict with the concept of single agency responsibility for drug investigations presented in Reorganization Plan No. 2 of 1973. Treasury states that the single agency responsibility principle is not the policy of the President's drug enforcement strategy, which envisions that all federal law

enforcement agencies with expertise to contribute will participate in a coordinated attack on drug-related crime.

We agree with Treasury that the drug enforcement strategy should use the resources and expertise of the various law enforcement agencies in a coordinated effort. However, as we have stated, and continue to believe, such a coordinated effort is better served when there is a lead agency. This is the principle that was recognized in Reorganization Plan No. 2. Therefore, the question of to what extent granting Customs post-interdiction investigative authority, especially without Department of Justice oversight, conflicts with the lead agency concept remains an issue to be considered before such authority is granted. We believe that Treasury's response reflects a misunderstanding of the issue presented in our question. We have changed the language in our report from "single" agency responsibility to "lead" agency responsibility to clarify the issue presented in our question.

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We hope that the above information responds to your concerns. Please let us know if we can be of any further assistance. As arranged with your office, we plan no further distribution of this report until 30 days from the date of the report unless you publicly announce its contents earlier. At that time we will send copies to the Attorney General, the Secretary of the Treasury, and others on request.

Sincerely yours,



William J. Anderson
Director

Examples of Cases Where Interdictions Led to
Additional Arrests and/or Seizures of Drugs

CASE G1-83-2292

On March 6, 1983, an individual brought two scuba tanks containing approximately 30 pounds of hashish oil (street value approximately \$600,000) into the United States. The Customs Service stopped him at Miami International Airport. Interrogation of the individual by task group agents revealed that he previously had made about 8 to 10 similar trips, and he was presently out of jail on bond on charges relating to 190 pounds of marijuana. This information coupled with the possibility of facing three more charges with a sentencing potential of 45 years induced the individual to cooperate with the task group agents. Three separate controlled deliveries were successfully attempted where originally planned deliveries of drugs were made with the intent of arresting other persons involved in drug smuggling. Two people were arrested in each instance. One of the attempts proved very significant. Two individuals with organized crime ties in Canada, who were the subject of a Royal Canadian Mounted Police investigation in Canada, were arrested. There have been five convictions so far in this case. In addition, \$10,000 in cash was forfeited by those arrested. Intelligence developed from this case has identified the originating drug laboratory operation in Jamaica and is helping in other ongoing investigations in both Jamaica and Canada.

CASE MQ-83-0077

On June 21, 1983, U.S. Customs personnel at Miami International Airport discovered an individual carrying 126 grams of cocaine (street value of approximately \$50,400) on her person. She was held and subsequently interrogated by task group agents who learned that she had obtained the cocaine in Colombia and was to deliver it to an acquaintance at the Tucson Airport who had paid for her airline ticket and expenses. The task group agents persuaded the person arrested to cooperate and escorted her to Tucson to attempt a controlled delivery. The Tucson DEA office was notified and made preparations to arrest the participants once the controlled delivery was made. Two persons met the individual carrying the cocaine at the Tucson Airport and were arrested. Two automobiles valued at \$6,825 were seized. All charges against the woman who attempted to smuggle the cocaine into the country were dismissed. One of the persons arrested in Tucson was sentenced to 5 years in prison and the other was sentenced to 3 years' probation.



U.S. Department of Justice

January 26, 1984

Washington DC 20530

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter responds to your request to the Attorney General for the comments of the Department of Justice (Department) on your proposed report to the Congress entitled "Customs Service Participation in Follow-up Investigations of South Florida Drug Interdiction Cases."

The report focuses basically on two issues: (1) whether U.S. Customs Service (Customs) agents' participation in followup investigations of the South Florida Task Force provided valuable intelligence for future interdictions, and (2) whether the authority to conduct followup investigations granted to Customs in South Florida should be considered for expansion to other areas of the country where drug smuggling is a problem.

The conclusions of the report are ostensibly that: (1) there are some advantages to Customs having followup investigative authority in developing new drug interdiction cases, (2) the amount of benefits claimed by Customs in its investigations of drug interdiction cases is not supported by documentary evidence, (3) the South Florida experience does not clearly justify expansion of Customs followup drug investigative authority to other parts of the country, although expansion may provide some benefits, and (4) the National Narcotics Border Interdiction System (NNBIS), which was initiated to fill the gap in intelligence dissemination, is not yet fully operational, and the effectiveness of NNBIS would be a key consideration in any decision to expand Customs authority to conduct followup investigations in other parts of the country.

This GAO study is being released at a very appropriate time in that it points out the limited nature of the intelligence benefits derived from Customs involvement in Title 21 investigations, and substantiates the wisdom embodied in Reorganization Plan No. 2 by concentrating Title 21 investigative jurisdiction in the Department of Justice.

In general, the Department agrees with the General Accounting Office's (GAO) finding that "followup investigations of interdiction cases can

provide valuable intelligence that may lead to the seizure of additional drugs and/or the arrest of persons involved in drug smuggling." However, this fact should not be construed to mean that every interdiction is worthy of a followup investigation. In conformity with the Attorney General's Domestic Operations Guidelines, the Drug Enforcement Administration (DEA) continues to screen out those that are insignificant and those that are not at a sufficiently high level to warrant the commitment of Federal investigative resources.

While the Department agrees with GAO that the followup drug investigation experience in Florida does not clearly support an expansion of Customs followup investigative authority to other areas of the country, we believe GAO's report should consider cross-designation as a realistic concept of handling drug enforcement authority between DEA and Customs. Under this concept, if drug smuggling interdictions in other parts of the country become so numerous that DEA does not have sufficient personnel to investigate them, Customs agents could be cross-designated by the Attorney General to have Title 21 authority to assist DEA agents. Such a procedure would allow selected Customs agents to investigate and follow-up on narcotics seizures in a responsible manner under DEA's direction.

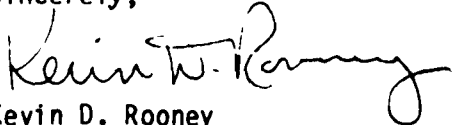
Of current significance is the fact that NNBS is not yet fully operational and, at least until such time as it is, all methods should be used to insure proper dissemination of intelligence information and followup. The value of intelligence is only one factor to consider in determining whether the cross-designation concept is worthwhile and it should not be considered in a vacuum. The coordinated efforts of two agencies for investigative purposes will normally produce a more effective result than if they are competing with each other. The cross-designation process will foster better cooperation, clearly delineate authority and responsibility, and minimize interagency competition.

While the Department would not endorse any legislative mandate or executive order to extend drug enforcement authority to all Customs agents across the country, we do support the cross-designation concept and recommend GAO reflect in its report that cross-designation is a viable alternative that is immediately available. Toward this end, the DEA Administrator has recently proposed to the Attorney General a formal "Request for Assistance and Authorization Respecting Drug Enforcement Activities of Certain Customs Officers in Domestic Drug Investigations." This document, once signed by the Attorney General, would delegate to the DEA Administrator the authority to designate certain Customs agents to participate in drug investigations. Tentative agreement has been reached between the Departments of Justice and Treasury concerning this limited authorization. Under this proposal, Customs personnel would be designated by name for specific lengths of time upon the recommendation of the DEA Special Agent-in-Charge and the approval of the Administrator and, while designated, would work under the supervision of DEA agents.

In the broader perspective, we believe that cross-designation will allow both DEA and Customs to take full advantage of each other's contribution to the drug law enforcement effort and enable both to fully exploit the intelligence derived from followup investigations of drug interdiction and narcotics money-laundering cases.

We appreciate the opportunity to comment on the report while in draft form. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin D. Rooney". The signature is fluid and cursive, with a large loop at the end of the last name.

Kevin D. Rooney
Assistant Attorney General
for Administration



DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

FEB 9 1984

Dear Mr. Anderson:

Thank you for the opportunity to comment on your draft report entitled, "Customs Service Participation in Follow-up Investigations of South Florida Drug Interdiction Cases" (GAO/GGD-84-37). Comments of the U.S. Customs Service are incorporated in this letter.

In the opinion of the Treasury Department, the report should be re-examined because several of the premises upon which it is based are incorrect. For example, the report states that the primary function of the Joint Task Group is to perform follow-up investigations throughout the State of Florida. While the stated function is clearly an important one, it is not the only significant reason for the Task Group's investigative work.

The original stated objective of the Florida Joint Task Group, as reflected in the Florida Joint Task Group Briefing Book dated March 1982, was to focus the combined efforts of Customs and DEA personnel to achieve the following:

- "1. An increase in the number of arrests and prosecutions of drug smugglers.
2. An increase in the number of drug and currency seizures and forfeitures of assets belonging to drug smugglers.
3. An increase in the number of seizures of narcotic contraband.
4. The deterrence of narcotic-related smuggling and associated illegal financial transactions."

As is consistent with these stated purposes, the Joint Task Group is the primary drug smuggling investigative component of the South Florida Task Force. Its inclusion in the Task Force reflects the judgment of the Administration that a strong connection between drug interdiction and drug investigation is essential to an effective attack on drug-related crime. In measuring the success of the Task Group or any aspect of it, the four stated goals must be considered. A major failing of the report is its attempt to evaluate an element of the Task Group's operation--the joint investigative jurisdiction held by DEA and U.S. Customs--without reference to the attainment of these goals.

In connection with these goals, a major part of the Florida Joint Task Group's investigative function has been overlooked. That function involves efforts to identify, investigate and put out of business drug smuggling organizations. To accomplish this, the Task Group, from the outset, has been actively involved in the development of informants and information independent of interdiction follow-up investigations in order to interrupt the flow of drugs into Florida. Until the formation of the Task Group, this element of drug smuggling investigation received a much lower priority.

Without question the stated goals are being met, as the Task Group's statistical achievements so aptly demonstrate: as of December, 1983, the Task Group has produced 1,769 arrests, over 1,000 indictments, and over 815 convictions. It has made impressive seizures of drugs and property. Both DEA and Customs have contributed to this solid record of achievement, and their joint participation has facilitated the exchange of information and enhanced cooperation among law enforcement agencies involved in the President's drug strategy. To conclude, as the report seems to do, that the concept of joint investigative jurisdiction has produced no measurable benefits in the Task Group's operations, is to ignore the overwhelming evidence to the contrary.

The report reaches the erroneous conclusion that expansion of the joint investigation concept is unjustified because the "follow-up" investigations, according to GAO, produced what GAO considers to be an insufficient amount of "useful intelligence." Even if that were the case, it would not demonstrate that joint investigative jurisdiction produced no significant benefit and that it should not be extended. The DEA-Customs cooperation in the Task Group facilitated two essential communication links--the flow of interdiction-related information for use in drug investigations, and the transmittal of intelligence from the Task Group for use in future interdictions. Although the value of these links should be self-evident, the report appears to discount their importance because they were not quantified by the methods used in the GAO audit.

The premise that follow-up investigations produced an insufficient amount of useful intelligence is by no means demonstrated by the analysis presented in the report. The GAO analysis consisted of assessing data from developed cases against some criteria, formulated by GAO, that were not clearly specified during the audit. These criteria appear to have been designed to reveal those follow-up cases that produced useful intelligence, based solely on the development of new, documented, confidential informants. In our opinion, these criteria are unduly limiting in measuring the development of useful intelligence.

The draft report states that a total of three task force cases, of the 50 cases evaluated, were initiated as a result of intelligence developed by follow-up investigations. Given that virtually all interdictions received investigative attention, this statement should be re-examined. It contradicts the statements of the GAO auditor who had responsibility for the portion of the audit pertaining to the case data review. This auditor stated during his exit interview with Customs that 49 cases and 58 informants (of the 62 cases submitted to him for consideration) met the criteria GAO had formulated.

It is noteworthy that the statistics sought by the auditors were not available as information maintained by the Task Group. There is not and never has been an operational or managerial need for such information. Statistics are not kept according to cases initiated by Customs as distinguished from those of DEA. In fact, the keeping of such statistics would be inconsistent with the joint investigative approach upon which the Task Group exists. Furthermore, the figures GAO presents in the report appear to have resulted from data collected from case files under significant time pressure and in response to requests that were not clearly defined. The text of the report implies a considerable level of miscommunication as to the precise nature of the information requested.

This is not to say that an audit of data in Task Group files could not have been adequately designed to produce a more reliable indication of the results of follow-up investigations. We are stating only that the methodology employed by GAO did not achieve this goal and did not, we believe, fairly represent the product of the Task Group's operation.

In addition, the last paragraph of the report, in considering further the question of whether Customs' investigative authority should be expanded, raises the question of the extent to which such expansion would conflict with the single agency responsibility of Reorganization Plan 2. The single agency responsibility principle is not the policy of the President's drug enforcement strategy, which envisions that all Federal law enforcement agencies with expertise to contribute will participate in a coordinated attack on drug-related crime. Early on in this Administration, for example, the Attorney General brought the FBI into the drug investigation field. The Attorney General formally requested the assistance of Customs in drug investigations in Florida on March 20, 1982 and, as the report notes, delegated investigative authority for that purpose. Customs has also been working in close cooperation with IRS and other agencies, including DEA, in financial task forces conducting investigations into the laundering of drug profits and the financial activities of narcotics traffickers.

This Administration is adhering to and expanding the concepts of joint investigative authority and coordinated interagency task forces because these concepts have resulted in substantial progress in the fight against drug-related crime. These initiatives have done much to overcome the jurisdictional disputes that have plagued Federal drug enforcement for years.

In recognition of the benefits of Customs' participation in joint investigative efforts, the Attorney General, on January 5, 1984, made a second formal request to the Secretary of the Treasury for assistance in domestic drug investigations. In conjunction with that request, the Attorney General has agreed to confer, without geographical limitation, drug investigative authority for that purpose upon certain Customs agents identified by Customs and designated by the DEA Administrator. On February 6, 1984, the Secretary of the Treasury formally granted this request for assistance.

For these reasons, the central premise of the draft report is irrelevant to the purpose of the study and should be revised. I strongly urge that GAO consider using additional methodologies in attempting to fairly quantify the benefits of interdiction-related investigations. In addition, I submit that a much broader analysis of such benefits would be necessary to assess the true value of Customs' participation in drug investigations.

Please let me know if I may be of further assistance.

Sincerely,



John M. Walker, Jr.
Assistant Secretary
(Enforcement and Operations)

Mr. William J. Anderson
Director, General Government
U.S. General Accounting Office
Washington, D.C. 20548

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