



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

MAR 04 2015

Ref: FOIA-2015-00494

Mr. Sean Lyngaas
Federal Computer Week
8609 Westwood Center Drive, Suite 500
Vienna, VA 22182

Dear Mr. Lyngaas:

This is in response to your March 30, 2015, Freedom of Information Act (FOIA) request for a copy of DODIG-2015-097, Evaluation of DoD Use of Unmanned Aircraft Systems (UAS) for Support to Civil Authorities. We received your request on March 30, 2015, and assigned it case number FOIA-2015-00494.

The Office of the Deputy Inspector General for Intelligence and Special Program Assessments conducted a search and located the enclosed documents. I determined that some redacted portions of the records are exempt from release pursuant to 5 U.S.C. § 552(b)(6), which pertains to information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul R. Polk, Initial Denial Authority for the National Geospatial-Intelligence Agency, determined that some redacted portions are exempt from release pursuant to 5 U.S.C. § 552(b)(3), which pertains to nondisclosure provisions contained in other Federal statutes. In this case, the Federal statute which prevents disclosure is 50 U.S.C. § 3142, which exempts from disclosure operational files of the National Geospatial-Intelligence Agency.

Colonel Christian Rofrano, Chief Counsel at the National Guard Bureau, determined that some redacted portions of the document are exempt from release pursuant to 5 U.S.C. § 552(b)(7)(E), which pertains to records or information that would reveal techniques and procedures for law enforcement investigations or prosecutions or that would disclose guidelines for law enforcement investigations or prosecutions if disclosure of the information could reasonably be expected to risk circumvention of the law.

In view of the above, you may consider this to be an adverse determination that may be appealed to the Department of Defense, Office of Inspector General, ATTN: FOIA Appellate Authority, Suite 10B24, 4800 Mark Center Drive, Alexandria, VA 22350-1500. Your appeal, if any, must be postmarked within 30 days of the date of this letter and should reference the file number above. I recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Dorgan".

Mark Dorgan
Acting Division Chief
FOIA, Privacy and Civil Liberties Office

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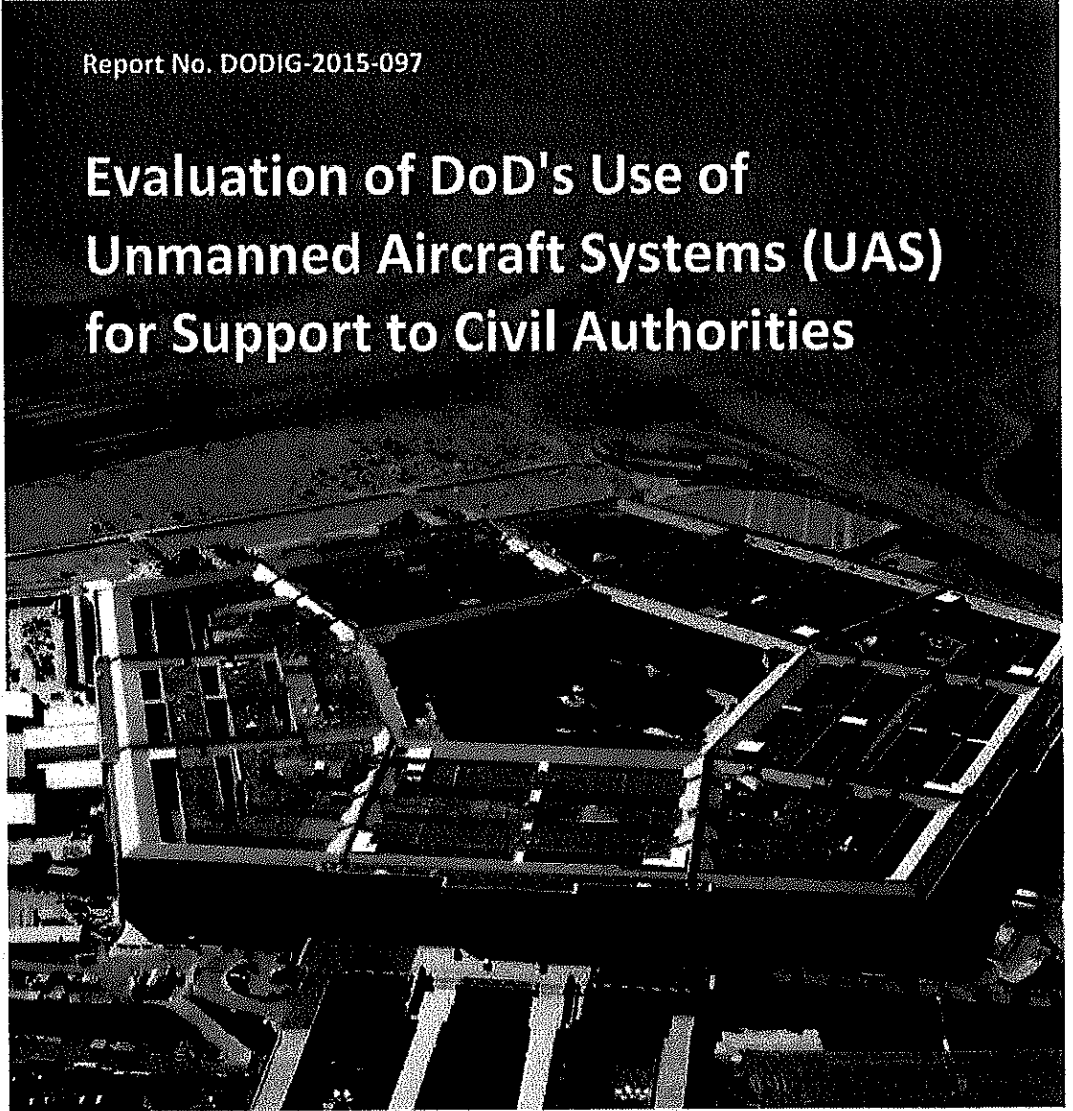
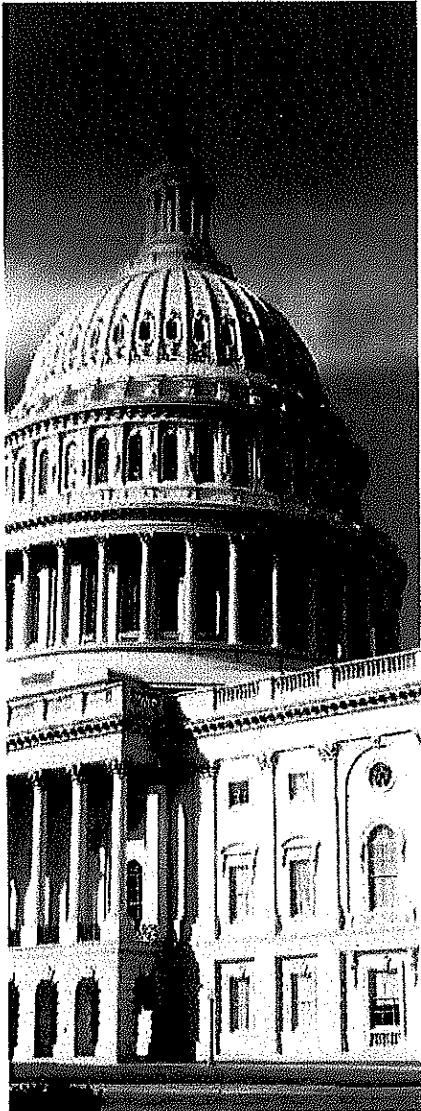
INSPECTOR GENERAL

Department of Defense

March 20, 2015

Report No. DODIG-2015-097

Evaluation of DoD's Use of Unmanned Aircraft Systems (UAS) for Support to Civil Authorities



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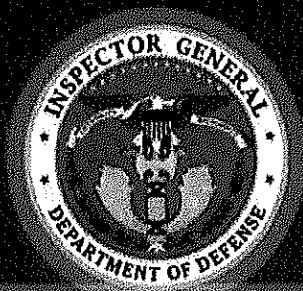
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Results in Brief

Evaluation of DoD's Use of Unmanned Aircraft Systems (UAS) for Support to Civil Authorities

March 20, 2015

(U) Objective

(U) Our objective was to determine whether DoD policies and procedures for using DoD UAS and associated processing, exploitation, and dissemination activities comply with applicable laws, regulations, and national policies for providing support to domestic civil authorities.

(U) Finding

(U) DoD is fully compliant with laws, regulations, and national policies for UAS support to domestic civil authorities.

- (U) Units operating UASs told us that, while they understand the American public's legitimate concerns about civil liberties and privacy rights, they do not operate UASs any differently from manned platforms with similar capabilities.

(U) Recommendations

- (FOUO)-We recommend that USD (P) establish a standardized formal approval process for UAS support to domestic civil authorities.
- (FOUO)-We recommend that USD (P) address the concerns of Military Service/National Guard Bureau UAS experts that policy ambiguity is potentially degrading UAS training and operational readiness.
- (FOUO)-We also recommend that the USD (P) formally charter the Domestic Imagery Working Group.

(U) Management Comments and Our Response

(U) The Assistant Secretary of Defense for Policy, Homeland Defense & Global Security concurred with our recommendations, and no further comments are required. Please see the Recommendations Table on the next page.

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Recommendations Table

| Management | Recommendations Requiring Comment | No Additional Comments Required |
|--|--------------------------------------|------------------------------------|
| Under Secretary of Defense for Policy | | 1,2,3 |

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DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

March 20, 2015

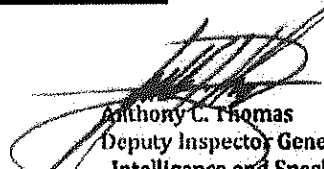
MEMORANDUM FOR SECRETARY OF DEFENSE
UNDER SECRETARY OF DEFENSE FOR POLICY

SUBJECT: (U) Evaluation of DoD's Use of Unmanned Aircraft Systems for Support to
Civil Authorities (Report No. DODIG-2015-097)

(U) The Deputy IG, Intelligence and Special Program Assessments (ISPA) is providing this report
for your information and use.

(U) We considered management comments on a draft of this report when preparing the final
report. Comments from the Office of Assistant Secretary of Defense for Policy, Homeland
Defense & Global Security were responsive for all recommendations.

(U) We appreciate the courtesies extended to the staff. Please direct questions to me at
(703) 699 (b) (6) DSN 664 (b) (6) or (b) (6) at (703) 699 (b) (6) DSN 499 (b) (6)


Anthony C. Thomas
Deputy Inspector General for
Intelligence and Special
Program Assessments

Report No. DODIG-2015-097 (ii)

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(U) Introduction

(U) Objective

(U) Our objective was to determine whether DoD policies and procedures for using DoD unmanned aircraft systems (UAS) and associated processing, exploitation, and dissemination (PED) activities comply with applicable laws, regulations, and national policies for providing support to domestic civil authorities.

(U) Background

(U) During the last 10 years, the quantities and types of UAS acquired by the Military Services have increased. Their capabilities, along with PED enhancements, have become integral to warfighter operations across the spectrum of conflict.

The prevalence and uses of unmanned systems continue to grow at a dramatic pace. The past decade of conflict has seen the greatest increase in UAS, primarily performing Intelligence, Surveillance, and Reconnaissance (ISR) missions. Use of unmanned systems in other domains is growing as well. The growth of unmanned systems use is expected to continue across most domains. Unmanned systems have proven they enhance situational awareness, reduce human workload, improve mission performance, and minimize overall risk to both civilian and military personnel and all at a reduced cost.¹

(U) Effective use of these unmanned capabilities requires highly-trained UAS vehicle operators, sensor and payload operators, and analysts to process, exploit, and disseminate the data collected. The Military Services train all UAS personnel at various

¹ DoD, "Unmanned Systems Integrated Roadmap FY 2013-2038"

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Introduction

(U) locations around the country. The training is specifically designed to ensure that UAS' and personnel can be operationally employed to satisfy combatant commanders' overseas warfighting requirements.

More than ten years of war in the combat zones of Iraq and Afghanistan have taught a generation of Airman valuable lessons about the use of Remotely Piloted Aircraft (RPA)² and other ISR assets. The lesson yet to be learned, however, is that this battle space experience is not directly applicable to operations in the U.S. As the nation winds down these wars, and USAF RPA and ISR assets become available to support other combatant command (COCOM) or U.S. agencies, the appetite to use them in the domestic environment to collect airborne imagery continues to grow, as does Congressional and media interest in their employment.³

(U) Scope and Methodology

(U) The evaluation was conducted in accordance with Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objectives.

(U) Our evaluation included a review of Federal Statutes, DoD policy and directives, Chairman of the Joint Chiefs of Staff Instructions, Service policy and directives, and National Guard Bureau (NGB) policy and directives. We also conducted interviews with personnel from across the Department responsible for policies and procedures for the conduct of UAS operations (See the Appendix).

² The USAF uses the term Remotely Piloted Aircraft instead of UAS.

³ "Protecting Security and Privacy: An Analytical Framework for Airborne Domestic Imagery;" Colonel Dawn M.K. Zoldi, USAF; USAF Law Review, Vol 70

(U) Finding

(FOUO) DoD Is Fully Compliant with Laws, Regulations, and National Policies for UAS Support to Civil Authorities.

(FOUO) We found no evidence that any DoD entity using UAS's or associated PED in support of domestic civil authorities, to date, has violated or is not in compliance with all statutory, policy, or intelligence oversight requirements.⁴

(U) We visited a cross-section of National Guard, U.S. Army, U.S. Navy, U.S. Marine Corps, and U.S. Air Force operational UAS and Intelligence units that have capabilities or responsibilities for processing UAS collected information. These unit visits or "spot checks" were conducted to determine the personnel's level of understanding and compliance with DoD policy and Service directives for employing DoD UAS in support of civil authorities.

(U) Statutory Environment for Employment of DoD UAS in Domestic Operations

(U) There are various controlling federal statutes that define what the DoD is authorized to provide to domestic civil authorities. They include Title 10, Title 32, Title 42, and Title 50. There are no federal statutes that specifically address the employment of the *capability* provided by a DoD UAS if requested by domestic civil authorities. Therefore,

⁴ Sections 375, 382, 2564, 9442, and Chapter 15 of title 10, United States Code; title 32, United States Code; Sections 300hh-11 and 5121, and Chapter 15A of title 42, United States Code; title 50, United States Code; Executive Order 12333, "United States Intelligence Activities," December 4, 1981, as amended; DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons," December 1982; DoD Directive 3025.18, "Defense Support to Civil Authorities," December 29, 2010; DEPSECDEF Memorandum, "Interim Guidance for the Domestic Use of Unmanned Aircraft Systems," September 28, 2006.

DoD and the Military Services have developed a policy framework for the domestic use (U) of the UAS capability in accordance with the authorities granted for generic defense support. The framework also covers executive level policies that were developed to protect fully the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by Federal law.

(U) Given that the primary operational mission of the majority of DoD UAS assets is the collection of intelligence, DoD UAS domestic operations are also subject to Executive Order 12333, "United States Intelligence Activities," and DoD Directive 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons, December 1982."

(U) Office of the Secretary of Defense Unmanned Aircraft System Policy and Guidance

(U) In addition to the Intelligence Oversight directives, DoD UAS continental U.S. operations are conducted under a unique DoD policy directive. On September 28, 2006, the Deputy Secretary of Defense signed the "Interim Guidance for the Domestic Use of Unmanned Aircraft Systems." The purpose was to ensure that DoD UAS are used in accordance with U.S. law and departmental framework. The directive also identifies the appropriate use of DoD UAS assets in domestic operations. This guidance applies to all DoD UAS, used in domestic operations, whether operated by Active, Reserve, National Guard, or other personnel.⁵

⁵ While this memorandum directed the ASD Policy, Homeland Defense, to develop "...a more comprehensive policy document for Domestic Use of Unmanned Aircraft Systems," when this assessment began, the 2006 interim guidance remained the guiding DoD policy for domestic UAS operations.

(U) The interim policy encourages the use of DoD UAS to support appropriate domestic mission sets, including homeland defense and Defense Support of Civil Authorities (DSCA). DoD Directive 3025.18, "Defense Support of Civil Authorities," September 21, 2012, is the guiding DSCA policy document for the DoD.

"DSCA is support provided by U.S. Federal military forces, DoD civilians, DoD contract personnel, DoD Component assets, and, in coordination with the Governors, federally funded National Guard forces in response to requests for assistance from civil authorities for domestic emergencies, law enforcement support, and other domestic activities, or from qualifying entities for 'special events.'"

(U) The interim policy is highly restrictive on actual authorization. It specifically forbids the use of DoD UAS for DSCA operations, including support to Federal, State, local, and tribal government organizations, unless expressly approved by the Secretary of Defense (SECDEF), or designate. Interviews with Assistant Secretary of Defense for Homeland Defense and America's Security Affairs personnel indicate that, to date, the SECDEF has not delegated this approval authority.

(U) Military Service and National Guard Bureau Implementation and Execution of DoD UAS Policy

(U) Our interviews with Military Service and NGB personnel revealed that they operate UAS of various capabilities and configurations and approach the employment of UAS for DSCA differently, primarily because of Service culture and overall UAS operational experience.

(U) We reviewed all Service DSCA directives and found that while each Service has overarching doctrine, policy, or instructions for implementing OSD directives for DSCA; their implementation of OSD policy on UAS use for DSCA varies greatly. For example, U.S. Army FM 3-28, "Civil Support Operations, Appendix H, UAS in Civil Support," August 2010, states that "...all requests for UAS must be approved by the Secretary of (U) Defense." On the other hand, U.S. Air Force, Air Combat Command Instruction

⁶ Defense Support of Civil Authorities (DSCA), Interagency Partner Guide, April 2013, Office of the Assistant Secretary of Defense (Homeland Defense & America's Security Affairs.)

10-810, "Operations Involving Domestic Imagery Support Request Procedures for U.S. Missions," December 2013, states that "...use of intelligence, surveillance, and reconnaissance, operations reconnaissance; and remotely piloted aircraft, particularly for DSCA missions operating collection systems outside of DoD-controlled airspace within the U.S. *may*⁷ require Secretary of Defense approval." The U.S. Navy and the U.S. Marine Corps do not currently have specific directives or instructions for UAS use for DSCA. The NGB DSCA directives for UAS employment is a reflection of their Service affiliation, i.e.; Air National Guard units comply with U.S. Air Force instructions and Army National Guard units comply with U.S. Army UAS directives.

(U) DoD UAS Support to Civil Authorities Events

~~(FOUO)~~ We began our evaluation by requesting from each of the Military Services and the NGB all examples of instances where a DoD UAS had been employed in support of civil authorities in the continental U.S. or U.S. Territories from September 28, 2006, to the present. These dates were chosen to coincide with the release of the current interim guidance for UAS support to domestic civil authorities. We requested that for each instance the following data should be provided: date of request, requesting authority, summary of request, approval process with documentation, summary of event, and any lessons learned if applicable. We also asked for denied requests.

~~(FOUO)~~ This data call resulted in a relatively short collated list of less than twenty events that could be categorized as DoD UAS support to domestic civil authorities. The list consisted of both approved and disapproved requests. We then interviewed both Service and NGB Headquarters personnel who processed these requests up through the Service approval process to OSD. During our unit visits we also discussed these events with the unit commanders to understand how they viewed the approval process, as well as how the interim guidance policy impacted the actual support request.

⁷ Emphasis added.

Pending

~~(FOUO)~~ Service and NGB Headquarters representatives told us that each of the DoD UAS support requests was processed differently. A number of the approval requests were processed through normal DoD training event channels that are managed by the joint staff. A few were processed through Service channels working with OSD. And we heard that some were handled directly between the OSD staff, SECDEF, and civil authorities telephonically. We were unable to uncover any formal documentation procedures that defined the end-to-end approval process. We were told that this ad hoc process contributed to anxiety among the Service and NGB unit commanders about when they had the authority to employ their UAS resources as requested.

~~(FOUO)~~ DoD Does Not Have a Standardized Approval Process for UAS Support to Domestic Civil Authorities.

~~(FOUO)~~ While the current OSD interim guidance for DoD UAS Support to Civil Authorities provides guidance on UAS employment and when to request SECDEF approval, it does not provide a mechanism for how to process that request. ~~(FOUO)~~

~~(FOUO)~~ NGB (b)(7)(E)

~~(FOUO)~~ NGB (b)(7)(E)

~~(FOUO)~~ Service and National Guard UAS Experts Expressed Concern that Policy Ambiguity Is Potentially Degrading UAS Training and Operational Readiness.

~~(FOUO)~~ Multiple units told us that as forces using UAS capabilities continue to draw down overseas, opportunities for UAS realistic training and use have decreased. UAS unit commanders explained that providing UAS support to civil authorities could yield more realistic training opportunities and increase operational readiness. However, multiple commanders also stated that as a result of the restrictive approval processes for domestic UAS use, policy confusion, and internal Service hesitations, potential training opportunities are missed.

~~(FOUO)~~ USAF representatives told us that the OSD policy makes it difficult to determine what training is acceptable for DSCA UAS missions. For example, a unit submitted a request to use a remotely piloted aircraft (MQ-1 Predator and/or MQ-9 Reaper) to support incident awareness and assessment during fire season training with the Department of Energy. The unit was informed that although the training met the qualifications expressed in the Air Combat Command Domestic Imagery Training Proper Use Memorandum (PUM),⁸ the activity was classified as DSCA, since this was support for wild fires to an outside agency and, therefore, required SECDEF approval. Since the request was for incident awareness and assessment during the entire fire season, the unit chose not to pursue blanket approval because of what they felt was an onerous approval process.

~~(FOUO)~~ Another example was provided by the Army and Air National Guard. In this case, a DSCA exercise was proposed to ^{NGB (b)(7)(E)} [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁸ Proper Use Memorandum: a memorandum signed annually by an organization's certifying government official that defines the organization's domestic imagery requirements and intended use. It also contains a proper use statement acknowledging awareness of the legal and policy restrictions regarding domestic imagery, AFI 14-104, 23 Apr 2012

~~(FOUO)~~ NGB (b)(7)(E)

~~(FOUO)~~ We were also told about a DSCA training exercise with the Department of Energy using a U.S. Air Force remotely piloted aircraft that was conducted without formal SECDEF approval. This exercise was for incident awareness and assessment support of a simulated hazardous material release on Department of Energy property. The training met all of the internal Service guidelines and was forwarded for approval. However, since the exercise was conducted within DoD restricted airspace, the Joint Staff determined that approval was not required. Our interviewees explained that this left them confused about just when the OSD policy requiring SECDEF approval of UAS support for DSCA applied.

~~(FOUO)~~ Finally, a U.S. Marine Corp UAS unit told us that once each month their wing hosts a community leadership program where local politicians are invited to view and learn about the capabilities of the various aircraft on base. During one such event, a local mayor requested UAS support to look for potholes in the area. While the unit conceded that this type of operation could provide realistic training for their pilots and sensor operators, local commanders determined that under the interim guidance, requesting SECDEF approval to conduct a UAS mission of this type did not make operational sense.

(U) Impact of DoD UAS Policy on Processing, Exploitation, and Dissemination for DSCA

~~(FOUO)~~ Along with interviewing various units operating UASs, we also interviewed organizations responsible for performing the PED of UAS collected data. We met with National Geospatial Intelligence Agency (NGA) personnel responsible for ensuring that NGA and other Defense Intelligence Components comply with the domestic collection of tactical imagery consistent with DoD 5240.1-R. While NGA does not operate UASs they do provide PED support to DoD DSCA and other Federal agency UAS operations within the United States.

NGA (b)(3): 50 U.S.C. § 3142

NGA (b)(3): 50 U.S.C. § 3142

Finding

NGA (b)(3) 50 U.S.C. § 3142

(FOUO) U.S. Air Force units operating UASs rely on the Air Force Distributed Common Ground System (DCGS) for their PED support. We visited the 480th Intelligence, Surveillance, and Reconnaissance Wing and two subordinate DCGS elements to capture their processes for DSCA UAS PED support. The Wing executes any DSCA support mission according to tasking from USNORTHCOM. USNORTHCOM Contingency Plan 3501, DSCA, serves as the COCOM's plan for DoD responses to civil requests for support, including ISR asset support. The 480th Wing has no formal policy for DSCA support, but does comply with Air Combat Command Instruction 10-810, "Operations Involving Domestic Imagery Support Request Procedures," for US Missions as well as U.S. Air Force and DoD Intelligence Oversight directives.

(FOUO) The U.S. Navy and U.S. Marine Corps currently have no UAS-specific policies for domestic UAS PED. NGA (b)(3) 50 U.S.C. § 3142

(FOUO) The U.S. Army also does not have UAS-specific policies for domestic UAS PED. However, because current USA policy prohibits UAS civil support outside of DoD managed airspace, they feel that compliance with all applicable intelligence oversight regulations is sufficient to meet OSD policy guidance.

(U) The Domestic Imagery Working Group

(U) During our evaluation we also observed how the Services and NGB are working together to address some of the challenges associated with the current OSD policy on the DoD domestic UAS use for DSCA. We discovered that an informal body, known as the Domestic Imagery Working Group (DIWG), was attempting to address some of the concerns raised by the UAS units. The DIWG is a cross-functional and multi-service

informal working group consisting of lawyers, operators, intelligence professionals, and policy makers formed to address the collection of domestic imagery. We interviewed multiple members of the DIWG and heard that the group was originally created to help determine the approval authorities required to conduct the collection of domestic imagery by all airborne ISR collection assets, including UAS. Over time the DIWG narrowed its focus to address DoD UAS support to civil authorities and informally captures lessons learned and best practices that are shared among the Services and NGB. The DIWG has produced a number of recommendations on UAS employment processes and legal guides to help the Services ensure policy compliance. Presently, the DIWG is championed by USAF representatives, but each of the Services and NGB participate. The DIWG is a best practice that should be leveraged to assist the policy and Service communities in addressing the unique challenges of operating UAS in the U.S.

(U) Conclusion

~~(FOUO)~~ We concluded that DoD takes the issue of DoD UAS support to domestic civil authorities very seriously. Great care is taken by DoD personnel to protect the American public's civil liberties and privacy rights while simultaneously preparing to employ UAS capabilities as required by National Command Authorities. Our review of UAS policy implementation across the department, coupled with our unit visits to discuss actual events, did not reveal evidence that any DoD entity has employed a UAS or conducted PED in support of domestic civil authorities contrary to laws, regulations, or national policies. It should be noted that the units operating UASs across the department told us that, while they understand the American public's legitimate concerns about civil liberties and privacy rights, they do not operate UASs any differently from manned platforms with similar capabilities.

~~(FOUO)~~ Recommendations, Management Comments, and Our Response

~~(FOUO)~~ Recommendation 1

~~(FOUO)~~ We recommend that USD (P) establish a standardized formal approval process for UAS support to domestic civil authorities.

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~~(FOUO)~~ Assistant Secretary of Defense for Policy, Homeland Defense & Global Security

(FOUO) ASD (P) concurred with the recommendation and stated that Deputy Secretary of Defense Policy Memorandum 15-002, "Guidance for the Domestic Use of Unmanned Aircraft Systems", February 17, 2015, addresses this issue. They also stated they will continue to work with the Military Services and National Guard Bureau to address any uncertainty in the approval process.

(U) Our Response

(U) Comments from the ASD (P) are responsive to our recommendation. The Deputy Secretary of Defense Policy Memorandum 15-002, which is an update to the 2006 "Interim Guidance for the Domestic Use of Unmanned Aircraft Systems", provides the necessary clarity to the Military Services and National Guard Bureau on the approval process for UAS support to domestic civil authorities.

~~(FOUO)~~ Recommendation 2

~~(FOUO)~~ We recommend that USD (P) address the concerns of Military Service/National Guard Bureau UAS experts that policy ambiguity is potentially degrading UAS training and operational readiness.

~~(FOUO)~~ Assistant Secretary of Defense for Policy, Homeland Defense & Global Security

~~(FOUO)~~ ASD (P) concurred with the recommendation and stated that Deputy Secretary of Defense Policy Memorandum 15-002, "Guidance for the Domestic Use of Unmanned Aircraft Systems", February 17, 2015, addresses this issue.

(U) Our Response

(U) Comments from the ASD (P) are responsive to our recommendation. The Deputy Secretary of Defense Policy Memorandum 15-002, has addressed the majority of the Military Services and National Guard Bureau's concerns about policy ambiguity impacting UAS training and operational readiness.

~~(FOUO)~~ Recommendation 3

~~(FOUO)~~ We also recommend that the USD (P) formally charter the Domestic Imagery Working Group (DIWG.)

~~(FOUO)~~ Assistant Secretary of Defense for Policy, Homeland Defense & Global Security

~~(FOUO)~~ ASD (P) concurred in principle to formally chartering the DIWG. They will work with the DIWG lead Service to develop the appropriate working group leadership construct to champion DoD UAS initiatives.

(U) Our Response

(U) Comments from the ASD (P) are responsive to our recommendation. The DIWG was a "best practice" identified during our evaluation.

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Report No. DODIG-2015-097 | 9

(U) Management Comments

Assistant Secretary of Defense for Policy

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DEFENSE RESPONSE &
SECURITY

ASSISTANT SECRETARY OF DEFENSE
2600 DEFENSE PENTAGON
WASHINGTON D.C. 20301-2600

MEMORANDUM FOR INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Evaluation of DoD's Use of Unmanned Aerial Systems for Support Civil
Authorities (Project No. D2014-DIN101-0071.000)

~~(FOUO)~~ Thank you for the opportunity to review your evaluation of DoD's use of Unmanned Aerial Systems (UAS) for support to civil authorities. The Department concurs with recommendations 1 and 2. We believe the concerns identified in these recommendations are addressed in the February 17, 2015, Deputy Secretary of Defense Policy Memorandum 15-002, "Guidance for the Domestic Use of Unmanned Aerial Systems." We will continue to work with the Military Services and National Guard Bureau to address any uncertainty in the approval process.

~~(FOUO)~~ Regarding recommendation 3, the Department concurs in principle to formally charter the Domestic Imagery Working Group (DIWG). We will work with the DIWG lead Service to develop the appropriate working group leadership construct to champion DoD UAS initiatives.

~~(FOUO)~~ If we can be of any further assistance, ~~(b) (6)~~ is my primary point of contact for this matter, and can be reached at ~~(b) (6)~~ or (571) 256-~~(b) (6)~~.

Eric H. Rosenbach

Attachment:
Defense Policy Memorandum 15-002

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Management Comments



DEPUTY SECRETARY OF DEFENSE
1016 DEFENSE PENTAGON
WASHINGTON, DC 20301-1016

February 17, 2015

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
UNDER SECRETARY OF DEFENSE FOR POLICY
UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND
READINESS
UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE
COMMANDER, U.S. NORTHERN COMMAND
COMMANDER, U.S. PACIFIC COMMAND
CHIEF, NATIONAL GUARD BUREAU
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE
AFFAIRS
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC
AFFAIRS
SENIOR INTELLIGENCE OVERSIGHT OFFICER

SUBJECT: Policy Memorandum 15-002, "Guidance for the Domestic Use of Unmanned Aircraft Systems"

EXPIRATION DATE: February 17, 2018

POINT OF CONTACT: For more information, contact OASD(HD&GS) at (571) 256-6666

This policy memorandum provides guidance for the domestic use of unmanned aircraft systems (UAS) to ensure that Department of Defense (DoD) UAS are used in accordance with U.S. law and DoD policy, and to ensure the appropriate use of DoD UAS assets in domestic operations, training, exercises, and testing.

DoD domestic aviation operations support Homeland Defense (HD), Defense Support of Civil Authorities (DSCA), and military training and exercises. Unless specifically provided for in this policy, law, or other guidance, the approval of the Secretary of Defense is required for all domestic UAS operations (including HD, DSCA, and National Guard (NG) State support operations, including DoD UAS operated by NG personnel in Title 32 or State Active Duty status). Any domestic use of UAS requires consultation with the Federal Aviation Administration (FAA) and must be consistent with applicable laws, regulations, and memoranda of agreement concerning the operations of UAS in the National Airspace System (NAS). This guidance applies to all DoD UAS use in the United States (hereafter "domestic use" or "domestic

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operations"), whether operated by or under contract to Active or Reserve Component military personnel, or by other DoD personnel.

Unless permitted by law and approved by the Secretary of Defense, any DoD personnel using UAS for domestic operations, whether or not the DoD UAS use is related to an intelligence activity, may not conduct surveillance on U.S. persons. This restriction includes using any domestic DoD UAS as part of an authorized DoD response to a lawful request from another Federal department or agency. Consistent with DoD Directive 5200.27¹ and applying the oversight guidance contained in DoD 5240.1-R² to intelligence and non-intelligence related domestic UAS use, all UAS acquisition, collection, retention, and dissemination of information during domestic DoD UAS employment will be in accordance with standing DoD and DoD Component intelligence oversight guidance and will require coordination and review of a proper use memorandum (PUM).

The following guidance on the domestic use of UAS is effective immediately.

DoD Operations

In appropriate circumstances, UAS may be used in lieu of manned aircraft for domestic missions. Appropriate circumstances may include when:

- sustained endurance efforts are required;
- unmanned aircraft provide superior capabilities; or
- physical infrastructure limitations prohibit the use of manned rotary- or fixed-wing aircraft.

DoD UAS in the United States may only be used for ITD, DSCA, and NO State support operations, including operations to support Federal, State, local, and tribal government organizations, if approved by the Secretary of Defense. DoD UAS may not be used for Federal, State, or local immediate response.

Armed DoD UAS may not be used in the United States for other than training, exercises, and testing purposes.

In the event of a request for Federal support, the Chairman of the Joint Chiefs of Staff, in consultation with the appropriate geographic Combatant Commanders, will provide a recommendation to the Secretary of Defense concerning the use of DoD UAS. To seek approval for other missions, DoD Components should use the approval authorities, procedures, and reporting requirements contained in applicable laws and regulations, such as CJCS Instruction 3710.01B, "DoD Counterdrug Support." Support will be provided on a reimbursable basis unless otherwise required by law, or on a non-reimbursable basis if such support is both authorized by law and approved by the Secretary of Defense.

¹ DoD Directive 5200.27, Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense.

² DoD 5240.1-R, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons.

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State/National Guard Operations

Governors in States where DoD UAS assets are fielded to the State's National Guard may not employ DoD UAS without the approval of the Secretary of Defense; however, these Governors may consider DoD UAS employment in their planning for disaster response activities. Governors who seek to use DoD UAS assets in support of State disaster response should submit a formal request in writing to the Secretary of Defense. Such requests should contain the analysis conducted that determined that other manned air assets were not appropriate. The Chairman of the Joint Chiefs of Staff, in consultation with the appropriate geographic Combatant Commander, the Chief of the National Guard Bureau (NGB), and the appropriate Military Department Secretary, will provide a recommendation to the Secretary of Defense concerning the use of DoD UAS in support of a State request.

Plans should factor in the procedures and time required for FAA consultation for access to the necessary airspace and to obtain Secretary of Defense authorization. In concert with Federal Emergency Management Agency-coordinated regional planning, any State that proposes the use of DoD UAS in its plans should consult with the corresponding geographic Combatant Commander to ensure that State and DoD plans maximize unity of effort and efficiency.

Search and Rescue Exceptions

The only exception to the requirement for approval by the Secretary of Defense for the use of DoD UAS for domestic operations are search and rescue (SAR) missions involving distress and potential loss of life that are coordinated by the Air Force Rescue Coordination Center (AFRCC), Alaska Rescue Coordination Center (AKRCC), or Joint Rescue Coordination Center (JRCC)-Pacific. Specifically, the following commanders may approve the use of DoD UAS on an AFRCC/AKRCC/JRCC-Pacific coordinated mission with a properly issued SAR mission number after a determination that UAS would be the best platform to assist in the SAR mission and that its use would not interfere with the primary military duties of the unit concerned:

- Commander, U.S. Northern Command, through the Commander, Air Forces Northern, in the delegated role of Inland SAR Operations Coordinator for the continental United States Search and Rescue Region;
- Commander, U.S. Northern Command, through the Commander, Alaskan Command, as SAR Operations Coordinator for the Elmendorf Search and Rescue Region, landmass of Alaska; or
- Commander, U.S. Pacific Command, in the role of SAR Coordinator for the landmass of Hawaii, in close coordination with the U.S. Coast Guard.

Each commander will ensure that all legal, intelligence oversight (including the requirement to obtain a PDM), Privacy Act, and airspace issues are properly addressed. Each commander will promptly inform the Secretary of Defense, through appropriate channels, after the use of DoD UAS has been approved.

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The Assistant Secretary of Defense for Homeland Defense and Global Security (ASD(HD&GS)) will include this SAR exception in the next revision of DoD Directive 3025.18, "Defense Support of Civil Authorities."

DoD-Required Training and Exercises

The primary purpose of domestic UAS training and exercises is for DoD forces to conduct realistic training in their core Federal military mission areas. DoD UAS used in training and exercises will not acquire or collect information (except for incidental collection) about specified U.S. persons or non-DoD controlled property or facilities located outside DoD-controlled installations without consent. All UAS acquisition, collection, retention, and dissemination of information will be in accordance with standing DoD regulations and policy, including DoD Component intelligence oversight guidance, and will require a PUM.

Use of DoD UAS assets in domestic training and exercises requires:

- Prior notification to the Secretary of Defense if the platform is a large DoD UAS¹ and is to be used in training and exercises outside DoD-scheduled special use airspace (SUA);²
- Prior approval by the Secretary of Defense if the UAS is armed and will be used in a training, exercise, or testing event outside DoD SUA; and
- Prior approval by the Secretary of Defense for any DoD UAS training and exercises conducted with Federal, State, or local law enforcement agencies (LEAs), including any DoD UAS training and exercises planned in coordination with LEAs to meet LEA information needs in accordance with 10 U.S.C. § 371(b).

The notification to or request for approval by the Secretary of Defense required by this section will be submitted to the Secretary at least 30 days prior to the training, exercise, or testing event through appropriate Military Department/Service, Combatant Command, or NGB channels via the Joint Staff (J-3), and may be submitted either on a case-by-case basis or in batch format for periods not to exceed one calendar year in advance of the proposed exercise or training.

Exercises, Training, and Activities Not Required by DoD

Although DoD equipment issued to the NG is often available for use by State Governors for non-DoD purposes, Secretary of Defense approval is required for the use of DoD UAS assets for non-DoD purposes, for DSCA training and exercises, or for NG UAS training and exercises that provide incidental support to civil authorities. This includes DoD UAS operated by forces in Title 10 status and National Guard personnel in Title 32 or State Active Duty status.

¹ Group 4/5 UAS, as currently defined in OCSB 2255.01, *Joint Unmanned Aircraft System Airman Training Standards, Incorporating Change 1*, para. 9(011-43) (October 31, 2011) and Joint Publication 3-20, *Command and Control of Joint Air Operations*, Figure III-15, page III-30 (February 10, 2014).

² DoD Scheduled Special Use Airspace (SUA): Warning Area, Restricted Area, Military Operations Area (MOA), Prohibited Area, Controlled Flying Area, and National Security Areas. For purposes of this guidance, FAA-designated military training routes are also included. It is acknowledged that DoD UAS, in some cases, may have to transit the NAS from their departure/arrival airfield to DoD SUA to conduct their assigned mission. In all cases, appropriate airspace approval is required.

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State officials who wish to propose the use of DoD UAS in support of major State disaster response exercises (or training requiring approval by the Secretary of Defense) should factor in the procedures and time required to consult with the FAA for access to the necessary airspace and to obtain Secretary of Defense approval. States in which DoD UAS assets are fielded that have a requirement for their use in these exercises (or training requiring approval by the Secretary of Defense) will submit the Governor's request in writing at least 30 days in advance to the Secretary of Defense through appropriate Military Department/Service, Combatant Command, or NGB channels via the Joint Staff (J-3), and may submit such requests either on a case-by-case basis or in batch format for periods not to exceed one (1) calendar year in advance of the proposed exercise or training.

Access to the U.S. National Airspace System

In order to conduct domestic operations, exercises, and training, DoD UAS operations will likely not be confined to segregated airspace; therefore, routine access to the national airspace will likely be required. The Department must continue to make progress in advancing regulatory policy and guidance associated with UAS operations in the NAS, as well as in aggressively developing detect-and-avoid technology to ensure safe operation of UAS in unsegregated airspace.

The Chair of the DoD Policy Board on Federal Aviation (PBFA) will lead the Department's efforts to advocate for the elimination of unnecessary regulatory restrictions that prevent routine access to the NAS for DoD UAS. The PBFA Chair will work through the multi-agency UAS Executive Committee to pursue regulatory changes and/or arrangements and develop reasonable standards of safety that address liability and take into account the excellent safety record of the Department's global UAS operations.

DoD will continue to promote the development of technologies, standardized operating procedures, and policies that ensure that DoD UAS are able to operate safely within the national airspace while also balancing and protecting personal privacy.

Other Designated Responsibilities

Under Secretary of Defense for Policy

The Under Secretary of Defense for Policy (USD(P)) is authorized to establish the appropriate policy for domestic use of UAS for force protection and protection of other DoD assets, whether in DoD Instruction 2000.16, "DoD Antiterrorism Standards," or other appropriate DoD issuances.

Assistant Secretary of Defense for Homeland Defense and Global Security

The ASD(HD&GS), under the authority, direction, and control of the USD(P), is the principal civilian advisor to the Secretary of Defense for the domestic use of DoD UAS. The ASD(HD&GS) will conduct a comprehensive review of this policy every three years and seek approval of appropriate revisions, if required. All policy development will be coordinated with

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the Chairman of the Joint Chiefs of Staff, the DoD General Counsel, the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, and the heads of other appropriate DoD organizations.

Assistant to the Secretary of Defense for Public Affairs

The Assistant to the Secretary of Defense for Public Affairs (ATSD(PA)) is responsible for coordinating public affairs inquiries with the Military Departments/Services, Joint Staff, Combatant Commands, National Guard Bureau, State departments and agencies, and other federal departments and agencies as required. The ATSD(PA) is the lead DoD official for establishing public affairs guidance on domestic use of DoD UAS. Additionally, to promote transparency, the ATSD(PA) will work with the PBFA and the ASD(HD&CS) to develop a webpage outlining DoD UAS domestic operations.

This guidance replaces and rescinds the Deputy Secretary of Defense Memorandum, "Interim Guidance for the Domestic Use of Unmanned Aircraft Systems," September 28, 2006.¹



¹ New operational and training requests/notification requirements take effect 60 days after the date that this policy memorandum is signed.

Appendixes

(U) DoD Offices Visited

- (U) Under Secretary of Defense for Policy representatives from Homeland Defense & America's Security Affairs.
- (U) Under Secretary of Defense for Intelligence representatives from Warfighter Support.
- (U) Assistant to the Secretary of Defense for Intelligence Oversight representatives.
- (U) USNORTHCOM Directors from the Operations, Plans, Intelligence, and Judge Advocate General Directorates.
- (U) National Geospatial Agency (NGA) representatives.
- (U) National Security Agency (NSA) representatives.
- (U) Headquarters National Guard Bureau Policy, Operations, and Intelligence Directors.
- (U) Headquarters U.S. Army, U.S. Navy, U.S. Marine Corps, and U.S. Air Force Policy, Operations, and Intelligence Directors.
- (U) U.S. Army, U.S. Navy, U.S. Marine Corps, and U.S. Air Force Commands responsible for Service UAS employment policies, tactics, techniques, and procedures.
- (U) U.S. Army, U.S. Navy, U.S. Marine Corps, and U.S. Air Force Commands responsible for Service PED policies, tactics, techniques, and procedures.

(U) Unit's Visited and Location

| | |
|--|-----------------------------------|
| 1st Air Force | Tyndall AFB, Florida |
| Second Marine Aircraft Wing (2d MAW) | MCAS Cherry Point, North Carolina |
| 480th ISR Wing (ISRW) | Langley AFB, Virginia |
| 27th Intelligence Squadron (27 IS) | Langley AFB, Virginia |
| California National Guard JFHQ | Sacramento, California |
| Air National Guard 181st Intelligence Wing | Terre Haute, Indiana |
| Air National Guard 174 Attack Wing | Syracuse, New York |
| Army 15th Military Intelligence Battalion | Fort Hood, Texas |
| 1st CAV - Grey Eagles | Fort Hood, Texas |
| 9 th Reconnaissance Wing | Beale AFB, California |
| 49 th Fighter Wing | Holloman AFB, New Mexico |
| JTF - North | Ft Bliss, Texas |
| 2-13 th Aviation Regiment | Ft Huachuca, Arizona |
| Commander Naval Air Forces | NAS Coronado, California |
| U.S. NORTHCOM | Colorado Springs, Colorado |
| NAVAIR | Patuxent River NAS, Maryland |
| VMU-2 | MCAS Cherry Point, North Carolina |

(U) Use of Computer-Processed Data

(U) We did not use computer-processed data to perform this evaluation.

(U) Prior Coverage

(U) No prior coverage has been conducted on DoD's domestic use of UAS for civil authorities during the last 5 years.

(U) Acronyms and Abbreviations

| | |
|-------------------|--|
| COCOM | Combatant Command |
| DCGS | Distributed Common Ground System |
| DIWG | Domestic Imagery Working Group |
| DoD | Department of Defense |
| DSCA | Defense Support to Civil Authorities |
| ISR | Intelligence, Surveillance, and Reconnaissance |
| NGA | National Geospatial Agency |
| NGB | National Guard Bureau |
| OSD | Office of the Secretary of Defense |
| PED | Processing, Exploitation, and Dissemination |
| PUM | Proper Use Memorandum |
| RPA | Remotely Piloted Aircraft |
| SECDEF | Secretary of Defense |
| UAS | Unmanned Aircraft System |
| USNORTHCOM | United States Northern Command |

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Whistleblower Protection
U.S. DEPARTMENT OF DEFENSE

The Whistleblower Protection Enhancement Act of 2012 requires the Inspector General to designate a Whistleblower Protection Ombudsman to educate agency employees about prohibitions on retaliation, and rights and remedies against retaliation for protected disclosures. The designated ombudsman is the DoD Hotline Director. For more information on your rights and remedies against retaliation, visit www.dodig.mil/programs/whistleblower.

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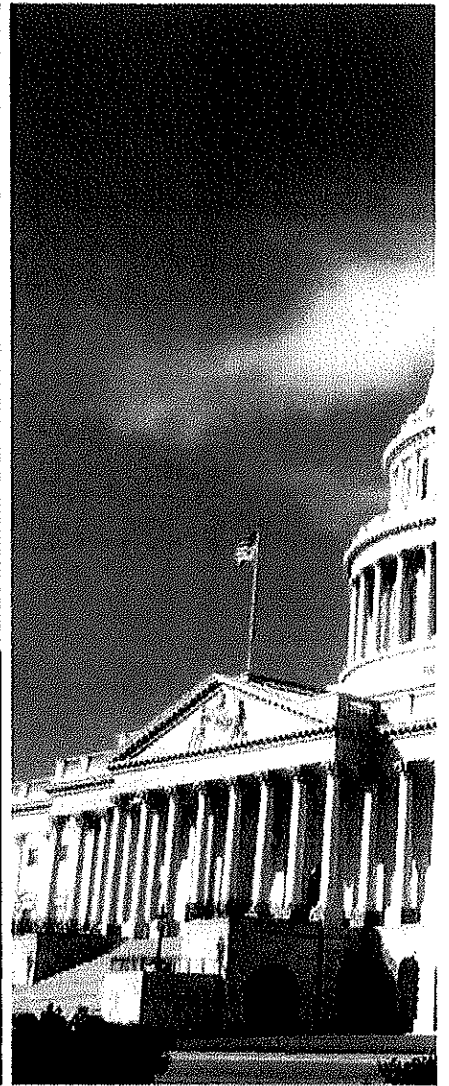
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