



Department of Defense
INSTRUCTION
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DEPSS

SUBJECT: Using Military Working Dog Teams (MWDTs) to Support Law Enforcement Agencies in Counterdrug Missions

- References:**
- (a) DoD Directive 5525.5, DoD Cooperation with Civilian Law Enforcement Officials, January 15, 1986
 - (b) Title 10, United States Code, Chapter 18, Section 371-378, "Military Support for Civilian Law Enforcement Agencies Act"
 - (c) Public Law 101-189, "National Defense Authorization Act for Fiscal Years 1990 and 1991," November 29, 1989

A. PURPOSE

This Instruction supplements reference (a) by establishing policy, assigning responsibilities, and prescribing procedures for providing DoD MWDTs in support of civilian law enforcement agencies' (LEAs) counterdrug operations.

B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD); the Military Departments; the Chairman, Joint Chiefs of Staff and Joint Staff; the Unified and Specified Commands; the Inspector General, Department of Defense (IG, DoD); the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

C. DEFINITIONS

1. Alert. Physical behavior by the MWD that indicates the presence of drugs in the detection support area.

2. Direct Routine Assignments. LEA requests for support which are initially submitted to the Installation Commander, conforming to DoD Policy as outlined in section D., below, and for which the installation can provide support.

3. Law Enforcement Agencies (LEAs). Federal, state, and local agencies with counterdrug responsibilities.

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4. Military Working Dogs (MWDs). As used in this Instruction refers to drug detector dogs only.

5. Military Working Dog Executive Agent (MWDEA). DoD representative responsible for coordinating missions performed by MWDTs, regardless of Service.

6. Military Working Dog Team (MWDT). One MWD and one handler (under normal circumstances, a MWD will not be dispatched without a handler).

7. Nondirect Routine Assignments. LEA requests for support which are initially submitted to the MWDEA conforming to DoD policy as outlined in section D., below, and for which it can provide support without seeking guidance from the Office of the DoD Coordinator for Drug Enforcement Policy and Support (OCDEP&S).

8. Nonroutine Assignments. LEA requests for support that are initially or subsequently submitted to the MWDEA and that require guidance from OCDEP&S. These requests are of a non-routine nature not covered in section D., below.

9. Regional Logistical Support Offices (RLSOs). Offices located at Long Beach, CA (with a branch office at Honolulu, HI); El Paso, TX; Miami, FL; and Buffalo, NY, designated to receive and process LEA requests for DoD nonoperational support on a regional basis.

D. POLICY

DoD Policy on use of MWDTs follows:

1. The priority of effort for MWDTs is support for DoD counterdrug programs, operational commitments, and military preparedness.

2. An expanded level of MWDT support to LEAs is as follows:

a. Pursuant to Section 372 of 10 U.S.C. (reference (b)), the Secretary of Defense may make available equipment to any Federal, state, or local LEAs for law enforcement purposes. So, upon request, a MWD (viewed by the Department of Defense as a piece of equipment) may be loaned to law enforcement officials. Moreover, MWD handlers may be made available to assist and advise law enforcement personnel in the use of the MWD under Section 373 of reference (b). If a MWD is loaned to a LEA, its military handlers will be provided to work with the particular MWD. A MWD is always loaned with its handler since they work as a team. Under compelling and exceptional circumstances, requests for exceptions may be submitted, through channels, to the DoD Drug Coordinator.

b. Section 374(b)(2) of reference (b) enumerates the purposes for which DoD personnel may be made available to operate DoD equipment. One of those purposes is to detect, monitor, and

communicate the movement of air and sea traffic. The General Counsel of the Department of Defense (GC, DoD) has determined that the loan of MWDTs may be used in support of activities directly related to the detection and monitoring of the air and sea transit of illegal drugs; that is, the MWDT is authorized to support LEAs by conducting "sniffs" of aircraft, vessels, air and sea cargo containers, baggage, and air parcel cargo off loaded from ships or planes at sea and air ports of entry. The Department of Defense views such activity as indirect assistance to law enforcement for detecting and monitoring the movement of air and sea traffic.

c. Section 1206 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (reference (c)) provides an additional authority for MWDTs to support LEAs. This section states that "The Secretary of Defense shall direct that the Armed Forces, to the maximum extent practical, shall conduct military training exercises in drug interdiction areas." Drug interdiction areas are defined in that section as including "land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred" (emphasis added). Thus, to the extent that MWDTs are engaging in legitimate training exercises in drug interdiction areas, they may be used to support LEAs. This authority, for example, would support the loan of a MWDT to a LEA conducting operations at an international land port of entry.

3. In all cases, MWDT support may be provided only under circumstances that preclude any confrontation between MWDTs, and civilian subjects of search.

E. RESPONSIBILITIES

1. The DoD Coordinator for Drug Enforcement Policy and Support (OCDEP&S) shall:

a. Promulgate plans and establish support guidelines for all MWDT missions received from LEAs.

b. Review, approve, and allocate operating funds for MWDT support to LEAs.

c. Review and approve quarterly support reports from the MWDEA.

2. The General Counsel of the Department of Defense (GC, DoD) shall resolve any legal questions from DoD Component legal representatives arising from LEA requests for MWDT support.

3. The Secretary of the Air Force shall:

a. Serve as the DoD MWDEA.

b. Receive and compile fiscal, administrative, and support information and other significant data.

c. Provide qualified MWDTs in support of LEAs, provided this service is consistent with mission requirements.

4. The Military Working Dog Executive Agent (MWDEA) shall:

a. Process all nondirect routine MWDT requests from LEAs.

b. Process all nonroutine MWDT requests from LEAs.

c. Request policy guidance from the Deputy Assistant Secretary of Defense, Drug Enforcement Plans and Support (DASD(DEP&S)).

d. Upon receipt of an MWDT request from a LEA, assign the mission to the Service or Services most capable of fulfilling the mission requirements using the closest available unit with assets reasonably available to respond to the request.

e. Receive and compile fiscal, administrative, and support information and other significant data from each Service, and submit budget requests through the Program Objective Memorandum process for funding MWDT support to LEAs.

f. Maintain effective liaison with Federal Agencies, the Department of Defense, and the Military Departments.

g. Maintain current status of each Service's ability to provide MWDTs in support of MWDT missions.

h. Establish and distribute guidance and standards appropriate to MWDT mission requirements for administration of support.

i. Provide format for all reports required to be submitted to it or through it to OCDEP&S.

j. Refer routine legal questions to the Staff Judge Advocate, Kirtland Air Force Base, Albuquerque, NM.

5. The Secretaries of the Army and Navy shall:

a. Provide qualified MWDTs in support of LEAs as directed by the MWDEA, provided this service does not adversely affect DoD counterdrug programs, operational commitments, or military preparedness.

b. Receive and compile fiscal, administrative, and support information and other significant data.

c. Provide the MWDEA a single point of contact tasked to coordinate and assist the operation and assignment of missions to military personnel.

6. The Local Installation Commander shall:

a. Upon receipt of an MWDT request from a LEA, provide

MWDTs, in accordance with Service instructions where applicable, as long as the support is consistent with the installation's mission requirements, and as long as no substantial expense is incurred by the command.

b. Provide assignment execution reports to their respective Service point of contact (POC) for inclusion in the mission completion and update report (see subsections F. 10. and 11., below).

c. If unable to support local requests for MWDTs, notify the MWDEA and, where applicable Service regulations require, the Service POC. The MWDEA shall determine the validity of the request and assign the MWDT, if possible.

F. PROCEDURES

1. Concept of Operations

a. A LEA may submit a request for MWDT support in several ways; i.e., directly to the Installation Commander, to a RLSO, to a Continental United States Army (CONUSA) or Corps Headquarters, to the MWDEA, or to the OCDEP&S.

b. Within the guidelines established in section D., above, Installation Commanders may approve requests that do not require funding or for which the LEA will provide reimbursement if the support does not negatively affect the installation's operational requirements or military readiness.

c. If the LEA requests DoD funding or if the installation does not have the capability to provide the requested support, the Installation Commander shall forward the request, through the appropriate Service POC (if individual Service regulations so require), to the MWDEA for resolution.

d. Requests made to a RLSO, CONUSA Headquarters, Corps Headquarters, or OSD shall be forwarded to the MWDEA for action.

e. The MWDEA normally assigns actions to the closest available unit since this has proven most cost-effective and operationally efficient.

2. Notification. With the exception of direct routine requests:

a. Requesting agencies shall notify the MWDEA in writing of each assignment requirement by datafax (Commercial (505) 844-4912 or AUTOVON 244-4912), by message, or by mail as soon as possible to afford adequate time to meet mission requirements. Notification shall include the number of MWDTs required, location, dates requested, intended purpose, reporting times, POCs, all information concerning possible hostile activity that may be encountered, and any necessary special instructions.

(1) If support is needed within 24 hours, the

requesting agency shall contact the MWDEA by telephone and submit a written request as soon as possible.

(2) Upon receipt of an MWDT request from a LEA, the MWDEA coordinates with the Services to determine the Service best capable of fulfilling the mission based on the "closest unit" concept and tasks accordingly.

b. The following representatives shall serve as the Services' primary POCs for MWDT support requests:

(1) Air Force. HQ Air Force Office of Security Police, ATTN: HQ AFOSP/SPOL, Kirtland AFB, NM 87117-5001; AUTOVON 244-6627/4995, Commercial (505) 844-6627/4995. Message address: HQ AFOSP KIRTLAND AFB NM/SPOL//.

(2) Army. Commander, U.S.A. Military Police Operations Agency, ATTN: MOMP-S, 5611 Columbia Pike, Falls Church, VA 22041-5014; AUTOVON 289-1934, Commercial (202) 756-1934. Message address: CDRUSAMPOA FALLS CHURCH VA//MOMP-S//.

(3) Navy. Commander, Naval Investigative Service Command, Washington, DC 20388-5024; AUTOVON 288-9125/9132, Commercial (202) 443-9125/9132. Message address: COMNISCOM WASHINGTON DC//0024//.

(4) Marine Corps. HQ USMC, Code POS 40, Law Enforcement Section, Washington, DC 20380-0001. AUTOVON 224-4177/2180/2962, Commercial (202) 694-4177/2180/2962. Message address: CMC WASH DC//CODE POS 40//.

c. To ensure the capability to transmit rapidly all time-critical mission requirements or changes to assigned missions, each Service's POC shall establish a notification plan and provide a copy to the MWDEA. This will ensure that the POC or an authorized representative can be contacted 24 hours a day.

d. When the MWDEA receives a request for MWDT support from a LEA, it will implement the following procedures immediately:

(1) Assign an administrative control number to each mission request to ensure accountability of both the document and the mission.

(2) Identify the MWDT unit closest to the mission location and identify the parent Service.

(3) Notify the Service MWDT POC by phone of an MWDT support requirement, specify which MWDT unit within the Service has been tentatively identified to support the mission, and specify the total number of persons required.

(a) No unit shall be tasked to provide support if the use of the MWDT asset leaves that unit without support necessary to perform its operational requirements.

(b) If the MWDT unit is able to perform the mission, relay to the supporting Service all information received from the requesting agency.

(c) If the identified unit is unable to perform the requested mission due to operational commitments, the unit must immediately inform the MWDEA, and the Service POC, if required by Service regulation, to facilitate additional coordination and arrangements.

(4) If the support mission can be performed, the supporting Service's POC shall immediately implement internal unit notification procedures.

(5) The supporting Service's POC shall ensure that all mission information is relayed to identified MWDT units promptly, and that personnel comply with stated mission requirements.

(6) If there are any problems that will significantly delay unit notification, the responsible Service's POC or unit shall immediately contact the MWDEA.

(7) The MWDEA shall send a confirmation message to the supporting Service and to the unit identified to support the mission, and informational copies to the requesting agency and the OCDEP&S.

(8) Nondirect routine assignments shall be processed upon receipt from requesting agencies by the MWDEA through the delegated authority provided by the Office of the Deputy Assistant Secretary of Defense, Drug Enforcement Plans and Support (DASD(DEP&S)). Nonroutine requests shall be directed to the OCDEP&S for review and disposition. The MWDEA shall initially communicate nonroutine requests by telephone to expedite their processing. A written copy of such requests shall follow.

3. Operating Reporting

a. The OCDEP&S may be contacted at: The Pentagon, Washington, DC 20301-1510; AUTOVON 227-5657, Commercial (202) 697-5656/5657; Message address: SECDEF WASH DC//OCDEP&S//; Datafax Commercial (202) 693-5371 Room 2E539, Secure Fax (202) 693-5304.

b. The MWDEA may be contacted at: HQ AFOSP/SPOL Kirtland AFB, NM 87117-6001; AUTOVON 224-6627, Commercial (505) 844-6627; Message address: HQ AFOSP KIRTLAND AFB NM//SPOL//; Datafax AUTOVON 244-4912 or Commercial (505) 844-4912.

4. Funding and/or Reimbursement

a. The MWDT support to LEAs shall be funded from a central account managed by the MWDEA. Funding shall include transportation expenses and related costs. Funds to support

these operations shall be transferred by the OCDEP&S from the DoD Counternarcotics Fund to the Air Force Office of Security Police (MWDEA), for support to LEAs. Reimbursement by OCDEP&S is not necessary where no costs are incurred by the Government, or where the support performed is provided in the normal course of military training or operations, or results in a benefit to the Service provider that is substantially equivalent to that which would otherwise be obtained from military operations or training.

b. The MWDEA shall provide fund cites for these funds to the respective Service or installation representative for use by the tasked unit in support of LEAs.

c. Each Service shall report expenditure of funds to the MWDEA for forwarding to OCDEP&S.

d. When civilian aircraft travel is used, MWDs shall be shipped as excess baggage in kennel-shipping crates.

5. Command and Control

a. The MWDTs assigned to support LEAs shall be under tactical control of the director of the requesting agency (or an authorized representative) for their assignments.

b. When five or more MWDT teams are assigned to one location, an NCOIC shall accompany the teams. The NCOIC shall not be assigned a MWD for this function. During missions where fewer than five MWDT teams are used, the senior ranking MWD handler, regardless of Service, is designated as the NCOIC.

c. If MWDT personnel from different Services are assigned to the same mission, the senior person from each Service shall assist the identified senior team leader to ensure a smooth and efficient operation.

6. Spotters and Other Support Personnel. Spotters and other support personnel shall be authorized at the discretion of the MWDEA or the Installation Commander.

7. Uniform, Transportation, and Weapons Requirements

a. Unless otherwise directed by the requesting agency, persons assigned to support these missions shall wear protective coveralls or battle dress uniforms. Protective vests are authorized; however, the military Installation Commander or the MWDEA shall specifically address individual protective requirements.

b. Sidearms are authorized to be carried by personnel who are qualified to the standard specified by the providing Service and who carry sidearms as part of their law enforcement duties. The commander of the installation furnishing direct routine MWDT support, or the MWDEA in all other cases, shall specifically address the actual wearing of sidearms during MWDT support missions. Given the controlled circumstances under which most MWDT support may be provided, it is difficult to see the

need for MWDT members to be armed inside the United States. Coordination should be undertaken with the specific LEA to determine whether it specifically desires unarmed handlers. When worn during MWDT-support missions, sidearms shall be used only in self-defense (as authorized by the Secretary of Defense in supplemental rules of engagement for the counternarcotics mission).

8. Personnel Accountability and Release Procedures. The very fluid nature of MWDT support and the anticipated last minute changes by the requesting agency make it essential that both the supporting Service and the MWDEA be able to contact MWDT personnel rapidly while individuals are assigned to support missions. Each Service POC shall develop and implement an internal system to allow for the rapid transmission of additional missions or information on currently assigned missions.

9. Problems Encountered on Missions. If disagreements on allowable employment arise among MWDTs and the requesting representatives, the senior MWDT member shall meet privately with the respective LEA representative. If disagreements cannot be resolved, or if a problem occurs on a mission that can affect the ability of the Department of Defense to provide professional MWDT support to the requesting agency, the senior MWDT person shall immediately notify his or her Service's POC and the MWDEA so that corrective measures can be coordinated promptly with no degradation to the MWDT support.

10. After-Action Report

a. An after-action report shall be submitted when an incident having possibly important consequences, or procedures with suggested improvements, warrant the attention of the supporting Service's POC and the MWDEA for action or information.

b. If an incident occurs or procedures with suggested improvements are noted, an after-action report should be completed no later than 5 days after the incident; the senior MWDT member shall send a typed after-action report through the parent Service's POC to the MWDEA. The MWDEA shall accomplish necessary follow-up action required to resolve such incidents and prevent their recurrence.

c. Specific format for this report shall be provided by the MWDEA.

11. Mission Completion and Update Report

a. Each Service's POC is required to submit a quarterly mission completion and update report to the MWDEA, which will compile the data and forward a consolidated quarterly report to OCDEP&S.

b. Specific format for this report shall be provided by the MWDEA.

c. Information provided shall contain, as a minimum, the following items:

- (1) Unit tasked.
 - (2) Number of teams.
 - (3) Number of days required per tasking.
 - (4) Total cost per tasking:
 - (a) Per diem,
 - (b) Other expenses--rental car, gas, parking,
- etc.
- (5) Transportation method (air, ground) and cost.
 - (6) Mission performed and results.

d. The MWDEA shall consolidate the appropriate reports, forward them to OCDEP&S for review and/or approval, and provide information copies to the Service Secretaries within 10 working days following the end of each quarter.

12. Training. Training associated with MWDT missions is the responsibility of each individual Service unit and shall, as a minimum, meet the standards prescribed by the Department of Defense.

13. Restrictions on Use of MWDTs

a. The handler must have unencumbered control over the detection support effort and complete access to the area to be "sniffed."

b. The handler performs the sole task of working his or her dog and shall not take part in any other activities in support of LEAs unless authorized in this Instruction or unless specifically authorized by competent military authority.

c. Only the MWDT's drug detection capabilities are used. MWDTs are not used to track persons, seize evidence, search buildings or areas for personnel, pursue, search, attack, hold, or in any way help in the apprehension or arrest of persons. Prior to employment of the MWDT, detection support areas shall be cleared of any personnel not a part of the detection process to preclude a confrontational situation.

d. A representative of the requesting agency or civilian jurisdiction must stay with the MWDT at all times when it is working. If the MWD alerts, the handler will advise the representative and withdraw or continue other disassociated detection support. The handler will not help in uncovering or moving any item that he or she has identified to have potential evidentiary value. MWDTs shall neither set up nor maintain a chain of custody for any evidence or other material planned for use in civilian courts. Further, MWDTs shall not engage in the execution of a warrant, search, seizure, arrest, or any other activity to enforce the law in connection with this support. The handler may testify in civil court to explain the training received, the past success rates of the MWD, the events leading to employment in the particular detection support, and the results of the detection

support.

e. Requesting agencies must be informed that the Department of Defense shall not accept responsibility for damages resulting from the use of MWDTs.

14. Formal Training. Requests for formal training of civilian law enforcement drug detector dogs and handlers shall be forwarded to the MWDEA for resolution on a case-by-case basis.

15. Use of MWDT Assets Outside the Continental United States (OCONUS)

a. Foreign Country. Requests for OCONUS use of MWDTs in support of LEAs shall be routed through the United States Embassy, in the country where the assistance is requested, to the responsible Command-in-Chief (CINC). The Department of State (DoS) shall be informed through Embassy channels. The CINC shall forward the request to the Chairman, Joint Chiefs of Staff (CJCS) for approval, telephonically, if necessary. Requirements beyond the CINC's capability to accomplish shall be referred to the CJCS. The CJCS shall forward the request to OCDEP&S, who will then forward the requirements to the MWDEA for action.

b. Alaska, Hawaii, and U.S. territories and/or possessions. Requests for OCONUS use of MWDTs to support LEAs in these areas shall be forwarded to the respective CINC for action and approval. Requirements beyond the CINC's capability to accomplish with component forces shall be referred to the MWDEA for resourcing.

c. Each OCONUS CINC shall designate an office of primary responsibility (OPR) for handling all MWD mission requests. This provides a single POC within the area of responsibility (AOR) for LEAs. The OPR shall be the POC between the MWDEA and the CINC for all established MWDT activities and reporting.

d. The CINC shall make determinations as to equivalent training value and reimbursement in accordance with Section 377 of 10 U.S.C. (reference (b)).

e. The CINC's OPR shall task the most capable installation in the AOR to provide support. Because the OPR shall maintain a daily status of the MWD teams, it will be able to validate and distribute the requirements in more efficient manner.

G. EFFECTIVE DATE

This Instruction is effective immediately.

Stephen M. Duncan

Stephen M. Duncan
DoD Coordinator for
Drug Enforcement Policy and Support

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