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HOUSE COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY

Statement by
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Before the 112th Congress
Committee on Homeland Security
Subcommittee on Border and Maritime Security
U.S. House of Representatives

April 17, 2012

INTRODUCTION

Chairman Miller, Ranking Member Cuellar, distinguished members of the Subcommittee: thank you for the opportunity to address you today on the Department of Defense's (DoD's) support to the national effort to secure the Southwest border of the United States.

Drug trafficking and related transnational organized crime presents a significant threat to our nation. The movement of large amounts of drugs across our borders is the most immediate concern, but the potential for these drug smuggling networks to be used for infiltrating terrorists and weapons of mass destruction cannot be discounted. As such, countering drug trafficking across our borders and around the world is a national priority.

As noted in the most recent National Southwest Border Counternarcotics Strategy:

Illicit trafficking across the Southwest border continues to be a chronic threat to our Nation and one of the top homeland security priorities for the United States. Transnational criminal organizations in Mexico dominate the illegal drug supply chain, taking ownership of drug shipments after they depart South America and overseeing their transportation to market and distribution throughout the United States. It is estimated that approximately 90 percent of the cocaine that is destined for U.S. markets transits the Mexico/Central America corridor. Mexico is the primary foreign source of marijuana and methamphetamine destined for U.S. markets and is also a source and transit country for heroin. Transnational criminal organizations based in Mexico dominate the U.S. drug trade—not just in border areas, but throughout much of the Nation. These organizations also control the south-bound flow of drug-related bulk currency and illegal weapons.¹

Over the past two and one-half years, this Administration has dedicated unprecedented resources to securing the Southwest border. In March 2009, President Obama launched the Southwest Border Initiative to bring focus and intensity to Southwest border security, coupled with a reinvigorated, smart, and effective approach to enforcing immigration laws in the interior of our country. We are now more than two years into this strategy, and based on previous benchmarks set by Congress, it is clear that this approach is working. In Fiscal Year 2011, the Department of Homeland Security's Customs and Border Protection (CBP) seized more than \$126 million in illegal currency and nearly five million pounds of narcotics nationwide. According to 2010 FBI crime reports, violent crimes in Southwest border States have dropped by

¹ Office of National Drug Control Policy, *2011 National Southwest Border Counternarcotics Strategy*, page 1.

an average of 40 percent in the last two decades, and some of the safest communities in the United States are at the border.

Within the Department of Defense, I work closely with the Assistant Secretary for Special Operations and Low Intensity Conflict (SO/LIC), who is responsible for the Department's worldwide counternarcotics and global threats efforts. SO/LIC oversees DoD's use of the powerful tools entrusted to it by Congresses and Presidents over several decades, in the form of laws authorizing DoD to provide counterdrug support to federal, state, local and foreign law enforcement partners, conduct counterdrug detection and monitoring, support Colombia's unified campaign against narco-terrorism and provide limited, but often essential, counternarcotics support for counterterrorism task forces. When combined with the flexibility and responsiveness embodied in the specialized appropriations through the Drug Interdiction and Counterdrug Activities – Defense appropriation, DoD is able to help U.S. and foreign partners face the ruthless and highly adaptive transnational criminal organizations which threaten our country's security interests and the fundamental national security of some other countries.

Today, my statement will focus on DoD support within the United States, but it is important to note that these efforts are tightly integrated with DoD and other U.S. security-related cooperation with Mexico, Canada, Central American countries and partner nations worldwide as well as DoD support to U.S. law enforcement agencies' global activities.

Defense Support for U.S. Border Security

The Department of Homeland Security (DHS) is responsible for securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States and preventing the entry of terrorists and the instruments of terrorism into the United States.² The Department of Justice and other Federal departments and agencies, as well as state and local authorities, also play critical roles in their areas of jurisdiction, often cooperating through task forces or similar arrangements such as the High Intensity Drug Trafficking Areas (HIDTAs). DoD's role is to provide support, when requested, appropriate, lawful, and approved by the President or the Secretary of Defense or their designees. This support does not include law enforcement activities such as search and seizure or apprehension, arrest, or detention of individuals, which are generally prohibited by section 1385 of Title 18,

² Section 202 of the Homeland Security Act of 2002 (Public Law 107-296; section 202 of Title 6, U.S. Code).

U.S. Code (commonly referred to as the Posse Comitatus Act) and section 375 of Title 10, U.S. Code. When DoD support is carried out by Active Duty (Title 10) military forces under the laws specifically authorizing or funding DoD counterdrug activities, the Department concentrates its support on those militarily unique skills and capabilities that domestic law enforcement agencies lack, or cannot practically replicate. DoD Title 10 counterdrug support must also provide a training opportunity that contributes to combat readiness and cannot be used for continuing, on-going, long-term operational support commitments at the same location. These and other controls help ensure that U.S. military forces are always in a supporting role and never replace law enforcement personnel in roles that should be carried out by law enforcement and ensure that conducting these missions does not detract from the warfighting readiness of the United States.

DoD has conducted a wide variety of counterdrug support missions along the Southwest Border since 1989. U.S. Northern Command's (USNORTHCOM's) Joint Task Force - North (JTF-North) and the National Guard are the primary military organizations through which DoD supports law enforcement counterdrug efforts within U.S. territory. That support to civilian law enforcement has included activities such as surface and aerial reconnaissance; minor construction; establishing tactical observation posts, training, engineering, intelligence analysis, communications support, planning, coordination, linguist support, and transportation. JTF-North can provide support to counterdrug law enforcement anywhere in the United States, but prioritizes the southwest border region. Military forces conduct these missions in order to enhance their own warfighting skills but do so in a way which also provides substantial benefit to counterdrug law enforcement.

The National Guard supports the State Counterdrug Programs³ in all 54 States and Territories. This support, under the direction of the State Governors, provides a force multiplier to State, local, and tribal civilian law enforcement agencies in efforts against drugs and other transnational threats. Missions conducted under this program include: criminal analyst support, technical support, and air/ground reconnaissance activities, as well as drug demand reduction support, and program management.

Since September 11, 2001, policy and operational changes in DoD have improved the alignment of resources and efforts where there is a potential relationship between terrorism and

³ Section 112 of Title 32, U.S. Code.

narcotics trafficking. Congress recognized the relationship between drug trafficking and terrorism and included in the National Defense Authorization Act for Fiscal Year 2004 a provision that authorized DoD to expend funds appropriated for counter drug activities also to support counterterrorism task forces under certain conditions.

Since the terrorist attacks of September 11, 2001, DoD has significantly increased its support to law enforcement to counter drug trafficking or otherwise improve the security of U.S. borders, under a variety of legal authorities. Examples include:

- March - August 2002: DoD mobilized some 1,600 National Guard personnel along the northern and southern borders to support the U.S. Customs Service, the Immigration and Naturalization Service, and the Border Patrol, in their heightened post-9/11 security posture. Of these 1,600 personnel, 895 were detailed to the Southwest border States to provide port of entry presence and cargo inspection, vehicle inspection, traffic management, and pedestrian control support.
- October 17, 2003 - November 13, 2003: DoD provided Unmanned Aircraft System (UAS) support to DHS Immigration and Customs Enforcement's (ICE's) Operation Safeguard, a humanitarian/law enforcement effort along the Southwest border. Operation Safeguard provided an opportunity for DoD to demonstrate UAS capabilities, as well as illustrate associated policy, legal, and infrastructure issues, to border authorities.
- June 18, 2004 - September 30, 2004: DoD provided UAS support to the Arizona Border Control Initiative (ABCI), which sought to detect illegal entry and smuggling/drug activity along the Arizona-Mexico border, and to aid in the rescue of lost or injured persons.
- November 3, 2004 - January 24, 2005: DoD UAS supported the ABCI.
- September 2005: DoD provided flight operations support at Fort Huachuca, Arizona, for CBP UAS border enforcement operations.
- October - November 2005: JTF-N supported CBP interdiction of transnational threats in the El Paso Sector. This support included multi-sensor operations (ground-based forward-looking infrared, tactical unmanned aerial vehicles, ground sensors,

ground surveillance radars) in the Hidalgo, Grant, Luna, and Dona Ana counties of New Mexico.

- November 2005: DoD provided 400 soldiers in a U.S. Army Stryker-equipped cavalry squadron along the Mexico-New Mexico border in support of the U.S. Border Patrol's Operation Western Vigilance. The purpose of the mission was to enhance detection and monitoring of drug smuggling and illegal immigration.
- February 12, 2006 - March 26, 2006: JTF-N supported Operation Gulf View, an interagency operation, jointly led by the U.S. Border Patrol and U.S. Coast Guard, to disrupt infiltration of transnational threats into the United States by increasing maritime domain surveillance operations in the U.S. Border Patrol's Rio Grande Valley Sector in southeast Texas. JTF-N employed new DoD prototype maritime radar and software assets that provided better detection and tracking of small vessels and ships.
- May 8-19, 2006: JTF-N supported the U.S. Border Patrol in the San Diego Sector with unattended ground sensors and forward-looking infrared radar-equipped aviation to detect smuggling traffic.
- June 2006 - July 2008: DoD supported DHS in gaining effective control of the Southwest border in Operation Jump Start. From June 2006 to July 2007, DoD, in coordination with the Governors of the affected States, provided 6,000 National Guard personnel, under the direction of the Southwest Border State Governors, who supplied aviation, engineering, medical, entry identification, communications, vehicle maintenance, and administrative support to the CBP. From July 2007 to July 2008, DoD, in coordination with the Governors of the affected States, provided 3,000 National Guard personnel to support CBP. During this two-year period, CBP hired 3,000 new agents, detained 158,000 suspected illegal aliens, rescued 99 persons, and seized more than 298,000 pounds of drugs. In addition, National Guard units built more than 38 miles of fence, 96 miles of vehicle barrier, and more than 19 miles of new all-weather roads, and also repaired more than 700 miles of roads. This operation cost DoD \$1.2 billion.

- October 15, 2011 - September 30, 2012. CBP requested two 14-day missions by the E-8C Joint Surveillance Target Attack Radar System, or Joint STARS, in support of CBP Operation Nimbus II and Operation Green Flash III. This support, which involves 74 active duty military personnel from the 116th Air Control Wing, provides aerial reconnaissance with detection and monitoring authority in support along the entire Southwest border.
- February 15, 2012 - April 15, 2012: In support of CBP Operation Nimbus II, DoD is providing detection and monitoring by two C206 Cessna Caravan aircraft along southwest Arizona; ground surveillance vehicles and radar (476 active duty military personnel, 59 Stryker vehicles, 59 Long Range Acquisition Systems (LRAS), and 14 Improved Target Acquisition Systems (ITAS)) in the Tucson CBP Sector; four Shadow UAS (127 active duty military personnel and one RQ-7B system (four Shadow aircraft)) in the Tucson CBP Sector; ground-based air surveillance sensors (228 active duty military personnel, six Sentinel radars, 20 Forward Looking Infrared Radar systems, and associated support) in the Tucson CBP Sector; and ground-based air surveillance radars (five Lightweight Surveillance Target Acquisition Radar (LSTAR) Systems) in the El Paso and Tucson CBP Sectors.

Collaboration also extends beyond our borders. For example, combined air and surface operations along the maritime drug lanes from South America to southern Mexico and the coastal approaches to the United States by the CBP, the U.S. Coast Guard, and the U.S. Navy had been instrumental in preventing bulk drugs from reaching Mexico and the Southwest border.

DoD operates the Tethered Aerostat Radar System (TARS) along the Southwest border and in the Caribbean. These platforms provide counterdrug detection and monitoring capability along the U.S.-Mexico border, and the Florida Straits.

The primary agencies using the TARS detection and monitoring data include U.S. Northern Command, the CBP (Air and Marine Operations Center and Caribbean Air and Marine Operations Center) and U.S. Southern Command, including Joint Interagency Task Force-South. In addition to its counterdrug mission, TARS data also supports North American Aerospace Defense Command's air sovereignty mission for the continental United States.

DoD has supported U.S. Government efforts to enhance intelligence and information sharing capabilities and processes associated with the Southwest border. For instance, DoD provides analytical, training and related support to the Border Intelligence Fusion Section (BIFS) at the El Paso Intelligence Center (EPIC) as an all-source, all-threats intelligence section to support tactical and operational efforts with fused intelligence and analysis and provide a common operational picture of the Southwest border and Northern Mexico.

Finally, DoD, consistent with the Department's Strategy for Homeland Defense and Civil Support, promotes the integration and sharing of applicable DoD capabilities, equipment, technologies, and technical expertise with Federal, State, local, tribal, and private sector partners. This sharing arrangement strengthens the nation's ability to respond to threats and domestic emergencies. DoD continues to work closely with its interagency partners, in particular DHS, to build capacity vertically from the Federal level down to the local level, and horizontally across the Federal Government. I want to thank Congress for providing DoD with the tools that are absolutely essential to making this possible.

In accordance with Section 1401 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314), I serve as the senior DoD official responsible for coordinating "all Department of Defense efforts to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment in support of homeland security." To this end, I established what I call the "DoD Domestic Preparedness Support Initiative." Through this program, I work closely with DHS, DOJ, and our other Federal, State, and local partners on five approaches: acquisition programs; excess property programs; equipment loan-lease programs; expertise sharing; and the leveraging of dual-use technologies developed by DoD.

In September 1996, Congress authorized DoD to donate to Federal and State law enforcement agencies excess property suitable for use in counter-drug and counterterrorism activities.⁴ All 50 States and more than 17,000 Federal, State, and local agencies have received more than \$2.6 billion⁵ worth of donated excess DoD equipment for use in counter-drug and counterterrorism activities – more than \$710 million worth of equipment in Fiscal Years 2010

⁴ 10 U.S.C. § 2576a, which was enacted as part of section 1033 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201).

⁵ Original Acquisition Value.

and 2011 alone. For Fiscal Year 2012, DoD has already donated more than \$221 million worth of equipment so far, including aircraft, weapons, vehicles, and body armor.

DoD is also working closely with the National Association of State Agencies for Surplus Property (NASASP) to allow in-theater screening of potential excess property that could be of use to State and local agencies in Iraq and Afghanistan, as U.S. operations in those countries wind down.

Chairman Miller, Ranking Member Cuellar, I want to thank you for inviting us to visit your wonderful States this last February. It was an excellent opportunity to extol the virtues of DoD's Domestic Preparedness Support Initiative to your State and local law enforcement officials. I am proud of the good work the Initiative has accomplished in your States. In Fiscal Year 2011, the Initiative provided equipment worth more than \$6 million to Michigan and more than \$9 million to Texas, including night-vision goggles, binoculars, fingerprint scanners, vehicles (e.g., cars, trucks, tractors, and loaders), tents and shelters, medical supplies, laptops, and weapons (e.g., pistols and rifles). I look forward to continuing the good works of the Initiative in your States and all of the other States.

DoD research and development have led to the production of many items that are now routinely used by our Federal, State, and local partners. DoD works closely with its partners to leverage potential "dual-use technologies" originally developed for military application for civilian applications. As an example, DoD assisted the U.S. Coast Guard in evaluating sensors and platforms that could enhance its ability to conduct wide area surveillance to detect, identify, and track vessels of interest. Likewise, in 2003, a Predator B UAS, scheduled for future delivery to DoD, operated in support of DHS/ICE Operation SAFEGUARD, a joint humanitarian/law enforcement effort along the Southwest border. Operation SAFEGUARD provided an opportunity for DoD to demonstrate UAS capabilities to border authorities and also served to highlight the policy, legal, and infrastructure issues that must be examined in tandem with technology development. These include challenges associated with the use of UASs in controlled domestic airspace as well as the extensive infrastructure (e.g., communications, exploitation tools, and imagery analysts) required to process and exploit information collected by UASs. In addition, in 2008, DoD developed and installed a fiber optic-based seismic acoustic sensor prototype system in the San Diego area. In 2009, DHS purchased this system and

continues to support its operational evaluation by the San Diego Tunnel Task Force. Also in 2009, DoD supported DHS's proof-of-concept demonstration for an advanced ground penetrating radar technology for use in cross-border tunnel detection. The results of this demonstration warranted continued development and testing efforts in 2010 and 2011. Furthermore, DoD and DHS are cosponsoring a "Tunnel Detection" Joint Capability Technology Demonstration (JCTD). U.S. Northern Command is the DoD proponent for this demonstration, and as the technologies mature, they are expected to be fielded for use by DoD and DHS organizations at home and abroad.

DoD's Counterterrorism Technical Support Office (CTTSO), which oversees the interagency Technical Support Working Group (TSWG) (85 Federal departments and agencies, including DHS, DOJ, DOE, and the Department of Health and Human Services, work together to research and develop, test and evaluate, and deliver combating terrorism capabilities to the national interagency community rapidly⁶), is currently developing capabilities to detect, locate, monitor, and disrupt subterranean operations in semi-permissive and non-permissive environments to allow tactical forces to conduct operations and counter hostile and/or criminal networks. Current, CTTSO counter-tunnel projects of interest include:

- Portable Ground Penetrating Radar: battery powered, man-portable, ruggedized system to detect subterranean structures (tunnels, bunkers, and caches) to a minimum depth of 15 feet, with antenna configuration to allow for operation by one person and be employable in any terrain.
- Improved Underground Communications: a planned proof-of-concept involving multiple technology demonstrations, to determine if further funding is warranted.
- Remote Imaging and Detection of Underground Anomalies: a proven prototype that implements laser technology to identify buried objects (e.g., caches and improvised explosive devices). In Fiscal Year 2011, development of this prototype was expanded to determine if the technology is capable of detecting voids.

⁶ The bulk of TSWG core funding is provided by DoD. Additional funding is supplied by the Department of State, while other Federal departments and agencies share the costs of selected projects.

- **Seismic-Acoustic Sensor Kit:** a mobile seismic acoustic sensor system designed to detect underground activity with the intent of easy temporary deployment and operation (although permanent installation is also an option).

The DoD Counternarcotics and Global Threats program also conducts research and development, as well as operational testing and evaluation, to adapt and apply military technology in ways that can help U.S. and foreign law enforcement partners, as well as to use technology and techniques developed by law enforcement agencies for military applications. Examples include tagging, tracking and locating devices, “blue force” (friendly force) tracking devices, communications system integration, and unattended sensors.

Current National Guard Support

The National Guard Counterdrug Program and preceding programs have supported the States’ and territories’ counterdrug law enforcement efforts for over 30 years. The program includes State Plans efforts under the authority of the 54 state and territorial governors, as well as training centers, federal operations, counter threat finance and analytical support programs managed by the National Guard Bureau. Mission categories include: program management, linguist/translator support, criminal analysts case support, illicit narcotics detection, communications, engineering, diver support, cannabis suppression, transportation, training, ground reconnaissance, aerial reconnaissance, and civil operations. Soldiers and airmen drawn from the National Guard also deploy worldwide under Active Duty status to support DoD counterdrug training, analytical, command and control, aerial patrol, international cooperation and related missions.

Separately from the longstanding National Guard Counterdrug Program, the Department of Defense significantly increased National Guard support to southwest border region security efforts on May 25, 2010, when President Obama authorized the temporary deployment of up to 1,200 National Guard personnel to the Southwest border. These soldiers and airmen contribute additional capabilities and capacity to assist law enforcement agencies as a bridge to longer-term enhancements in the efforts to target illicit networks’ trafficking in people, drugs, illegal weapons, money, and the violence associated with these illegal activities.

This National Guard deployment began with a steep ramp up in early July 2010, peaking at 1,200 personnel by October 2010, and was originally planned to be sustained for

approximately 120 days through January 2011, followed by a gradual ramp down to mission completion on June 30, 2011.

These additional National Guard personnel provided criminal investigative analysts to Immigration and Customs Enforcement (ICE); ground surveillance (EITs) to support Border Patrol; and command and control of National Guard personnel. National Guard personnel assigned to support DHS did not – and do not – conduct direct law enforcement activities.

DHS and DoD agreed to fund the National Guard support equally – \$67.5M each – for a total of \$135.0M; however, Congress did not approve DHS’s reprogramming requests. Consequently, DoD has assumed the burden for funding the full cost of this National Guard support.

In June 2011, at the President’s direction, Secretary Gates extended the National Guard for an additional three months through the end of Fiscal Year 2011, again at DoD’s full cost. In August 2011, again at the President’s direction, Secretary Panetta extended the mission through the end of Calendar Year 2011, also at DoD’s full cost. The total cost to DoD for this National Guard support from July 1, 2010, through December 31, 2011, was approximately \$158.1M.

On October 21, 2011, Secretary Napolitano submitted a new request for National Guard support for Calendar Year 2012 that changed the nature of the support from static observation sites to mobile, flexible, and adaptive aerial surveillance. On November 22, 2011, Secretary Panetta approved the continued use of the National Guard to support DHS’ efforts to secure the Southwest border. In accordance with this guidance, DoD reduced the number of National Guard personnel from 1,200 to approximately 300, who would conduct aerial surveillance support missions (i.e., 15-20 specially configured OH-58M Kiowa and UH-72M/S Lakota helicopters supported by a fixed-wing RC-26 platform) in the Tucson, Laredo, and Rio Grande Valley CBP sectors and would provide intelligence analysis in support of law enforcement (i.e., approximately 35 analysts). As also requested by Secretary Napolitano, Secretary Panetta waived reimbursement for the full cost of this support, which is currently projected to cost DoD approximately \$55.6M in Calendar Year 2012.

There is a frequent tendency to focus on the number of personnel (i.e., “boots on the ground”) to gauge the quantity and, thereby, the quality of DoD support. However, using the number of personnel as a metric does not get to the actual capability that is needed. Moreover,

static observation posts do not provide a capability sufficiently flexible to anticipate or react to transnational organized crime, which has demonstrated itself to be an adaptive threat. This transition from 1,200 National Guard personnel providing support from fixed positions with limited surveillance capabilities is more effective and less costly.

This support has allowed DHS to bridge an operational gap as it hired additional agents, including 1,000 new Border Patrol Agents by the end of Fiscal Year 2011, as well as fielded additional technology and communications capabilities that Congress authorized. The new approach in 2012 for DoD support accounts for this significant growth in CBP capabilities. DHS is now employing 1,000 new agents on the Southwest border, along with supporting technology, to help those agents interdict illegal crossings. The new DoD support approach is tailored to support those expanded CBP forces more effectively by providing specialized surveillance capabilities to support law enforcement.

Conclusion

In conclusion, every day since my confirmation as Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs I grow more impressed at the professionalism and dedication of the wonderful men and women, military personnel – Active, Reserve, and National Guard – and civilians, at DoD, DHS, and other departments and agencies who serve in the cause of security for the United States with passion, professionalism, and a resolute sense of purpose.

Chairman Miller, Representative Cuellar, distinguished members of the Subcommittee: I commend you for your leadership, continued interest, efforts, and support of DoD's defense of the United States and support to civil authorities here at home. I look forward to working with you in the future.