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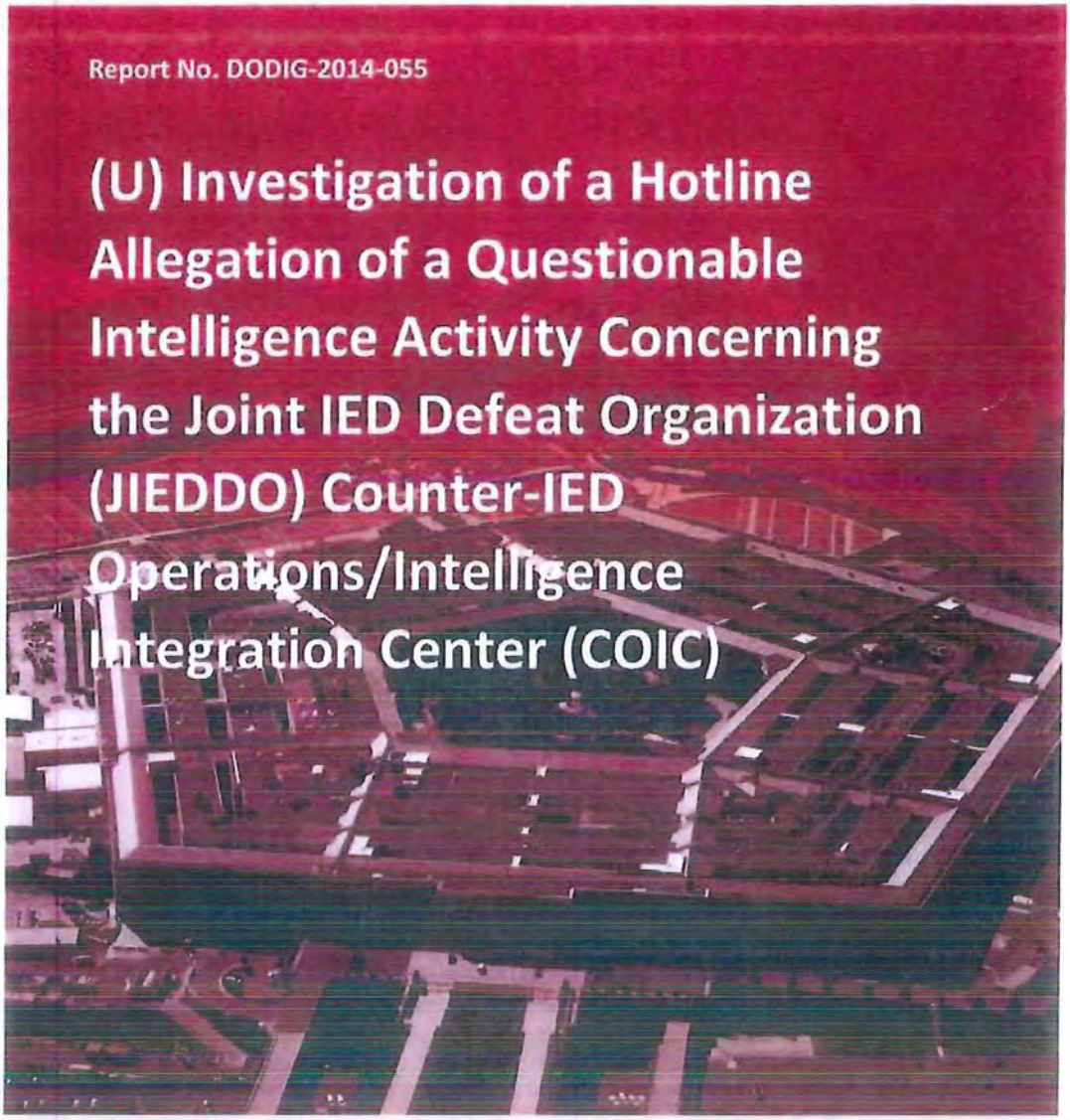
INSPECTOR GENERAL

Department of Defense

April 4, 2014

Report No. DODIG-2014-055

(U) Investigation of a Hotline Allegation of a Questionable Intelligence Activity Concerning the Joint IED Defeat Organization (JIEDDO) Counter-IED Operations/Intelligence Integration Center (COIC)



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APR 04 2014

MEMORANDUM FOR ACTING DEPUTY SECRETARY OF DEFENSE
DIRECTOR, JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT ORGANIZATION

SUBJECT: (U) Investigation of Hotline Allegation of a Questionable Intelligence Activity Concerning the Joint Improvised Explosive Device Defeat Organization (JIEDDO), Counter-IED Operations/Intelligence Integration Center (COIC)

(U) We are providing this report for your information and action. We conducted an investigation in response to an anonymous DoD IG Hotline allegation that the Joint IED Defeat Organization (JIEDDO), Counter-IED Operations/Intelligence Integration Center (COIC) illegally or inappropriately collected information about U.S. persons.

(U) We substantiated an allegation that JIEDDO collected U.S. person information. We considered comments from the Acting Deputy Secretary of Defense and the Director, JIEDDO, in preparing the final report. The Acting Deputy Secretary of Defense determined there was no requirement to designate JIEDDO as a Defense Intelligence Component, non-concurred with our recommendation to suspend the JIEDDO's current intelligence collection activities pending clarification of JIEDDO's collection authorities, and was generally responsive to all other recommendations. Our responses to management comments are found on pages 14-73 of the report. We respectfully request that the Acting Deputy Secretary of Defense and the Director, JIEDDO, provide comments to this final report, as appropriate. See Recommendations Table at page iv.

(U) We appreciate the courtesies extended to the staff. We look forward to evaluating the organization in the future. Please direct your questions and comments to me at (703) 882-[redacted] DSN 499-[redacted]

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

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Results in Brief

Investigation of a Hotline Allegation of a Questionable Intelligence Activity Concerning the JIEDDO COIC (U)

April 4, 2014

(U) What We Did

(U//~~FOUO~~) We conducted an investigation in response to a DoD Hotline allegation that the Joint Improvised Explosive Device Defeat Organization (JIEDDO) Counter-Improvised Explosive Device Operations/Intelligence Integration Center (COIC) illegally or inappropriately collected information about U.S. persons.

(U) What We Found

(U//~~FOUO~~) We substantiated an allegation that JIEDDO collected U.S. person information.

(U//~~FOUO~~) We found that JIEDDO:

- (U//~~FOUO~~) Leadership directed analysts to intentionally collect open-source data on U.S. companies violating DoD 5240.1-R;
- (U//~~FOUO~~) Collected on U.S. persons to support hostage rescue violating DoD 5240.1-R;
- (U//~~FOUO~~) Collected on a former U.S. Marine Reservist and legal U.S. residents violating DoD 5240.1-R;
- (U//~~FOUO~~) Collected telephonically from Afghan farmers in Afghanistan using alias and unauthorized/uncoordinated cover as a U.S. university student violating DHE-M 3301.002 "Defense Human Intelligence (HUMINT) Enterprise Manual;" and
- ~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c) [redacted]
- (U//~~FOUO~~) We referred seven issues for appropriate action.

(U) What We Recommend

(U//~~FOUO~~) We recommend that the Deputy Secretary of Defense:

1. (U//~~FOUO~~) Determine if JIEDDO should be designated a DoD intelligence component and incorporated into DoD 5240.1-R and DoDD 2000.19E;
2. (U//~~FOUO~~) Approve DoDD 2000.19E to reflect JIEDDO's authorized intelligence functions, roles and responsibilities, and assign an executive agent for JIEDDO's external intelligence oversight;
3. (U//~~FOUO~~) Direct JIEDDO to participate only in tasks directly related to its specified counter-IED mission;
4. (U//~~FOUO~~) Determine whether JIEDDO's mission evolution from "defeat the network" to "attack the network" is in accordance with DoDD 2000.19E; and
5. (U//~~FOUO~~) Create an internal Inspector General position for JIEDDO to oversee the organization's intelligence oversight program.

(U//~~FOUO~~) We recommend that the Director, JIEDDO:

6. (U//~~FOUO~~) Cease collection activities pending OSD authorization;
7. (U//~~FOUO~~) Authorize the COIC to fill the existing Deputy General Counsel for Operations and Intelligence billet;
8. (U//~~FOUO~~) Review hardcopy and softcopy holdings for U.S. persons information, and delete or retain in accordance with DoD 5240.1-R;
9. (U//~~FOUO~~) Review internal procedures and legal opinions to ensure that collecting on U.S. persons is in accordance with Title 10 U.S.C, EO 12333, DoD 5240.01 series, and other applicable policies and instructions; and
10. (U//~~FOUO~~) Tailor JIEDDO's intelligence oversight training.

(U) Management Comments and Our Response

(U//~~FOUO~~) We considered comments from the Acting Deputy Secretary of Defense and the Director, JIEDDO in preparing the final report. The Acting Deputy Secretary of Defense determined there was no requirement to designate JIEDDO as a Defense Intelligence Component, non-concurred with suspending the JIEDDO's current intelligence collection activities, but directed the Under Secretary of Defense for Intelligence to establish guidance concerning JIEDDO's collection authorities. The residual management comments were generally responsive. We remain concerned about the ambiguity of JIEDDO's current mission, authorities and compliance with DoD 5240.1-R. We look forward to reviewing the Under Secretary of Defense for Intelligence's clarifying guidance to JIEDDO.

Recommendations Table

Management	Recommendations Requiring Comment	No additional Comments Required
Deputy Secretary of Defense	Recommendations (A.1; E.1), (A.2; D.1; E.2)	Recommendations A.3, A.4, A.5
Director, Joint IED Defeat Organization	Recommendations A.6, A.9	Recommendations A.7., (A.8; B.3; C.3), (A.10; B.4; C.4.; D.4)

Where a given recommendation was made in response to more than one finding, the multiple recommendations are listed within parentheses to designate their status as a group.

(A.1; E.1) Recommendations A.1 and E.1 are identical.
(A.2; D.1; E.2) Recommendations A.2, D.1, and E.2 are identical.
(A.5; B.1; C.1; D.2) Recommendations A.5, B.1, C.1, and D.2 are identical.
(A.7; B.2; C.2; D.3) Recommendations A.7, B.2, C.2, and D.3 are identical.
(A.8; B.3; C.3) Recommendations A.8., B.3, and C.3 are identical.
(A.10; B.4; C.4; D.4) Recommendations A.10, B.4, C.4, and D.4 are identical.

Distribution:

DoD Organizations

Deputy Secretary of Defense
Under Secretary of Defense for Intelligence
Under Secretary of Defense for Policy
Director, Defense Intelligence Agency
Inspector General, Defense Intelligence Agency
Director, Joint IED Defeat Organization

Non-DoD Organizations

Inspector General, Director of National Intelligence

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(U) Introduction

(U) Objective

(U//~~FOUO~~) We conducted this investigation in response to a May 2, 2012, DoD IG Hotline allegation of unauthorized collection of information on U.S. persons by the Joint Improvised Explosive Device Defeat Organization (JIEDDO) Counter-IED Operations/Intelligence Integration Center (COIC), hereafter referred to as the "COIC." This investigation's objective was to determine if the COIC followed appropriate laws, regulations, and procedures on collecting, processing, storing, and disseminating U.S. persons information.

(U) Background

(U//~~FOUO~~) In February 2006, DoD Directive (DoDD) 2000.19E, "Joint Improvised Explosive Device Defeat Organization (JIEDDO)," established JIEDDO as a joint entity and jointly-manned DoD activity. Its mission was to "focus (lead, advocate, coordinate) all DoD actions in support of the combatant commanders' and their respective Joint Task Forces' efforts to defeat Improvised Explosive Devices (IED) as weapons of strategic influence." As reported by the Government Accountability Office (GAO), JIEDDO was directed to identify, assess, and fund initiatives that provide specific counter-IED solutions. The JIEDDO director was authorized to approve joint IED defeat initiatives valued up to $25 million per initiative and make recommendations to the Deputy Secretary of Defense (DEPSECDEF) for initiatives valued over $25 million. The Secretary of Defense assigned the Secretary of the Army as the Executive Agent for JIEDDO's administration function while maintaining JIEDDO's operational functions at the Office of the Secretary of Defense (OSD)-level; with the Director, JIEDDO, reporting directly to the Deputy Secretary of Defense. DoDD 2000.19E assigned the Director, JIEDDO, the intelligence-related task to "Establish a Joint Common Operational Picture and Joint Common Intelligence Picture of the IED system in the Global War on Terrorism."

(U//~~FOUO~~) JIEDDO (b)(6), (b)(7)(C) COIC, reported that in an effort to increase the Department's and the supported combatant command's (COCOM) awareness and understanding of the enemy networks supporting the IED problems, General Montgomery Meigs, U.S. Army (retired), JIEDDO's former director, established the Counter-IED Operational Integration Center (COIC) in 2006. An August 22, 2007, JIEDDO memorandum, subject: "Establishment of the Counter-IED Operational Integration Center (COIC)," COIC Response to Efficiency Study said that:

> the Director, Joint Improvised Explosive Device Defeat Organization (JIEDDO), in coordination with the Deputy Secretary of Defense and Vice Chairman of the Joint Chiefs of Staff, approved the establishment of the Counter-IED Operational Integration Center (COIC).... on 17 March 2006. The formal activation of the COIC as an organization was effective 1 August 2006.

In February 2011, the COIC was renamed the Counter-IED Operations/Intelligence Integration Center (COIC) and became JIEDDO's sole intelligence component.

(U//~~FOUO~~) The COIC was created after DoDD 2000.19E was written; therefore, it did not articulate the COIC's authorities, roles, and responsibilities. However, JIEDDO Instruction 5240.01 stated that the COIC's mission was to support:

> all Combatant Commands, the JIEDDO Counter-IED Operations/Intelligence [Integration] Center (COIC) harnesses, masses, and fuses information, analysis, technology, interagency, (sic) collaboration, and training support to enable more precise attacks to defeat networks which employ IEDs. Be prepared to provide analytical support and enemy network information to other Government Organizations and Coalition partners.

(U//~~FOUO~~) The JIEDDO Organization and Function Guide (JOFG), of January 21, 2011, gave the following mission guidance to the COIC:

> (U) COIC 1 -- In direct support of all Combatant Commanders and the JIEDDO, support and sustain an autonomous operations integration center with analytical, technology, and training support capabilities and sustain an integrated operations and intelligence picture of all data resulting from the collection, analysis, and dissemination of information related to the activities and capabilities of violent extremist networks globally [in order to] enable tactical, operational and strategic planning and operations.
>
> (U) COIC 2 -- Create and sustain partnerships and leverage the capabilities of the intelligence community and inter-agency [in order to] benefit from their intelligence collection strategies and their exploitation, analysis, and dissemination of information related to the activities of violent extremist networks globally.

(U//~~FOUO~~) COIC leadership provided an overview brief on July 16, 2012, which stated the COIC was not authorized to conduct intelligence collection missions. The leadership further said that the COIC had no authority to collect information on U.S. persons and must adhere to Executive Order 12333 and DOD Regulation 5240.1-R. In a memorandum dated, August 09, 2012,

the Vice Director, JIEDDO, responded to a DoD IG data call stating that neither "JIEDDO nor the COIC collects information on U.S. persons."

(U//~~FOUO~~) A COIC senior leader said the COIC created the Open Source Analysis Augmentation Center (OSAAC) to review and research newspapers and other publicly-available data to support JIEDDO requirements. In the senior leader's opinion, publicly-available data relating to JIEDDO's mission could be used, even if it were open-source data on U.S. persons. Another senior leader said the OSAAC provided open-source support to JIEDDO's counter-IED mission and the OSAAC created 40-50 open-source analytical products per month. Senior analysts at the OSAAC stated their open source research did not consist of intelligence collection because it was open source and because the OSAAC did not label its products as "intelligence." The DoD Office of General Counsel said that other than a JIEDDO General Counsel's legal opinion, of December 4, 2012, the DoD Office of General Counsel did not know of any other legal opinion about establishing the COIC's OSAAC.

(U//~~FOUO~~) Finally, JIEDDO responded to a 2012 Office of the Secretary of Defense Cost Analysis Program Evaluation study that stated the COIC was organized into six divisions (Operations, Net-Centric Innovation, Mission Integration, Mission Support, Training Integration, and Operations Research/Systems Analysis) under the Command Group. The COIC required personnel strength totaled 1,359 individuals (12 military, 46 government, and 1,301contractors.)

(U) Scope and Methodology

(U) We conducted this investigation from June 2012 to January 2013, in accordance with the Council of the Inspectors General on Integrity and Efficiency Quality Standards for Inspection and Evaluation. We focused on whether the COIC collected information about U.S. persons[1]. Our investigation encompassed over 40 interviews of subject-matter experts, including JIEDDO Headquarters and COIC government and contract personnel, and officials from the Under Secretary of Defense for Intelligence (OUSD(I)).

[1] (U) According to DoD 5240.1-R, the term "United States person" means:
A United States citizen; An alien known by the DoD intelligence component concerned to be a permanent resident alien; An unincorporated association substantially composed of United States citizens or permanent resident aliens;
A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments. A corporation or corporate subsidiary incorporated abroad, even if partially or wholly owned by a corporation incorporated in the United States, is not a United States person. A person or organization outside the United States shall be presumed not to be a United States person unless specific information to the contrary is obtained. An alien in the United States shall be presumed not to be a United States person unless specific information to the contrary is obtained. A permanent resident alien is a foreign national lawfully admitted into the United States for permanent residence.

(U) Finding A: The COIC Improperly Collected Information on U.S. Persons

(U//~~FOUO~~) Our investigation substantiated the allegation that COIC personnel improperly collected information about U.S. persons. At the direction of COIC and JIEDDO leadership, analysts collected information on U.S. companies and their CEOs, U.S. hostages held by foreign extremists, and specific U.S. persons. In addition, COIC analysts improperly collected intelligence using aliases and uncoordinated cover. As a result, COIC leadership and analysts actions violated, or were inconsistent with, Executive Order 12333, "United States Intelligence Activities"; DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"; and DoD Joint IED Defeat Organization Instruction 5240.01, "JIEDDO Intelligence Oversight"; as well as DoDD S-5200.37 "Management and Execution of Defense Human Intelligence (HUMINT);" and DHE-M 3301.002 "Defense Human Intelligence (HUMINT) Enterprise Manual, Volume II: Collection Operations."

(U) Collection on U.S. Companies and CEOs

(U//~~FOUO~~) Contract analysts at the COIC, at the direction of JIEDDO (b)(6), (b)(7)(C) [redacted], JIEDDO (b)(6), (b)(7)(C) [redacted], JIEDDO, and other senior JIEDDO and COIC leadership, intentionally collected open-source data on the following U.S. companies: JIEDDO (b)(7)(A) [redacted]. The collection occurred from 2011 through 2012, and JIEDDO (b)(6), (b)(7)(C) [redacted] began his endorsement not later than August 2012. One senior government analyst expressed concerns about the collection to COIC leadership and the COIC Intelligence Oversight Officer. But the analyst was told by JIEDDO (b)(6), (b)(7)(C) [redacted], that JIEDDO (b)(6), (b)(7)(C) [redacted] wanted this information collected and that the analyst "should do it." When the analyst refused, JIEDDO (b)(6), (b)(7)(C) [redacted] removed him from the FATIMA Group[2] project. The senior analyst said he believed he was removed to protect him, and not as a way to retaliate against him. According to a COIC senior analyst, the Defense Intelligence Agency conducted a deep-dive study into the FATIMA Group and found no illicit activities. JIEDDO (b)(6), (b)(7)(C) [redacted] said that as of August 2012, JIEDDO had not established a terrorism nexus with the FATIMA Group. The analysts' collection of the data, and the orders from JIEDDO (b)(6), (b)(7)(C) [redacted] and other senior leaders, violated DoD 5240.1-R because no "reasonable belief" was established that

[2] (U//~~FOUO~~) The FATIMA Group is a Pakistani conglomerate based in Lahore, Pakistan, that manufactures calcium ammonium nitrate, which is "cooked down" to Ammonium Nitrate and used by terrorists and insurgent groups in Afghanistan as an explosive material in Improvised Explosive Devices (IEDs). According to multiple subject matter experts at JIEDDO, up to 80% of the IEDs used in attacks on Coalition Forces in Afghanistan were made using Ammonium Nitrate that originated as FATIMA Group calcium ammonium nitrate fertilizer.

these U.S entities were associated with the Counter IED threat or with terrorist-sponsored or illicit organizations.

(U//~~FOUO~~) According to a COIC analyst from the COIC Threat Development Cell, [redacted] directed that the COIC collect information on U.S. companies that did business with FATIMA Fertilizer (a fertilizer subsidiary of the FATIMA Group) to determine which U.S. companies could be approached to request support in pressuring the FATIMA Group. Another senior COIC analyst said [redacted] pressured the COIC to collect information about U.S. companies that were affiliated with the FATIMA Group and that the analyst felt pressure from [redacted] to investigate these U.S. businesses. The analyst sent a July 13, 2012, email to the COIC's Intelligence Oversight officer regarding the COIC's authority to collect and retain information about U.S. businesses associated with the FATIMA Group. According to the email chain, as of July 31, 2012, the Intelligence Oversight officer had not responded to the question. The analyst said the Intelligence Oversight officer later gave a verbal response that [redacted] request could not be supported due to a lack of derogatory information associated with the U.S. entities.

(U//~~FOUO~~) In August 2012, [redacted] told his senior staff that he wanted to examine U.S. companies who provided equipment or funding to the FATIMA Group. According to an August 1, 2012, email response from [redacted] understood that [redacted] assignment was to research the FATIMA Group. [redacted] checked Dunn & Bradstreet[3] for U.S. holdings and sent a Request for Information to CIA for any links between Fatima Group and U.S. companies and any observable terrorist activity. [redacted] told senior JIEDDO officials that because JIEDDO had not established a terrorism nexus with FATIMA, CIA may not accept the request. [redacted], replied to [redacted] that the information JIEDDO leadership sought was similar to a mergers and acquisition analysis and represented action a company would take if it was interested in buying FATIMA. [redacted] said that the information would give a full profile with whom the FATIMA Group conducted business, beyond U.S. companies and interests. [redacted] said the information would obviously contain an abundant amount of financial and investor data that would illuminate with whom FATIMA interacted, and would, if all preceded smoothly, give JIEDDO options for potential direct/indirect actions that could be leveraged through JIEDDO's Whole-of-Government[4] partners and [government] allies.

~~(S//REL TO USA, ISA, NATO)~~ [redacted]

[3] (U) Dunn & Bradstreet is a public company that licenses information on businesses and corporations for use in credit decisions, business-to-business marketing, and supply chain management. Dunn & Bradstreet maintains information on more than 220 million companies worldwide.

[4] (U) JIEDDO maintains partnerships with government agencies, non-governmental organizations, national laboratories, international partners, and others to synchronize their counter-threat network capabilities and actions.

J EDDO: (b)(1), 1.4(c), (b)(6), (b)(7)(C)

[redacted]

JIEDDO: (b)(1), 1.4(c)

[redacted]

(U//~~FOUO~~) A member of JIEDDO's Homemade Explosives Task Force said that in about September 2012, JIEDDO began receiving information about U.S. companies which did business with the FATIMA Group, how much stock the U.S. companies had in the FATIMA Group, and the FATIMA Group's plans to expand into the United States. The member said that J EDDO: (b)(6), (b)(7)(C) planned to meet with financial institutions that conducted business with the FATIMA Group, but that the appropriate member(s) of the interagency team, with embedded support from JIEDDO liaisons, did most engagements. The member said that, other than the biographies of those persons the JIEDDO Director was meeting with, the Homemade Explosives Task Force did not store any data on U.S. persons. However, we discovered a point paper that contained data regarding several U.S. companies. The undated Homemade Explosives Task Force-produced "WHOLE of INDUSTRY" paper stated:

> The September 2012 Non-Attritable [sic] negative article on Fatima[5] will have some unintended consequences. Gov't to Gov't contact about Fatima is not working, we need to utilize corporate and industry association partnerships to gain the positive effects on the battlefield.

The paper further stated: "All of this information can be captured on open source, business information links and then converted into intelligence we can use to leverage our negotiations with FATIMA Group and Pakistan." Among areas to be pursued for discussion, the paper also stated: "Identify all assets and companies, parent company, subsidiaries, joint ventures, and other relationships, etc. Check for legitimate nature and for any connections to suspect firms, business leaders/management, foreign partnerships (Germany, Denmark, US, UAE, KSA, etc.)." The paper further stated:

[5] (U) see JIEDDO: (b) Interview section

> Based on CONSUL Report, Fatima reported they were 'building on past engagement with JIEDDO (b)(7)(A), Fatima continues to work on developing fertilizer formulations that boost agricultural efficiency and are more difficult to convert into explosive use'- what do we know about JIEDDO (b)(7)(A) efforts and work with Fatima Group? Did they submit for the BAA[6] that JIEDDO published recently?

The paper added:

> FATIMA has existing relationships with numerous western organizations, including JIEDDO (b)(7)(A) and JIEDDO (b)(7)(A) JIEDDO (b)(7)(A) (who have a long term partnership), but the JIEDDO (b)(7)(A) has been assigned as 'Market Maker' for FATIMA in order to facilitate their trading on the over-the-counter (OTC) market in the USA. The Homemade Explosives Community of Seniors[7] stated in yesterday's VTC [Video TeleConference] that applying pressure to these partner companies is a possible course of action. By approaching these partner companies -- and their shareholders -- and making them aware that they are associated with a company whose product is being misappropriated causing 10840 casualties in 2011 alone, FATIMA may be encouraged to become more cooperative...

In discussing Pakistani chromate[8] mining, the paper stated: "The majority of these deposits are mined according to lease with the government of Pakistan and controlled primarily by a company called JIEDDO (b)(7)(A). This company in turn is 80% owned by an American mining company called JIEDDO (b)(7)(A)

(U//~~FOUO~~) According to a COIC senior official, the COIC began using the Dunn & Bradstreet database to examine business connections in late 2011. But the Dunn & Bradstreet database did not help as much as the COIC analysts had hoped. JIEDDO (b)(6), (b)(7)(C) and JIEDDO (b)(6), (b)(7)(C) said that since September 2012, JIEDDO (b)(7)(A) as part of its general intelligence analysis contract with the COIC, used a web crawler[9] called Halogen to mine open-source internet data to examine business information. The business information included the names of company leadership and the types of services the companies provided for businesses working with the FATIMA Group. JIEDDO (b)(6), (b)(7)(C) said the Halogen tool works much better at examining company relationships. The Halogen Team produced an undated briefing entitled, "Fatima Group U.S. Company Associations," which listed JIEDDO (b)(7)(A), and described the core expertise,

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[6] (U) A JIEDDO Broad Agency Announcement (BAA) is a competitive solicitation procedure used to obtain proposals for basic and applied research.

[7] (U//~~FOUO~~) Every six weeks, Director, JIEDDO, chairs a VTC meeting with senior leaders from the interagency members, including Department of Commerce, Department of Treasury, Department of Justice, Intelligence Community Agencies, and others.

[8] (U) Chromate is used in the manufacture of stainless steel

[9] (U) A computer program that automatically and systematically retrieves web pages for use by search engines

involvement with Fatima, work performed, ongoing relationship, and key personnel of JIEDDO (b)(7)(A) [redacted]

(U//~~FOUO~~) According to the DoD Office of General Counsel, other than a JIEDDO General Counsel legal opinion of December 4, 2012, the DoD Office of General Counsel was unaware of any law, policy, or legal opinion specifically regarding JIEDDO's authorities to engage and influence U.S. persons' (as defined in DoD 5240.01-R) foreign investments or trade for the purpose of coercing a foreign business to alter the production standard of its legitimate products sold outside the United States.

(U) Collection on U.S. Persons Held as Hostages

(U//~~FOUO~~) Contract analysts and government supervisors in the COIC's Special Operations Task Force collected information about named U.S. persons held captive by extremists. According to COIC officials, U.S. person data -- analyzed and amplified by Special Operations Task Force analysts -- was used to support operations to rescue or recover the U.S. hostages. DoD 5240.1-R, paragraph C2.3.11, allowed information to be collected about U.S. persons held hostage by international terrorist organizations. Paragraph C2.3 stated that a DoD intelligence component may collect the information only if it were necessary to conduct a function assigned to the collecting component. JIEDDO had no hostage rescue mission to collect information about these U.S. persons and therefore violated DoD 5240.1-R.

(U) Collection on a U.S. Military Person

(U) According to press reports, on June 17, 2011, a named U.S. person, who was a Marine Corps Reserve lance corporal, was arrested near the Pentagon in Arlington National Cemetery while carrying suspected bomb-making materials and pro-al Qaida literature. A COIC analyst said that on the day of the arrest, J EDDO (b)(6), (b)(7)(C) directed the COIC to collect information about the named U.S. person. According to the analyst, J EDDO (b)(6), (b)(7)(C) said, "do not worry about any regulations, this relates to bombs." The analyst said that a COIC law enforcement liaison had already retrieved the U.S. person's social security number and given it to COIC analysts to be researched. This domestic collection on U.S. persons violated DoD 5240.1-R because domestic collection fell outside JIEDDO's jurisdiction and the foreign intelligence function assigned to the COIC.

(U) Bowling Green Case

~~(S//NF)~~ J EDDO (b)(1), 1 4(c) [redacted]

JIEDDO: (b)(1), 1.4(c), (b)(6), (b)(7)(C)

[redacted]

(U) A May 31, 2011, press report stated the following:

> The FBI began to investigate Alwan in September 2009... Alwan allegedly was part of the insurgency from 2003 until May 2006, when he was arrested by Iraqi authorities. Although both Alwan and Hammadi were arrested by Iraq security forces in 2006, they were allowed to enter the United States as refugees in April and July 2009, respectively.

(U) According to Title 10 United States Code, Section 371:

a. The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

b. The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the DoD and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

(U//~~FOUO~~) JIEDDO supports the DoJ and the FBI. According to Chapter 18, Title 10, U.S. Code, JIEDDO can support civilian law enforcement, through USNORTHCOM, on matters within the purview of The Military Cooperation with Civilian Law Enforcement Agencies Act of 1981. A senior COIC official said that the COIC assisted law enforcement agencies normally under the nexus of forensics for an IED event. However, according to the COIC officials, legal reviews are

not normally done on products provided to support law enforcement; the Intelligence Oversight officer does the review. Additionally, products released to third-party agencies do not always go through an IO review and people may not understand the requirement or procedure for adding groups to the "addressee line."

(U//~~FOUO~~) Another senior JIEDDO official said that JIEDDO indirectly supports Law Enforcement (LE) because the [Homemade Explosive] (HME) Task Force led a weekly VTC roundtable, which included members of the LE community. This senior JIEDDO official said the HME Task Force's role was to "play matchmaker," connecting organizations with data or intelligence with the organizations that could best use that data or intelligence. A senior JIEDDO official said that as an example of the HME Task Force's "matchmaker" role, it put the International Security Assistance Force (ISAF) in contact with organizations responsible for border security in Afghanistan. Citing another example of "matchmaking", this senior JIEDDO official said that the HME Task Force linked British personnel, who were focused on the Taliban, with the appropriate U.S. agency. A USD(I) representative said he was unaware of any JIEDDO authority to assist law enforcement, and another USD(I) representative said JIEDDO is not authorized to assist law enforcement, but USD(I) knows JIEDDO does, in fact, provide such assistance.

(U) Regarding DoD intelligence support to civilian law enforcement agencies, JIEDDOI 5240.01 provided the following guidance:

> 4g. When a request for support to a civilian law enforcement agency involves the provision of [foreign intelligence] FI or [counterintelligence] CI support, it is considered an intelligence activity, subject to IO and is processed in accordance with Procedure 12 of [DoD Regulation 5240.1-R] and DoDD 5525.5 [DoD Cooperation with Civilian Law Enforcement Officials]. When the requested DoD intelligence component capability support to civilian law enforcement agencies does not involve FI or CI, it must be processed in accordance with [DoDD 5525.5] and be approved by the Secretary of Defense or his delegate.

(U) Foreign Intelligence Collection by a COIC Contract Analyst

(U//~~FOUO~~) We found that [redacted], a contract [redacted] analyst at the COIC's OSAAC collected information by telephone from Afghan farmers in Afghanistan by using both a notional alias and an unauthorized and uncoordinated notional cover as an American university student. [redacted] was [redacted] who, in addition to working as a contract analyst for the COIC OSAAC, also worked, and continues to work, [redacted]

JIEDDO (b)(6), (b)(7)(C). She said that in 2009 an OSAAC co-worker, whose name she could not recall, requested that she telephone farmers in Kandahar, Afghanistan, and ask about their crops and opinions on the Coalition war effort in that country. JIEDDO (b)(6), (b)(7)(C) said the co-worker suggested that she tell the farmers that she was a U.S. college student doing research for a paper. JIEDDO (b)(6), (b)(7)(C) said she was uncomfortable making the phone calls, and after two days, refused to continue. JIEDDO (b)(6), (b)(7)(C) JIEDDO (b)(6), (b)(7)(C) said the co-worker no longer worked for OSAAC. The uncoordinated collection, using an alias and university cover, was not consistent with DHE-M 3301.002 "Defense Human Intelligence (HUMINT) Enterprise Manual, Volume II: Collection Operations," chapter 1, paragraph 2, which required that "appropriately trained and certified individuals are the only personnel authorized to conduct HUMINT[10] operations beyond tactical questioning. Therefore, the collection violated DoDD S-5200.37 "Management and Execution of Defense Human Intelligence (HUMINT)" enclosure 2, paragraph 3 h, which stated that Defense HUMINT Executors will "Require personnel conducting HUMINT activities to be trained in accordance with core common tradecraft standards, established in consultation with the Defense HUMINT Manager, USJFCOM, and the National HUMINT Manager in accordance with [DoD Instruction 3305.15, "DoD Human Intelligence (HUMINT) Training," February 25, 2008], and consistent with [Director of National Intelligence, Intelligence Community Directive Number 304, "Human Intelligence," March 6, 2008]."

(U) The COIC's Collection of Information Utilizing Facebook/Twitter and Use of Aliases

(~~S//NF~~) JIEDDO (b)(1), 1.4(c), (b)(6), (b)(7)(C)

(~~S~~) JIEDDO (b)(1), 1.4(c)

[10] (U) Joint Publication 1-02 defines Human Intelligence or HUMINT as: "A category of intelligence derived from information collected and provided by human sources."

JIEDDO: (b)(1), 1.4(c) [redacted]

~~(S)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

JIEDDO: (b)(1), 1.4(c), (b)(6), (b)(7)(C) [redacted]

(U) Conclusion

(U//~~FOUO~~) Our investigation substantiated the allegation that the COIC improperly collected information about U.S. persons without proper authority. In addition, COIC analysts improperly collected intelligence using aliases and uncoordinated cover. These actions violated, or were inconsistent with, Executive Order 12333, "United States Intelligence Activities"; DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"; and DoD Joint IED Defeat Organization Instruction 5240.01, "JIEDDO Intelligence Oversight"; as well as DoDD S-5200.37 "Management and Execution of Defense Human Intelligence (HUMINT)" and DHE-M 3301.002 "Defense Human Intelligence (HUMINT) Enterprise Manual, Volume II: Collection Operations."

(U) Recommendations, Management Comments, and Our Response

A.1. (U//~~FOUO~~) Determine whether the Joint Improvised Explosive Device Defeat Organization should be designated a DoD intelligence component, much like the intelligence elements of the Services and the senior intelligence offices of the combatant commands. If so designated, approve appropriate authorization for incorporation into DoD 5240.1-R and DoDD 2000.19E within 120 days. If not designated, direct the Joint Improvised Explosive Device Defeat Organization to cease all intelligence collection activities.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense non-concurred with this recommendation and provided the following four-part comment:

> a. "Under the authorities in 50 USC § 3038 and E.O. 12333 § 1.10 (k), SECDEF may use such elements of the Department of Defense as may be appropriate for the execution of intelligence functions. In DoDD 2000.19E, SECDEF assigned intelligence functions to JIEDDO along with the authority to structure the organization to carry out those functions. Director, JIEDDO, in turn, assigned those authorities to COIC via internal JIEDDO policy documented in the JIEDDO Organization and Functions Guide."
>
> b. "JIEDDO's COIC, a subordinate staff component, does carry out intelligence activities as part of its mission and, as such, already meets the definition of a Defense Intelligence Component (DIC) under paragraph DL1.1.8.16 of DoD 5240.1-R. It is, therefore, already subject to the provisions governing intelligence oversight."
>
> c. "JIEDDO as an organizational entity should not be designated a DIC as recommended. JIEDDO in and of itself is not an intelligence organization and Director, JIEDDO, does not require the additional authority granted by DoD 5240.1-R to the Head of a named DIC."
>
> d. "In accordance with its responsibilities articulated in DoDD 2000.19E, paragraph 6.3.1., USD (I) will ensure that JIEDDO understands which specific collection authorities it has already and which will require additional approvals."

(U) Our Response

(U//~~FOUO~~) The Acting DEPSECDEF comments are partially responsive. However, we remain concerned about JIEDDO's compliance with the provisions of paragraph C1.1.1., APPLICABILITY AND SCOPE, of DoD 5240.1-R--specifically, that a DoD intelligence component's "[a]uthority to employ such techniques [Procedures 1 through 10] shall be limited to that necessary to perform functions assigned to the DoD intelligence component concerned," pending the reissuance of DoDD 2000.19E.

(U) In considering compliance with DoD 5240.01-R, we note that paragraph 4 of DoDD 2000.19E describes the JIEDDO mission as follows:

> "The JIEDDO shall focus (lead, advocate, coordinate) all Department of Defense actions in support of the Combatant Commanders' and their respective Joint Task Forces' efforts to defeat the Improvised Explosive Devices as a weapon of strategic influence."

(U) In addition, paragraph 6.2 of DODD 2000.19E assigns the Director, JIEDDO, certain responsibilities and functions including:

> "Establish a Joint Common Operational Picture and Joint Common Intelligence Picture of the IED system in the Global War on Terrorism;" (paragraph 6.2.7.)
>
> "Collect and analyze data from the field to assess the effectiveness of current intelligence support for Combatant Commanders and their staffs;" (paragraph 6.2.15.)
>
> "[D]evelop and track responses to priority intelligence requirements;" (paragraph 6.2.15.)
>
> "[I]n coordination with the operational chain of command, develop new intelligence support and intelligence requirements against IED threats to ensure the Combatant Commanders' needs are met." (paragraph 6.2.15.)

(U/~~FOUO~~) The JIEDDO mission statement does not appear to necessitate the intentional collection on U.S. persons using Procedures 2 through 4 of DoD 5240.1-R. We found widespread confusion among the JIEDDO staff, including both junior and senior personnel, on its authority to collect on U.S. persons. Most troubling was the COIC's JIEDDO (b)(6), (b)(7)(C) statements in his initial formal briefing to the DoD IG team and in subsequent communication with the DoD IG that the COIC lacked intelligence collection authority, did not collect intelligence, and was not authorized to collect intelligence on U.S. persons.

(U//~~FOUO~~) Furthermore, even if the intentional collection on U.S. persons was within JIEDDO's and the COIC's mission functions, as articulated in paragraphs 4, 6.2.7, and 6.2.15., we found that the COIC was performing collection activities that fell outside these mission functions.

(U//~~FOUO~~) We maintain that the current DoDD 2000.19E does not clearly define the intelligence collection authorities and functions that the Secretary of Defense assigned to JIEDDO and that the functions that the Director, JIEDDO, delegated to the JIEDDO COIC were predicated on implied authorities. We based our conclusion on the following:

- (U//~~FOUO~~) According to two USD(I) officials, in January 2010, JIEDDO: (b)(6), (b)(7)(C) JIEDDO: (b)(6), (b)(7)(C), expressed concerns to USD(I) about authorities related to JIEDDO COIC's intelligence functions.

- (U//~~FOUO~~) On July 16, 2012, the JIEDDO: (b)(6), (b)(7)(C), JIEDDO COIC, briefed the DoD IG team that "JIEDDO-COIC has no authorities to conduct intelligence collection missions and JIEDDO has no authorities to collect on U.S. Persons and must adhere to applicable USG and DOD Directives [EO 12333 and DoD 5240.1]."

- (U//~~FOUO~~) On August 09, 2012, the JIEDDO: (b)(6), (b)(7)(C), JIEDDO, responded to a DoD IG data call stating that neither "JIEDDO nor the COIC collects information on U.S. persons."

- (U//~~FOUO~~) A JIEDDO legal opinion, dated December 4, 2012, stated that in October 2012, the JIEDDO: (b)(6), (b)(7)(C) questioned the scope of JIEDDO's mission and the JIEDDO COIC's authority to collect open source intelligence, and the JIEDDO COIC's authority to collect information on U.S. persons.

- (U//~~FOUO~~) Representatives of the Office of the Assistant Secretary of Defense for Intelligence Oversight ATSD (IO) maintain that DoDD 2000.19E granted JIEDDO the authority to conduct intelligence activities (although specific tasks and authorities could not be articulated). According to a senior ATSD (IO) representative, no charter doctrine existed for JIEDDO COIC, and JIEDDO may be operating under the implied authority to collect intelligence. This senior ATSD (IO) representative suggested that we [DoD IG] check with the Joint Staff and the Office of the Deputy Secretary of Defense for JIEDDO's [intelligence] authorities.

- A senior Under Secretary of Defense for Intelligence representative explained that the Under Secretary of Defense for Intelligence never resolved JIEDDO's specific intelligence collection authorities, but acknowledged that JIEDDO was conducting intelligence activities.

Therefore, we underscore the Acting Deputy Secretary of Defense's direction to the Under Secretary of Defense for Intelligence to provide clarifying guidance on the scope of JIEDDO's intelligence collection authorities pending its reorganization and the republication of DoDD 2000.19E. We request a copy of the Under Secretary of Defense for Intelligence's guidance upon issuance.

(U) Director, JIEDDO

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on the Recommendation A.1, addressed to the Acting Deputy Secretary of Defense. The Director stated that JIEDDO COIC has sufficient intelligence-related legal authorities to carry out its current mission to "defeat the IED system," even though it is not formally designated as a Defense Intelligence Component (DIC) under DOD 5240.1-R. However, the Director further stated that JIEDDO will prepare a detailed mission statement for its intelligence operations as its future overall mission changes. The Director, JIEDDO, also provided comments to Finding A. (See Appendix C for Director, JIEDDO, comments and our response.)

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were not responsive. We did not find irrefutable evidence of JIEDDO's specific collection authority to intentionally conduct human, signal, or open source intelligence activities. At the time of the collection activities highlighted in this report, JIEDDO COIC concluded that JIEDDO lacked the authority to collect on U.S. persons and did not conduct collection activities. We maintain that JIEDDO's use of non-doctrinal words such as "harnessing" and "fusing" of information, in lieu of intelligence collection, contributed to confusion about JIEDDO's intelligence authorities and made JIEDDDO COIC vulnerable to conducting activities that may have violated DoDD 5240.1-R. The forthcoming rewrite of JIEDDO's mission and the Under Secretary of Defense for Intelligence's (USD(I)) clarification of JIEDDO'S intelligence collection authorities should provide the necessary clarity on JIEDDO's intelligence authorities, mission, and functions.

A.2. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense approve DoDD 2000.19E to reflect the Joint Improvised Explosive Device Defeat Organization Counter-IED Operations/Intelligence Integration Center's authorized intelligence functions, roles, and responsibilities, and assign an executive agent for JIEDDO's external intelligence oversight.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense partially concurred with this recommendation and provided comments that DoDD 2000.19E would be updated as JIEDDO is reorganized and transitioned per the Deputy Management Action Group's decision memo of September 6, 2013. The Acting Deputy Secretary of Defense recommended 180-day suspense, from concept approval, for the update DoDD 2000.19E vice the 120 days stated in Recommendation A.1.

(U) Our Response

(U//~~FOUO~~) The Acting Deputy Secretary of Defense's comments were partially responsive. The Acting Deputy Secretary of Defense concurred with updating DoDD 2000.19E, but recommended a

suspense of 180 days from the approval of JIEDDO's reorganization concept. We concur with the 180-day suspense. The Acting Deputy Secretary of Defense was not responsive to assigning an executive agent for JIEDDO'S external intelligence oversight. We believe that it is critical to assign an executive agent for intelligence to an external DoD organization capable of integrating JIEDDO's intelligence activities into its intelligence oversight program. We respectfully request that the Acting Deputy Secretary of Defense reconsider this part of the recommendation and provide comments to the final report.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on Recommendation A.2, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished in the next update to DoDD 2000.19E.

(U) Our Response

The comments of the Director, JIEDDO, were responsive and require no further action.

A.3. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense direct the Joint Improvised Explosive Device Defeat Organization to participate only in tasks directly related to its counter-IED mission.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense partially concurred with this recommendation, commenting that "this recommendation was valid for activities carried out under the current charter." The Acting Deputy Secretary of Defense added that the mission scope may be affected by the issuing of an updated chartering directive, as described in Recommendation A2, regarding JIEDDO's new mission sets for the follow-on organization.

(U) Our Response

(U//~~FOUO~~) The Acting Deputy Secretary of Defense's comments were responsive in stating that "this recommendation was valid for activities carried out under the JIEDDO's current charter" and therefore requires no further action.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on Recommendation A.3, addressed to the Deputy Secretary of Defense. The Director stated that JIEDDO adheres to activities within the scope of its current authorities, subject to continuous oversight by senior leadership, and the JIEDDO Office of General Counsel. The Director also stated that this will change as JIEDDO's mission evolves.

(U) Our Response

The comments of the Director, JIEDDO, were not responsive. We concluded that JIEDDO's current intelligence authorities were not clearly defined in DoDD 2000.19E, the JIEDDO leadership differed on its understanding of JIEDDO's intelligence collection authorities, and the JIEDDO's General Counsel for Operations and Intelligence was not always consulted prior to fulfilling JIEDDO's requests for support or intelligence activities. Nevertheless, we believe Recommendation A.3, will be accomplished by the USD (I)'s clarification of JIEDDO'S intelligence collection authorities and the inclusion of JIEDDO's intelligence mission, authorities, and functions in the revised DoDD 2000.19E.

A.4. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense determine whether the Joint Improvised Explosive Device Defeat Organization's mission evolution from "defeat the network" to "attack the network" is in accordance with DoDD 2000.19E.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense concurred with this recommendation and provided comments. The Acting Deputy Secretary of Defense stated that this recommendation will be reflected in the reissuing of a chartering directive, as described in comments to Recommendation A2, addressing the new mission sets for the follow-on organization.

(U) Our Response

The Acting Deputy Secretary of Defense's comments were responsive and require no further action.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on Recommendation A.4, addressed to the Deputy Secretary of Defense. The Director stated that JIEDDO's mission evolved fully within the scope of JIEDDO's authorities under DODD 2000.19E and applicable law. Future chartering documents will provide greater detail on specific intelligence missions. The Director, JIEDDO, also provided comments to Finding A. (See Appendix C for Director, JIEDDO, comments and our response.)

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were not responsive. We conclude that JIEDDO's mission has evolved beyond its original charter in conducting activities not related to its original counter-IED mission. We base this conclusion on the fact that JIEDDO's mission has evolved from "defeat the network" to "attack the network," the expanding of JIEDDO's counter-IED focus from only Afghanistan to worldwide, JIEDDO's support to domestic law enforcement, and JIEDDO's HUMINT, SIGINT, and OSINT collection activities.

A.5 (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense create an internal Inspector General for JIEDDO to oversee the organization's intelligence oversight program.

(U) Acting Deputy Secretary of Defense

(U//~~FOUO~~) The Acting Deputy Secretary of Defense concurred with this recommendation and provided comments that reissuing the JIEDDO chartering directive will be used to clarify both the role of a JIEDDO IG and IG's relationship to a more senior IG in an appropriate defense component regarding Intelligence Oversight responsibilities.

(U) Director, JIEDDO

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments to Recommendation A.5, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished.

(U) Our Response

(U//~~FOUO~~) The comments of the Acting Deputy Secretary of Defense and the Director, JIEDDO, were responsive and require no further action.

A.6. (U//~~FOUO~~) We recommend that the Director, JIEDDO, cease intelligence collection activities, pending Office of the Secretary of Defense authorization.

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, non-concurred with this recommendation and commented that such action would needlessly deprive the warfighter of critical support regarding the IED threat in Afghanistan and elsewhere. The Director, JIEDDO, commented that JIEDDO COIC is used for foreign intelligence activities and the COIC's information and intelligence collection activities support JIEDDO's key mission--to defeat the IED system.

(U) Our Response Comments

(U//~~FOUO~~) The comments of the Director, JIEDDO, were not responsive to our recommendation. DoDD 2000.19E does not clearly define JIEDDO's intelligence collection authorities or functions that the Office of the Secretary of Defense assigned to JIEDDO. As stated in our response to Recommendation A.1, JIEDDO leadership continued to have conflicting opinions concerning JIEDDO's intelligence collection authority and activities. We believe that the Acting DEPSECDEF's comments regarding Recommendation A.1--that the USD (I) will ensure that JIEDDO understands its current collection authorities and limitations--will satisfy this recommendation. However, until the USD(I) provides JIEDDO guidance on what collection authorities and limitations JIEDDO currently has, we remain concerned about JIEDDO conducting activities that fall outside the scope of its original charter.

A.7. (U//~~FOUO~~) We recommend that the Director, JIEDDO, authorize the COIC a full time Deputy General Counsel for Operations and Intelligence billet.

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that the position was to be filled in January 2014.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action. Based on follow-on communication from JIEDDO, the previous General Counsel for Operations and Intelligence did return to JIEDDO in January 2014, but is currently filling the position of the Deputy General Counsel, JIEDDO.

A.8. (U//~~FOUO~~) We recommend that the Director, JIEDDO, review hardcopy and softcopy holdings for U.S. persons information, and delete or retain in accordance with DoD 5240.1-R, Chapter 3.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and provided the following comments that "this review is part of the ongoing Intelligence Oversight program. JIEDDO published JIEDDO Instruction 5240.1 in January 2012 which reviewed our procedures and opinions for compliance." JIEDDO COIC is close to finalizing a SOP on intelligence oversight and handling of information concerning US persons, led by the intelligence oversight officer and closely coordinated with the General Counsel's office.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive. We request JIEDDO complete the review no later than 30 days from the date of this report, staff its intelligence oversight SOP through the Office of the Assistant Secretary of Defense for Intelligence Oversight, and provide the results to the DoD IG.

A.9. (U//~~FOUO~~) We recommend that the Director, JIEDDO, review internal procedures and current legal opinions to ensure that collecting information about U.S. persons is in accordance with Title 10 United States Code, Executive Order 12333, DoD Directive 5240.01, DoD 5240.1-R, and other applicable policies and instructions.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and stated that JIEDDO Instruction 5240.1, published in January 2012, provided the procedures and opinions for

compliance. The Director also stated that JIEDDO COIC is finalizing a SOP on intelligence oversight and handling of information concerning U.S. persons, led by the intelligence oversight officer and closely coordinated with the General Counsel's office.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were partially responsive. The Director, JIEDDO, addressed finalizing JIEDDO's internal procedures, but did not address reviewing its current legal opinions. As stated in this report, legal opinions in the COIC were embellished with the organization's history and failed the due-diligence process in addressing the intelligence oversight activities to be conducted by the COIC analyst in responding to a request for support. As cited in a 2011, Headquarters, U.S. Army Reserve Command 15-6 investigation, the legal opinion that the JIEDDO's General Counsel provided addressed the fiscal law and funding issues associated with the support to be given, but did not address any possible issues regarding operations, intelligence training, and intelligence oversight. We request that JIEDDO review its current legal opinions to ensure they are current and prepared in accordance with applicable intelligence-related governing authorities. We believe that the Acting DEPSECDEF's comment--that the USD (I) will ensure that JIEDDO understands its current collection authorities and our response to Recommendation A.1--will assist JIEDDO in satisfying this recommendation.

A.10. (U//~~FOUO~~) We recommend that the Director, JIEDDO, tailor JIEDDO's intelligence oversight training to fit the COIC's unique mission and activities.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that JIEDDO tailored its training as part of JIEDDO Instruction 5240.1 in January 2012 and continues to refine the training to ensure compliance.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action.

**These recommendations are also applicable to Finding B, "The COIC Improperly Retained Information on U.S. Persons," Finding C, "The COIC Improperly Disseminated Information on U.S. Person," or Finding D, "The COIC Lacked Effective Intelligence Oversight."*

(U) Finding B: The COIC Improperly Retained Information on U.S. Persons

(U//~~FOUO~~) Our investigation revealed that the COIC improperly retained information about U.S. persons. The COIC failed to consistently conduct collectability and retention reviews on U.S. persons information in the COIC's holdings and U.S. persons information collected by COIC analysts was not compartmentalized on the occasions when a collectability and retention review was completed. The COIC did not comply with the 90-day retention timeframe because of poor intelligence oversight reviews. Finally, the COIC also lacked a systematic means for purging U.S. persons information that was inappropriate for retention.

(U//~~FOUO~~) As a result, COIC analysts collected and retained U.S. telephone numbers or FVEY[11] numbers within the COIC's Palantir[12] database. In addition, COIC analysts collected and retained information on U.S. persons in support of law enforcement activities. Requests for U.S. persons information and intelligence products that contained U.S. persons information were reportedly not always vetted through the COIC's General Counsel for Intelligence, as JIEDDOI 5240.1 required. Finally, U.S. persons information was retained past the 90-day timeframe in violation of DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons" and DoD Joint IED Defeat Organization Instruction, JIEDDOI 5240.01, "JIEDDO Intelligence Oversight."

(U) According to JIEDDOI 5240.01, enclosure 3.4c. If the information was incidentally collected (that is, not intentionally accessed or received), it should be reviewed to ensure that it could have been intentionally collected under [DoD 5240.1-R] Procedure 2, or may otherwise be retained in accordance with [DoD 5240.1-R] Procedure 3. DoD intelligence component personnel may temporarily retain all collected information on US persons for up to 90 days solely to review and determine if it was properly collected and therefore may be permanently retained. This temporary retention period begins the moment that a DoD intelligence component employee receives or retrieves US person information in the course of his or her official duties, with the intent of determining whether the information should be used in a report, a data base, or in some other manner that constitutes an affirmative intent to use or retain the information.

[11] (U) Five Eyes – International intelligence sharing network that includes the U.S., Australia, Canada, New Zealand, and the United Kingdom

[12] (U) Palantir is a web base tool that allows for data integration, search and discovery, knowledge management, and collaboration of information and message traffic throughout the intelligence community

(U) Processing and Safeguarding United States Person Information

(U) According to DoD JIEDDOI 5240.01, DoD intelligence component personnel may temporarily retain all collected information on U.S. persons for up to 90 days, solely to review and determine if it was properly collected and therefore may be permanently retained. This temporary retention period begins the moment DoD intelligence component employees receive or retrieve U.S. person information in the course of their official duties, with the intent of determining whether the information should be used in a report, a data base, or in some other manner that constitutes an affirmative intent to use or retain the information.

(U) All information received or retrieved by DoD intelligence components or personnel subject to this instruction, which is temporarily retained while pending a collectability determination for permanent retention, shall be segregated from other U.S. person information for which a collectability determination has been made authorizing permanent retention, and all U.S. person information temporarily retained pending a permanent retention collectability determination shall be regularly reviewed periodically, not to exceed a 90-day period, to ensure that U.S. person information is not improperly retained. However, we found no "segregated area" to hold U.S. person information that is awaiting a determination.

(U) All JIEDDO records or documents (regardless of format), produced, retained, or disseminated by DoD intelligence components or personnel subject to this instruction that contain U.S. person identifying data, shall be clearly marked "CONTAINS U.S. PERSON INFORMATION", "THIS REPORT CONTAINS U.S. PERSON IDENTITY INFORMATION", "USPERSON", etc., as appropriate.

(U) Retention of U.S. Person Information

(U//~~FOUO~~) According to a COIC analyst, U.S. persons information was maintained on emails within the Network Integration Division (NID) and JIEDDO's purpose for collecting or retaining this information was to support RFIs (request for information)/RFSs (request for support). A COIC analyst said that when analysts have U.S. persons data, they "tuck it to the side." If analysts have any questions, they go to the Intelligence Oversight officer. He said that analysts purged the data from their computers, but the Network Integration Division (NID) manages the storing and purging of U.S. persons' data on its computer systems. The COIC analyst was not aware of the specific NID procedures for purging data from the systems. When COIC personnel were informed of the DoD IG investigation, they re-examined their U.S. persons holdings to ensure they were comfortable that they had not retained U.S. persons' data past the 90/180 day marks. In a memorandum, "Preliminary Inquiry – Reported DoD IG Intelligence Oversight Violation," dated June 29, 2012, the

COIC self-reported potential intelligence oversight issues. This document revealed that the COIC had inappropriately retained the following U.S. persons information:

~~(S//REL to USA, FVEY)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

(U) According to JIEDDOI 5240.01, all information received or retrieved by DoD intelligence components or personnel subject to this instruction, which is temporarily retained while pending a collectability determination for permanent retention, shall be segregated from other U.S. person information for which a collectability determination has been made authorizing permanent retention. All U.S. person information temporarily retained pending a permanent retention collectability determination shall be regularly reviewed periodically, not to exceed a 90-day period, to ensure that U.S. person information is not improperly retained. However, we did not find any evidence that U.S. persons information collected by COIC analysts was compartmentalized while a collectability and retention review was completed. Also, COIC lacked a systematic means for purging U.S. persons information that was inappropriately collected or not eligible for retention.

(U) Conclusion

(U//~~FOUO~~) As a result of our investigation, we concluded that the COIC improperly retained information about U.S. persons. The COIC failed to consistently conduct collectability and retention reviews on U.S. persons information within the COIC's holdings. U.S. persons information collected by COIC analysts was not compartmentalized on the occasions when a collectability and retention review was completed. The COIC did not comply with the 90 day retention timeframe and also lacked a systematic means for purging U.S. persons information that was not eligible for retention.

(U) Recommendations, Management Comments, and Our Response

B.1. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense create an internal Inspector General for JIEDDO to oversee the organization's intelligence oversight program.

(U) Acting Deputy Secretary of Defense

(U//~~FOUO~~) The Acting Deputy Secretary of Defense concurred with this recommendation and stated that reissuing of the JIEDDO chartering directive will be used to clarify both the role of a JIEDDO IG and IG's relationship to a more senior IG in an appropriate defense component regarding to Intelligence Oversight responsibilities.

(U) Director, JIEDDO

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments to Recommendation A.5, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished. The Director, JIEDDO also provided comments to Finding B. (See Appendix C for Director, JIEDDO comments and our response.)

(U) Our Response

(U//~~FOUO~~) The comments of the Acting Deputy Secretary of Defense and the Director, JIEDDO, were responsive and require no further action.

B.2. (U//~~FOUO~~) We recommend that the Director, JIEDDO, authorize the COIC a full time Deputy General Counsel for Operations and Intelligence billet.

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that the position was to be filled in January 2014.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action. Based on follow-on communication from JIEDDO, the previous General Counsel for Operations and Intelligence did return to JIEDDO in January 2014, but is currently filling the position of the Deputy General Counsel, JIEDDO.

B.3. (U//~~FOUO~~) We recommend that the Director, JIEDDO, review hardcopy and softcopy holdings for U.S. persons information, and delete or retain in accordance with DoD 5240.1-R, Chapter 3.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and provided the following comments that "this review is part of the ongoing Intelligence Oversight program. JIEDDO published JIEDDO Instruction 5240.1 in January 2012 which reviewed our procedures and opinions for compliance." JIEDDO COIC is close to finalizing a Standard Operating Procedure (SOP) on intelligence oversight and handling of information concerning US persons, led by the intelligence oversight officer and closely coordinated with the General Counsel's office.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive. We request that JIEDDO complete the review no later than 30 days from the date of this report, staff its intelligence oversight SOP through the Office of the Assistant Secretary of Defense for Intelligence Oversight, and provide the results to the DoD IG.

B.4. (U//~~FOUO~~) We recommend that the Director, JIEDDO, tailor JIEDDO's intelligence oversight training to fit the COIC's unique mission and activities.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that JIEDDO tailored its training as part of JIEDDO Instruction 5240.1 in January 2012 and continues to refine the training to ensure compliance.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action.

**These recommendations are also applicable to Finding A, "The COIC Improperly Collected information on U.S. Persons," Finding C, "The COIC Improperly Disseminated Information on U.S. Person," or Finding D, "The COIC Lacked Effective Intelligence Oversight."*

(U) Finding C: The COIC Improperly Disseminated Information on U.S. Persons

(U//~~FOUO~~) Our investigation revealed that the COIC improperly disseminated information about U.S. persons by releasing products that contained U.S. persons information without proper "U.S. persons" markings. The COIC failed to properly mark these products because, according to a COIC analyst, such dissemination occurred so infrequently. Additionally, COIC intelligence products that contained U.S. persons information did not always go through the COIC's intelligence oversight review prior to dissemination, as required by JIEDDOI 5240.1.

(U//~~FOUO~~) As a result, the COIC violated DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"; and DoD Joint IED Defeat Organization Instruction, JIEDDOI 5240.01, "JIEDDO Intelligence Oversight." Furthermore, products that contained U.S. persons information that did not undergo an intelligence oversight review were not minimized by replacing identity information with "USPER", or U.S. Person.

(U) Regarding the dissemination of information about U.S. persons, JIEDDOI 5240.01 provided the following guidance:

> Enclosure 3.4f. Prior to dissemination, all JIEDDO intelligence products will be reviewed to determine whether the US person identity information is necessary for the use of or the understanding of the product. This review is called the MINIMIZATION process. Where the US person identity information is not necessary to understand the product, the identity information will be MINIMIZED by replacing it with "a US person", "USPER", "a US hydroelectric corporation", "a Colorado social club," etc., as appropriate.

(U) Dissemination of U.S. Person Information

(U//~~FOUO~~) An undated COIC briefing, "Fatima Group U.S. Company Associations," contained the marking: "(U) This product contains U.S. Persons data, which has been incorporated consistent with all applicable laws, directives and policies." The subject briefing included data on the following U.S. companies and some key personnel: JIEDDO (b)(7)(A) [redacted]. However, the first reference to each U.S. person identity is not followed by the required marking to clearly indicate that the information is considered U.S. person information.

(U//~~FOUO~~) A COIC OSAAC briefing of June 6, 2012, "(U) An Open Source Analysis of Islamist Bosnian Violent Extremist Networks," did not contain any markings indicating the briefing contained U.S. persons information. The subject briefing contained information on [redacted] a U.S. citizen [redacted]. This briefing also contained information on the following U.S. citizens [redacted] (a permanent U.S. resident); [redacted] (a naturalized U.S. citizen); [redacted] (U.S. citizen); [redacted] (U.S. citizen); [redacted] (U.S. citizen); [redacted] (U.S. citizen); and [redacted] (U.S. citizen).

(U//~~FOUO~~) In addition to the documented evidence above, a senior COIC analyst said he could not remember a product being released with a U.S. persons label, because it occurs so infrequently. Another COIC analyst said he was not aware of any special labeling or handling of U.S. persons' data. Finally, a COIC official said the COIC has a Multi-Intelligence Core[13], which handles 200+ intelligence feeds coming into the COIC. This senior official acknowledged U.S. persons' data is maintained on the HUB [Multi-Core Database] and is not [periodically] reviewed or deleted.

(U) Conclusion

(U//~~FOUO~~) Our investigation revealed that the COIC did not comply with properly marking products that contained U.S. persons information. As a result, COIC improperly disseminated information about U.S. persons by releasing products that contained U.S. persons information without proper "U.S. persons" markings.

(U) Recommendations, Management Comments, and Our Response

C.1. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense create an internal Inspector General for JIEDDO to oversee the organization's intelligence oversight program.

(U) Acting Deputy Secretary of Defense

(U//~~FOUO~~) The Acting Deputy Secretary of Defense concurred with this recommendation and provided comments that reissuing the JIEDDO chartering directive will be used to clarify both the role of a JIEDDO IG and IG's relationship to a more senior IG in an appropriate defense component regarding Intelligence Oversight responsibilities.

[13] (U//~~FOUO~~) The Multi-Intelligence Core (MIC) is the COIC server that handles the 200+ intelligence feeds coming into the COIC. Analysts search and use the data on the MIC to build their analytical products.

(U) Director, JIEDDO

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments to Recommendation A.5, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished. The Director, JIEDDO, also provided comments to Finding C. (See Appendix C for Director, JIEDDO, comments and our response.)

(U) Our Response

(U//~~FOUO~~) The comments of the Acting Deputy Secretary of Defense and the Director, JIEDDO, were responsive and require no further action.

C.2. (U//~~FOUO~~) We recommend that the Director, JIEDDO, authorize the COIC a full time Deputy General Counsel for Operations and Intelligence billet.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that the position was to be filled in January 2014.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action. Based on follow-on communication from JIEDDO, the previous General Counsel for Operations and Intelligence did return to JIEDDO in January 2014, but is currently filling the position of the Deputy General Counsel, JIEDDO.

C.3. (U//~~FOUO~~) We recommend that the Director, JIEDDO, review hardcopy and softcopy holdings for U.S. persons information, and delete or retain in accordance with DoD 5240.1-R, Chapter 3.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and provided the following comments that "this review is part of the ongoing Intelligence Oversight program. JIEDDO published JIEDDO Instruction 5240.1 in January 2012 which reviewed our procedures and opinions for compliance." JIEDDO COIC is close to finalizing a SOP on intelligence oversight and handling of information concerning U.S. persons, led by the intelligence oversight officer and closely coordinated with the General Counsel's office.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive. We request that JIEDDO complete the review no later than 30 days from the date of this report, staff its intelligence

oversight SOP through the Office of the Assistant Secretary of Defense for Intelligence Oversight and provide the results to the DoD IG.

C.4. (U//~~FOUO~~) We recommend that the Director, JIEDDO, tailor JIEDDO's intelligence oversight training to fit the COIC's unique mission and activities.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that JIEDDO tailored its training as part of JIEDDO Instruction 5240.1 in January 2012 and continues to refine the training to ensure compliance.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action.

**These recommendations are also applicable to Finding A, "The COIC Improperly Collected information on U.S. Persons," Finding B, "The COIC Improperly Retained Information on U.S. Person," or Finding D, "The COIC Lacked Effective Intelligence Oversight."*

(U) Finding D: The COIC Lacked Effective Intelligence Oversight

(U//~~FOUO~~) Intelligence oversight training, knowledge, and practices within the COIC were inconsistent and some COIC members characterized them as "minimal at best." The COIC lacked an effective intelligence oversight program because prior to 2012, JIEDDO leadership had significantly emphasized the program. In addition, the COIC's workforce had varying degrees of initial intelligence and intelligence oversight training.

(U) According to JIEDDOI 5240.01:

> Enclosure 2.1. Per JIEDDO Director Memorandum ... [dated February 28, 2011] the Counter-IED Operations/Intelligence Integration Center is the sole intelligence component of JIEDDO.
>
> Enclosure 2.1b. Ensure all newly-assigned COIC and headquarters personnel receive IO training developed by the JIEDDO COIC Training Integration Division within 30 days of arrival, receive annual refresher training in IO and are formally tested on their knowledge tailored to specific unit missions. Formal testing developed in coordination with the IG and [DoD General Counsel] can immediately follow annual refresher training.

(U//~~FOUO~~) As cited in an ATSD(IO) report "Report of a Staff Assistance Visit" of August 9, 2011, intelligence oversight knowledge in the [JIEDDO] workforce is inconsistent. ATSD(IO) recommended that JIEDDO should develop a training resource tailored to the nuanced risks of the COIC's organization and mission, especially as mission focus shifts, as anticipated, to a new future target. Intelligence oversight training, knowledge, and practices within the COIC remained inconsistent. Prior to 2012, JIEDDO leadership had not given significant emphasis to the COIC's intelligence oversight and did not approve an intelligence oversight policy letter until July 2012, after the DoD IG announced its investigation. According to a senior COIC official, the COIC was working on a training program for Assistant Intel Oversight officers, but JIEDDO's leadership did not make it a priority. In addition, the COIC's workforce had varying degrees of initial intelligence training (4days -6weeks), which included some intelligence oversight. Some COIC personnel described JIEDDO's intelligence oversight training as minimal, at best.

(U//~~FOUO~~) According to representatives from OUSD(I), after JIEDDO (b)(6); (b)(7)(C) JIEDDO (b)(6); (b)(7)(C) and expressed concerns that the COIC may be performing intelligence activities, he was purportedly assured by the Office of the Secretary of Defense that the COIC was

engaging in intelligence-like activities, which were governed by the same intelligence rules. The JIEDDO (b)(6), (b)(7)(C) [redacted], said that when JIEDDO's J2 and the COIC were merged in 2010 as a result of a command reorganization, the COIC acknowledged an intelligence [or intelligence-like] mission. In February 2011, the COIC was given a new designation -- from the Counter-IED Operations Integration Center to the Counter-IED Operations/Intelligence Integration Center. JIEDDO (b)(6), (b)(7)(C) also said that in May 2011, JIEDDO started enforcing the annual requirement for Intelligence Oversight (IO) training, and the number of the COIC personnel examining intelligence oversight issues increased from two to eight people. In August 2011, the Assistant to the Secretary of Defense for Intelligence Oversight sent a memorandum, subject: "Report of Staff Assistance Visit," to the Director, Counter-IED Operations/Intelligence Integration Center (COIC). The memorandum detailed deficiencies in the COIC's Intelligence Oversight program, which included training, oversight, and reporting, and provided recommendations for improvements. A July 2011 memorandum from JIEDDO (b)(6), (b)(7)(C) [redacted], COIC, designated JIEDDO JIEDDO (b)(6), (b)(7)(C) [redacted].

~~(S//NF)~~ JIEDDO (b)(1), 1.4(c), (b)(6), (b)(7)(C) [redacted]

(U//~~FOUO~~) According to JIEDDO (b)(6), (b)(7)(C), 95 percent of all information, which may include U.S. persons' data that the COIC received, was stored on the Multi-Core INT computer server, and the other five percent of information was stored on the Restricted Local Area Network system. JIEDDO (b)(6), (b)(7)(C) said he had archived every email concerning Intelligence Oversight since JIEDDO (b)(6), (b)(7)(C) JIEDDO (b)(6), (b)(7)(C) [redacted]. He added that he had built folders for all requests and answers. JIEDDO (b)(6), (b)(7)(C) said he had specified computer network folders to hold Intelligence Oversight-related data. JIEDDO (b)(6), (b)(7)(C) said the folders were built in July 2012 by the Information Assurance division on the SIPRNet [Secure Internet Protocol Router Network] non-releasable server, in an

Intelligence Oversight subdirectory, and on JWICS [Joint Worldwide Intelligence Communications System] on the HCS [Human Intelligence Control System]/ORCON [Dissemination and Extraction of Information Controlled by Originator] server, in an Intelligence Oversight subdirectory. We found JIEDDO (b)(6), (b)(7)(C) statement to be false. Our review of the intelligence oversight folders revealed that the folders were not created until October 2012, rather than in July, as JIEDDO (b)(6), (b)(7)(C) had said.

(U//~~FOUO~~) A senior COIC analyst said U.S. persons' data was researched and stored on the Restricted Local Area Network system. Another senior analyst said the Network Integration Division managed the storing and purging of U.S. persons' data on COIC's computer systems. A manager in the COIC's Information Technology Management Office said that an email from the general counsel or the Intelligence Oversight officer was necessary before U.S. persons' data could be purged from the network. But he said he had never seen such a request. A JIEDDO (b)(7)(A) contractor, who worked for the COIC's Information Assurance, also said he never received a request to delete U.S. persons' data, and no record existed to indicate any U.S. persons information had ever been deleted.

(U//~~FOUO~~) COIC personnel, at many pay grades and levels of responsibility, generally rated the Intelligence Oversight training program from "minimally sufficient" to "average," and several members believed that the training was done only to "check the block," referring to the training requirement. According to one analyst, the command conducted a "paper drill" updating the Intelligence Oversight policy, which identified individuals within various sections as Intelligence Oversight monitors. But some of the designated employees were not notified of their new additional duty. JIEDDO (b)(6), (b)(7)(C)

(U) Conclusion

(U//~~FOUO~~) The COIC did not have an effective intelligence oversight program due to a lack of emphasis; the training was characterized as "minimal at best." The COIC's workforce had varying degrees of initial intelligence and intelligence oversight training, which resulted in inconsistent knowledge and practices.

(U) Recommendations, Management Comments, and Our Response

D.1. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense approve DoDD 2000.19E to reflect the Joint Improvised Explosive Device Defeat Organization Counter-IED

Operations/Intelligence Integration Center's authorized intelligence functions, roles, and responsibilities, and assign an executive agent for JIEDDO's external intelligence oversight.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense partially concurred with this recommendation and provided comments that DoDD 2000.19 would be updated as JIEDDO is reorganized and transitioned per the Deputy Management Action Group's decision memo of September 6, 2013. The Acting Deputy Secretary of Defense recommended 180-day suspense, from concept approval, for the update DoDD 2000.19E vice the 120 days stated in Recommendation A.1.

(U) Our Response

(U//~~FOUO~~) The Acting Deputy Secretary of Defense's comments were partially responsive. The Acting Secretary of Defense concurred with updating DoDD 2000.19 E, but recommended suspense of 180 days from the approval of JIEDDO's reorganization concept. We concur with the 180-day suspense. The Acting Deputy Secretary of Defense was not responsive to assigning an executive agent to JIEDDO'S external intelligence oversight. We believe that it is critical to assign an executive agent for intelligence to an external DoD organization capable of integrating JIEDDO's intelligence activities into its intelligence oversight program. We respectfully request that the DEPSECDEF reconsider this part of the recommendation and provide comments to the final report.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on Recommendation A.2, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished in the next update to DoDD 2000.19E. The Director, JIEDDO, also provided comments to Finding D. (See Appendix C for Director, JIEDDO comments and our response.)

(U) Our Response

The comments of the Director, JIEDDO, were responsive and require no further action.

D.2. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense create an internal Inspector General for JIEDDO to oversee the organization's intelligence oversight program.

(U) Acting Deputy Secretary of Defense

(U//~~FOUO~~) The Acting Deputy Secretary of Defense concurred with this recommendation and provided comments that reissuing the JIEDDO chartering directive will be used to clarify both the role of a JIEDDO IG and IG's relationship to a more senior IG in an appropriate defense component regarding to Intelligence Oversight responsibilities.

(U) Director, JIEDDO

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments to Recommendation A.5, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished.

(U) Our Response

(U//~~FOUO~~) The comments of the Acting Deputy Secretary of Defense and the Director, JIEDDO, were responsive and require no further action.

D.3. (U//~~FOUO~~) We recommend that the Director, JIEDDO, authorize the COIC a full time Deputy General Counsel for Operations and Intelligence billet.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that the position was to be filled in January 2014.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action. Based on follow-on communication from JIEDDO, the previous General Counsel for Operations and Intelligence did return to JIEDDO in January 2014, but is currently filling the position of the Deputy General Counsel, JIEDDO.

D.4. (U//~~FOUO~~) We recommend that the Director, JIEDDO, tailor JIEDDO's intelligence oversight training to fit the COIC's unique mission and activities.

(U) Management Comments

(U//~~FOUO~~) The Director, JIEDDO, concurred with this recommendation and commented that JIEDDO tailored its training as part of JIEDDO Instruction 5240.1 in January 2012 and continues to refine the training to ensure compliance.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were responsive and require no further action.

**These recommendations are also applicable to Finding A, "The COIC Improperly Collected information on U.S. Persons," Finding B, "The COIC Improperly Retained Information on U.S. Persons," or Finding C, "The COIC Improperly Disseminated Information on U.S. Person."*

(U) Finding E: COIC Authority as a DoD Intelligence Component was Unclear

(U//~~FOUO~~) The COIC's authority, roles, and responsibilities as a DoD intelligence component were unclear and undocumented. DoDD 2000.19E was written prior to the COIC's establishment and therefore did not specify the COIC's authority to collect raw data under the auspices of research. COIC senior leadership incorrectly perpetuated the idea that the COIC did not conduct intelligence collection. Likewise, DoDD 2000.19E did not specify the COIC's authority to collect raw intelligence and produce original intelligence products. According to officials from OUSD(I), the DoD Office of General Counsel, and the Office of the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)), no DoD directives or guidance existed that defined the COIC, its designated functions, or its authorized roles and responsibilities. DoDD 2000.19E tasked OUSD (I) to provide policy, guidance, and oversight for information management and intelligence to assist the JIEDDO on matters pertaining to IED Defeat. But inconsistencies existed about the COIC's authorities, roles, and responsibilities. As a result, the COIC leadership was confused about its authority to conduct intelligence collection and therefore unable to definitively provide written authorizations to their employees when questions arose.

(U//~~FOUO~~) The COIC's authority, roles, and responsibilities as a DoD intelligence component were unclear and undocumented. DoDD 2000.19E was written prior to the COIC's establishment and therefore did not specify the COIC's authorities to collect raw data under the auspices of research. Likewise, it did not specify the COIC's authority to produce original intelligence products. According to officials from OUSD (I), DoD Office of General Counsel, and the Office of the Assistant to the Secretary of Defense for Intelligence Oversight ATSD(IO), no DoD directives or guidance [OSD promulgation memorandum] existed that defined the COIC, its designated functions, or its authorized roles and responsibilities. Although DoDD 2000.19E tasked OUSD(I) to provide policy, guidance, and oversight for information management and intelligence to assist the JIEDDO on matters pertaining to IED Defeat, inconsistencies existed between OUSD(I), ATSD(IO), and the JIEDDO concerning the COIC's authorities, roles, and responsibilities.

(U//~~FOUO~~) The use of non-doctrinal terms such as harness, fuse, and research to describe COIC activities was ambiguous and not in accordance with Joint Publication 2-0, "Doctrine for Intelligence Support to Joint Operations." Intelligence analysts within the COIC held a variety of opinions on the meaning of the terms "harness" and "fuse" as they were stated in JIEDDO's mission. Additionally, inconsistent statements existed on how "research," conducted by a COIC analyst, differed from intelligence collection. Intelligence activities are defined in DoDD 5240.01 as the collection, analysis, production, and dissemination of foreign intelligence [FI] and CI [counterintelligence] pursuant to DoDD 5143.01, "Under Secretary of Defense for Intelligence

(USD(I))" and Executive Order 12333. The DoD Office of General Counsel also said that terms such as "defeat the network", etc [attack the network] were dangerously ambiguous and had advised that "intelligence collection" should be used in lieu of the word "research." Senior leaders within the COIC perpetuated the incorrect idea that the COIC did not conduct intelligence collection.

(U//~~FOUO~~) A February 21, 2007, Director, Defense Intelligence Agency (DIA), memorandum to the Under Secretary of Defense for Intelligence (USD(I)), subject: "Joint Improvised Explosive Device Defeat Organization (JIEDDO) and Intelligence Oversight Responsibilities," stated:

> while JIEDDO has not been formally identified as a DoD Intelligence Component, elements of JIEDDO are conducting intelligence activities based on their organization and functions. It is my understanding that JIEDDO's Intelligence Directorate is functionally an intelligence organization, staff, or element that collects, produces, and disseminates foreign intelligence. The Director, DIA recommended to the USD(I) that JIEDDO be designated as a DoD Intelligence Component.

(U//~~FOUO~~) In a June 1, 2007, Under Secretary of Defense for Intelligence memorandum to DIA, OUSD(I) confirmed DIA's assessment that JIEDDO was conducting intelligence activities as defined in law [EO 12333] and policy [DoD 5240.1-R]; however, OUSD(I)'s memorandum again did not address DIA's suggestion that JIEDDO be designated a DoD intelligence component. The Under Secretary of Defense for Intelligence drafted a memorandum attempting to designate the COIC as a DoD intelligence component, as defined by DoDD 5240.01-R, "Procedures governing the activities of DoD intelligence components that affect United States persons", December 1982; however, the memorandum was never signed or dated.

(U//~~FOUO~~) According to one OUSD(I) representative, any DoD component can perform *intelligence-like*[14] activities, but *intelligence* activities, such as creating original intelligence products or analysis, can be done only by the members of the Intelligence Community[15], and the representative said

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[14] (U) Although we could find no written definition for "intelligence-like activities," Joint Publication 1-02 defines *intelligence-related activities* as: Those activities outside the consolidated defense intelligence program that: respond to operational commanders' tasking for time-sensitive information on foreign entities; respond to national intelligence community tasking of systems whose primary mission is support to operating forces; train personnel for intelligence duties; provide an intelligence reserve; or are devoted to research and development of intelligence or related capabilities. (Specifically excluded are programs that are so closely integrated with a weapon system that their primary function is to provide immediate-use targeting data.)

[15] (U) Title 50, Section 401a (4), United States Code defines the intelligence community as:

The Office of the Director of National Intelligence
The Central Intelligence Agency
The National Security Agency
The Defense Intelligence Agency
The National Geospatial-Intelligence Agency
The National Reconnaissance Office
Other offices within the DoD for the collection of specialized national intelligence through reconnaissance programs
The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy

JIEDDO was not an intelligence community unit. The representative said if personnel at the COIC used raw intelligence data to create their products, they were outside of their authorizations and "may have a problem." He further said that JIEDDO (b)(6), (b)(7)(C) [redacted] expressed concern that the COIC may be performing intelligence activities. The representative said that when JIEDDO (b)(6), (b)(7)(C) expressed his concern to the Office of the Secretary of Defense, he received its assurance that the COIC was conducting intelligence-like activities rather than intelligence activities. However, the OUSD(I) representative said intelligence-like activities still must be performed under the same rules as intelligence activities.

(U//~~FOUO~~) Another OUSD(I) official said the Secretary of Defense's memorandum on Intelligence Oversight Policy Guidance of March 26, 2008 (updated July 27, 2012), did not show the COIC as a DoD Intelligence Component; therefore, JIEDDO did not have wide-ranging intelligence authority. According to this official, the OUSD(I) drafted a memorandum (undated) to designate the COIC as a DoD intelligence component, as defined by DoD 5240.1-R[16]; however, the USD(I) never signed the memorandum. This official said JIEDDO's intelligence authority should be held in DoDD 2000.19E, which established JIEDDO. But regarding intelligence, the representative pointed out that the directive stated that OUSD(I) and the office of the Director of National Intelligence were to provide intelligence support to JIEDDO to meet the JIEDDO Director's Priority Intelligence Requirements. He said he could find no law or directive that specifically gave JIEDDO the authority to conduct intelligence activities. The representative said OUSD(I) oversight of JIEDDO did not conclude that JIEDDO's intelligence activity was being conducted outside of its authority. The representative said OUSD(I) never resolved the JIEDDO intelligence designation/authority issue and JIEDDO had no written authority to conduct intelligence. The OUSD(I) representative said [JIEDDO's] response to a "Request for Support" was an answer to a question (vice intelligence production) and the local commander assumed the risk for that data. However, he said JIEDDO was performing intelligence if it was obtaining disparate pieces of data and processing that data to explain its meaning. He said that if JIEDDO called its product an intelligence report (vice information report), then it may have "committed a foul."

The Bureau of Intelligence and Research of the Department of State
The Office of Intelligence and Analysis of the Department of Treasury
The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard
Such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

16 (U) DoD Regulation 5240.1-R lists DoD's intelligence components, along with the following statement:
DL1.1.8.16. Other organizations, staffs, and offices, when used for foreign intelligence or counterintelligence activities to which part 2 of E.O. 12333 applies, provided that the heads of such organizations, staffs, and offices shall not be considered as heads of DoD intelligence components for purposes of this Regulation.

(U//~~FOUO~~) A third, senior OUSD(I) representative said the COIC was a DoD intelligence component based on its intelligence or intelligence-like activities. He added that JIEDDO did not require formal designation in writing to be allowed to do intelligence work. He said OUSD(I) compared the COIC to COCOM J2s, Joint Intelligence Operations Centers, etc, which he said were considered intelligence components due to the nature of their activities. He added that COCOM J2s did not need such designation. However, according to a Deputy Secretary of Defense's memorandum of March 26, 2008 (Incorporating Change 3, July 27, 2012), the offices and staff of the senior intelligence officers (SIO) of the combatant command headquarters are, in fact, designated, in writing, as Defense Intelligence Components.

(U//~~FOUO~~) This senior OUSD(I) representative also said OUSD(I) had concluded that the COIC was engaging in intelligence-like activities and that OUSD(I) was comfortable with those activities. He also said that where JIEDDO extended its authority broader than what was in its original tasking, the highest levels of DoD and the White House [unspecified] were aware of its activities. The representative said that "if anyone thought JIEDDO was going beyond its authority, plenty of opportunity existed to 'shut them down.'" He said describing the COIC as an intelligence component meant that it would be subject to intelligence oversight. However, in accordance with DoDD 5240.1-R, other organizations, staffs, and offices -- when used for foreign intelligence or counterintelligence activities in which part 2 of E.O. 12333 (reference (a)), applies --provided that the heads of such organizations, staffs, and offices shall not be considered as heads of DoD intelligence components for purposes of this Regulation.

(U) Conclusion

(U//~~FOUO~~) We found that JIEDDO's authority, roles, and responsibilities as a DoD intelligence component lacked documentation and the perceptions of it varied between OUSD(I), DoD OGC, ATSD(IO), and JIEDDO. JIEDDO's mission was ambiguous and current functions exceeded its original charter. This confusion allowed contract analysts and government supervisors to collect information about U.S. persons that fell outside the COIC's foreign intelligence function.

(U) Recommendations, Management Comments, and Our Response

E.1. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense determine whether the JIEDDO should be designated a DoD intelligence component, much like the intelligence elements of the Services and the senior intelligence offices of the combatant commands. If so designated, approve appropriate authorization for incorporation into DoD 5240.1-R and DoDD 2000.19E within 120 days. If not designated, direct the JIEDDO to cease all intelligence collection activities.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense non-concurred and provided the following four-part comment:

> a. "Under the authorities in 50 USC § 3038 and E.O. 12333 § 1.10 (k), SECDEF may use such elements of the Department of Defense as may be appropriate for the execution of intelligence functions. In DoDD 2000.19E, SECDEF assigned intelligence functions to JIEDDO along with the authority to structure the organization to carry out those functions. Director, JIEDDO, in turn, assigned those authorities to COIC via internal JIEDDO policy documented in the JIEDDO Organization and Functions Guide."
>
> b. "JIEDDO's COIC, a subordinate staff component, does carry out intelligence activities as part of its mission and, as such, already meets the definition of a Defense Intelligence Component (DIC) under paragraph DL1.1.8.16 of DoD 5240.1-R. It is, therefore, already subject to the provisions governing intelligence oversight."
>
> c. "JIEDDO as an organizational entity should not be designated a DIC as recommended. JIEDDO in and of itself is not an intelligence organization and Director, JIEDDO, does not require the additional authority granted by DoD 5240.1-R to the Head of a named DIC."
>
> d. "In accordance with its responsibilities articulated in DoDD 2000.19E, paragraph 6.3.1., USD (I) will ensure that JIEDDO understands which specific collection authorities it has already and which will require additional approvals."

(U) Our Response

(U//~~FOUO~~) The Acting DEPSECDEF comments are partially responsive. The Acting DEPSECDEF determined that no requirement existed to designate JIEDDO a named DIC. The Acting DEPSECDEF also tasked the USD (I) to ensure that JIEDDO understood its specific authorities in accordance with DoDD 2000.19E. However, we remain concerned about JIEDDO's compliance with the provisions of paragraph C1.1.1., APPLICABILITY AND SCOPE, of DoD 5240.1-R--specifically, that a DoD intelligence component's "[a]uthority to employ such techniques [Procedures 1 through 10] shall be limited to that necessary to perform functions assigned to the DoD intelligence component concerned," pending the reissuance of DoDD 2000.19E.

(U//~~FOUO~~) We found widespread confusion among the JIEDDO staff, including both junior and senior personnel, on its authority to intentionally collect on U.S. persons. Most troubling was the COIC's Chief of Staff's statements in his initial formal briefing to the DoD IG team and in subsequent communication with the DoD IG that the COIC lacked intelligence collection authority, did not collect intelligence, and was not authorized to collect intelligence on U.S. persons.

(U//~~FOUO~~) We maintain that the current DoDD 2000.19E does not clearly define the intelligence collection authorities and functions that the Secretary of Defense assigned to JIEDDO and that the

functions that the Director, JIEDDO, delegated to the JIEDDO COIC were predicated on implied authorities. We based our conclusion on the following:

- (U//~~FOUO~~) In January 2010, the [redacted], expressed his concerns to the Under Secretary of Defense for Intelligence about authorities related to JIEDDO COIC's intelligence functions.

- (U//~~FOUO~~) On July 16, 2012, the [redacted], JIEDDO COIC, briefed the DoD IG team that "JIEDDO-COIC has no authorities to conduct intelligence collection missions and JIEDDO has no authorities to collect on U.S. Persons and must adhere to applicable USG and DOD Directives [EO 12333 and DoD 5240.1]."

- (U//~~FOUO~~) On August 09, 2012, the [redacted], JIEDDO, responded to a DoD IG data call stating that neither "JIEDDO nor the COIC collects information on U.S. persons.

- (U//~~FOUO~~) In October 2012, the JIEDDO's [redacted] questioned the scope of JIEDDO's mission and the JIEDDO COIC's authority to collect open source intelligence, and the JIEDDO COIC's authority to collect information on U.S. persons.

- (U//~~FOUO~~) Representatives of the Office of the Assistant Secretary of Defense for Intelligence Oversight ATSD (IO) maintain that DoDD 2000.19E granted JIEDDO the authority to conduct intelligence activities (although specific tasks and authorities could not be articulated). According to a senior ATSD (IO) representative, no charter doctrine existed for JIEDDO COIC, and JIEDDO may be operating under the implied authority to collect intelligence. This senior ATSD (IO) representative suggested that we [DoD IG] check with the Joint Staff and the Office of the Deputy Secretary of Defense for JIEDDO's [intelligence] authorities.

- A senior Under Secretary of Defense for Intelligence representative explained that the Under Secretary of Defense for Intelligence never resolved JIEDDO's specific intelligence collection authorities, but acknowledged that JIEDDO was conducting intelligence activities.

Therefore, we underscore the Acting DEPSECDEF's direction to the Under Secretary of Defense for Intelligence to provide clarifying guidance on the scope of JIEDDO's intelligence collection authorities pending its reorganization and the republication of DoDD 2000.19E. We request a copy of the Under Secretary of Defense for Intelligence's guidance upon issuance.

(U) Director, JIEDDO

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on the Recommendation A.1, addressed to the Deputy Secretary of Defense. The Director stated that JIEDDO COIC has sufficient intelligence-related legal authorities to carry out its current mission to "defeat the IED system," even though it is not formally designated as a Defense Intelligence Component (DIC) under DOD 5240.1-R. However, the Director further stated that JIEDDO will prepare a detailed mission statement for its intelligence operations as its future overall mission changes.

(U) Our Response

(U//~~FOUO~~) The comments of the Director, JIEDDO, were not responsive. We did not find irrefutable evidence of JIEDDO's specific collection authority to conduct human, signal, or open source intelligence activities. At the time of the collection activities highlighted in this report, JIEDDO COIC concluded that it lacked the authority to collect on U.S. persons and did not conduct collection activities. We maintain that JIEDDO's use of non-doctrinal words such as "harnessing" and "fusing" of information, in lieu of intelligence collection, contributed to confusion about JIEDDO's intelligence authorities and made JIEDDDO COIC vulnerable to conducting activities that may have violated DoDD 5240.1-R. The forthcoming rewrite of JIEDDO's mission and the Under Secretary of Defense for Intelligence's (USD(I)) clarification of JIEDDO'S intelligence collection authorities should provide the necessary clarity on JIEDDO's intelligence authorities, mission, and functions.

E.2. (U//~~FOUO~~) We recommend that the Deputy Secretary of Defense approve DoDD 2000.19E to reflect the Joint Improvised Explosive Device Defeat Organization Counter-IED Operations/Intelligence Integration Center's authorized intelligence functions, roles, and responsibilities, and assign an executive agent for JIEDDO's external intelligence oversight.

(U) Acting Deputy Secretary of Defense Comments

(U//~~FOUO~~) The Acting Deputy Secretary of Defense partially concurred with this recommendation and provided comments that DoDD 2000.19 would be updated as JIEDDO is reorganized and transitioned per the Deputy Management Action Group's decision memo of September 6, 2013. The Acting Deputy Secretary of Defense recommended 180-day suspense, from concept approval, for the update DoDD 2000.19E vice the 120 days stated in Recommendation A.1.

(U) Our Response

(U//~~FOUO~~) The Acting Deputy Secretary of Defense's comments were partially responsive. The Acting Secretary of Defense concurred with updating DoDD 2000.19 E, but recommended suspense of 180 days from the approval of JIEDDO's reorganization concept. We concur with the 180-day

suspense. The Acting Deputy Secretary of Defense was not responsive to assigning an executive agent of JIEDDO'S external intelligence oversight. We believe that it is critical to assign an executive agent for intelligence to an external DoD organization capable of integrating JIEDDO's intelligence activities into its intelligence oversight program. We respectfully request that the DEPSECDEF reconsider this part of the recommendation and provide comments to the final report.

(U) Director, JIEDDO Comments

(U//~~FOUO~~) Although not required, the Director, JIEDDO, offered comments on Recommendation A.2, addressed to the Deputy Secretary of Defense. The Director stated that this recommendation will be accomplished in the next update to DoDD 2000.19E.

(U) Our Response

The comments of the Director, JIEDDO, were responsive and require no further action.

(U) Observations

(U//~~FOUO~~) We became aware of other issues during our investigation. Because these issues were outside the investigation's scope, they were not pursued; however, they may be included in future evaluations.

(U//~~FOUO~~) In 2011, JIEDDO was involved in a Headquarters, U.S. Army Reserve Command 15-6 investigation of the Joint Operations Support Element (JOSE); whereas, JIEDDO provided $4.24 million in funding to JOSE (an unofficial military intelligence group whose organization was not in accordance with Army Regulation 140-1) to conduct intelligence-like activities. The investigation of JOSE found that the JOSE's activities and JIEDDO's funding were inappropriate and failed to address issues pertaining to intelligence oversight. The report stated:

> There is no evidence that anyone within JIEDDO performed an analysis of the activities to be performed by JOSE to determine if any requirements related to human intelligence training or counter intelligence training were implicated. The legal opinion provided by the JIEDDO General Counsel addressed the fiscal law and funding issues associated with the support to be provided, but did not address any possible issues regarding operations, intelligence training, and intelligence oversight.

(U//~~FOUO~~) Some legal opinions within the COIC are embellished with the organization's history and failed the due-diligence process in addressing the intelligence oversight activities to be conducted by the COIC analyst in responding to a request for support. Furthermore, prior to March 2010 and after February 2013, the JIEDDO headquarters and the COIC lacked a dedicated "intelligence" lawyer or an internal Inspector General. Lacking a dedicated General Counsel for Intelligence and an internal Inspector General contributed to inadequate oversight of the COIC's intelligence oversight program. The U.S. Army remained the Executive Agent for administrative oversight for JIEDDO; therefore, in accordance with AR 20-1:

> Command IG positions are designated in approved MTOEs and TDAs. A command IG position is required on each MTOE or TDA in which a general officer serves as the commander; the general officer will in turn server as the command IG's authority.

(U) COIC Participation in Non-IED-Related Tasks

(U//~~FOUO~~) The COIC accepted tasks outside the organization's mission for several reasons, including: the perceived importance of the particular task and because they had the time, personnel, and funding to do so. From the COIC's perspective, the sources of the non-IED tasks

depended on COIC assistance due to the COIC's availability, willingness to help, and prompt responses. According to multiple sources within the COIC, its leadership was comfortable using a liberal interpretation of an IED connection for accepting outside tasks. The COIC leadership purportedly discussed whether the COIC was authorized to assist in non-IED-related projects or missions because a narrow interpretation of its authorities required support to be IED-related for Operation Iraqi Freedom and Operation Enduring Freedom. However, the COIC believed its core expertise was in network analysis. Although the COIC reportedly received between one and five non-IED-related requests for support per month, acceptable tasks frequently appeared to include an IED connection that may have been inserted simply in order to have the task accepted. Under the COIC's interpretation, analysts could do work against almost any terrorist network because virtually any terrorist network previously had, or could, construct and use IEDs. A senior COIC analyst reported that JIEDDO senior leadership had asked the COIC to use its network approach on non-IED projects. A USD(I) representative, stated it was easy to tie things to IEDs, but the minimum strength of the connection to IEDs was dictated when someone in authority told JIEDDO to stop a questionable action. Analysts at the COIC stated that other units sent non-IED-related tasks to the COIC because the COIC was able to respond in a timelier manner than DoD agencies.

(U//~~FOUO~~) According to the COIC's Office of General Counsel for Intelligence, the JIEDDO's mission to "defeat the network" was outdated and no longer in accordance with DoDD 2000.19E. According to COIC officials, the COIC expended resources and conducted activities that fell outside of its counter-IED mission because it saw a need and had the resources.

(U) Influencing International Business

(U//~~FOUO~~) According to a senior JIEDDO official, the COIC focus was shifting from tactical support to the warfighter to looking operationally or strategically at global networks. Another senior JIEDDO official said that the information the HME Task Force gathered on U.S. companies was "wave-top at best," that included the company's name, leadership biographies, functions, information on its technical expertise, and the components it builds, for [redacted] use on visits or meetings. According to this senior JIEDDO official, [redacted] personally contacted and met with U.S. company CEOs to explain the FATIMA Group's connection to the IEDs being used to kill U.S. and coalition soldiers in Afghanistan. According to other COIC personnel, [redacted] met with these U.S. companies to request or encourage them to apply pressure to the FATIMA Group to alter their production of fertilizer.

(U) Regarding using DoD Intelligence capabilities for activities other than intelligence, JIEDDOI 5240.01 provided the following guidance:

4h. Should JIEDDO receive missions to support US Northern Command or other federal agencies, JIEDDO staff and operating arms may not use intelligence capabilities and personnel for activities other than foreign intelligence within the organization's mission unless that use is approved by the Secretary of Defense or his delegate.

The DoD OGC did not know of any law, policy, or legal opinion regarding JIEDDO authorities to engage and influence U.S. persons' foreign investments or trade for the purpose of coercing a foreign business to alter the production standard of its legitimate products sold outside the United States.

(U) The COIC Misused non-Intelligence Billets

(U//~~FOUO~~) A senior COIC official said he was concerned that non-0132[17] job series personnel (0301[18] job series, for instance) were used to fill intelligence professional positions and perform intelligence functions within the COIC.

(U//~~FOUO~~) A senior JIEDDO official said the COIC used an intelligence contractor to meet, solicit, and arrange meetings and conferences to collect information on associated U.S. companies in order to develop a tie to the FATIMA Group. Additionally, the COIC was required to provide intelligence personnel to the HME Task Force for analytical support; however, these intelligence personnel are being used to work with their inter-agency working group to leak information on the FATIMA Group.

(U) Misuse of NSA Data

(U//~~FOUO~~) A COIC analyst alleged that COIC all-source analysts improperly used a database that included information [redacted] The COIC database

[17] (U) The Office of Personnel Management defines the 0132 intelligence job series as positions concerned with advising on, administering, supervising, or performing work in the collection, analysis, evaluation, interpretation, and dissemination of information on political, economic, social, cultural, physical, geographic, scientific, or military conditions, trends, and forces in foreign and domestic areas that directly or indirectly affect the national security. These positions require a basic knowledge and understanding of one or more of the natural or social sciences, engineering, or military science, but do not demand, as a primary qualification requirement, full knowledge of the current state of the art.

[18] The Office of Personnel Management defines the 0301 administrative job series as positions the duties of which are to perform, supervise, or manage nonprofessional, two-grade interval work for which no other series is appropriate. The work requires analytical ability, judgment, discretion, and knowledge of a substantial body of administrative or program principles, concepts, policies, and objectives.

[19] ~~(S//NF)~~ [redacted]

[20] ~~(S//REL TO USA, FVEY)~~ [redacted]

[21] ~~(S//NF)~~ [redacted]

included JIEDDO: (b)(7)(A) [redacted]. We referred this allegation to NSA for investigation.

(U) Fraud Allegation

(U//~~FOUO~~) DoD OIG: (b)(6), (b)(7)(C) [redacted]

J EDDO: (b)(1), 1.4(c) [redacted]

(U) Referrals

(U//~~FOUO~~) We referred the following allegations for action:

1. (U//~~FOUO~~) DoD OIG: (b)(6), (b)(7)(C) [redacted]

2. (U//~~FOUO~~) Misuse of National Security Agency's data referral to NSA. JIEDDO: (b)(7)(A) [redacted]

3. (U//~~FOUO~~) DoD OIG: (b)(6), (b)(7)(C) [redacted].

4. (U//~~FOUO~~) DoD OIG: (b)(6), (b)(7)(C) [redacted]

5. (U//~~FOUO~~) Timecard fraud referral to JIEDDO. Allegedly, a JIEDDO supervisor falsified timecards.

6. (U//~~FOUO~~) False information referral to JIEDDO. Allegedly, DoD OIG: (b)(6) [redacted] DoD OIG (b)(6) [redacted] provided false information to DoD IG intelligence evaluators during this QIA investigation.

7. ~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c), (b)(7)(A) [redacted]

8. (U//~~FOUO~~) One report on a questionable intelligence activity was sent to the

Assistant to the Secretary of Defense for Intelligence Oversight. Allegedly, a contract JIEDDO (b)(6), (b)(7)(C) analyst at the OSAAC, collected information by telephone from Afghan farmers in Afghanistan, using an alias and unauthorized and uncoordinated cover while posing as an American university student.

(U) Appendix A: Acting Deputy Secretary of Defense Comments

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DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JAN 02 2014

MEMORANDUM FOR INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Investigation of Hotline Allegation of a Questionable Intelligence Activity

This memorandum responds to a request for review and comment on your Draft Report - Investigation of Hotline Allegation of a Questionable Intelligence Activity Concerning the Joint Improvised Explosive Device Defeat Organization (JIEDDO) Counter-IED Operations/Intelligence Integration Center (COIC), forwarded to me on November 13, 2013.

My staff and I have reviewed the draft report and I concur with your conclusions regarding substantiation of allegations of improper collection and subsequent handling of certain U.S. person information by the COIC staff. Further, I concur with the overall Findings concerning organizational and process issues associated with the JIEDDO's intelligence activities. However, I do not concur with the assertions in your report concerning the status of the COIC as a Defense Intelligence Component, nor the lack of authority to conduct certain intelligence activities cited in the report.

Concerning the recommendations forwarded for action by my office, I do not concur with Recommendation 1, partially concur with Recommendations 2 and 3, and concur with Recommendations 4 and 5. Specific comments on each of these recommendations are contained in the attached Consideration of Recommendations, and I will direct my staff to take appropriate action concerning each one.

Concerning the recommendations forwarded for action to the Director, JIEDDO, I also do not concur with Recommendation 6, which is similar to Recommendation 1. I believe appropriate authority is documented in statute, policy, and regulation for such activities. I will defer to the Director, JIEDDO to respond to your draft, expressing his position and proposed courses of action to address your concerns. My staff will follow up on JIEDDO's responses to Recommendations 7-10.

You indicated in your report that you have made seven additional referrals of issues for action by other offices with the Department. I take these referrals seriously and look to these offices to appropriately assess these referrals and take any necessary action.

The JIEDDO and its COIC have performed critical tasks for the nation in addressing the IED threat to our Service members. I do not condone the lapses highlighted by your Findings. We will take action to ensure that the future structures performing the valuable functions of JIEDDO comply with statute, executive orders, and regulations while maintaining a durable and effective capability for the DoD to meet our warfighters' needs in an agile and responsive manner.

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OIG 014819-14

(U) Acting DEPSECDEF Comments (cont'd)

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I appreciate the opportunity to comment on the draft report and will make my staff available to you for further clarification of issues and follow up.

Acting

Attached:
As stated

(U) Acting DEPSECDEF Comments (cont'd)

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Consideration of Recommendations

1. Recommendation 1. "Determine whether the Joint Improvised Explosive Device Defeat Organization (JIEDDO) should be designated as a DoD intelligence component, much like the intelligence elements of the Services and the senior intelligence offices of the combatant commands. If so designated, approve appropriate authorization for incorporation into DoD 5240.1-R and DoDD 2000.19E within 120 days. If not designated, direct the JIEDDO to cease all intelligence collection activities." **NON-CONCUR.**

a. Under the authorities in 50 USC § 3038 and E.O. 12333 § 1.10 (k), SECDEF may use such elements of the Department of Defense as may be appropriate for the execution of intelligence functions. In DoDD 2000.19E, SECDEF assigned intelligence functions to JIEDDO along with the authority to structure the organization to carry out those functions. Director, JIEDDO, in turn, assigned those authorities to COIC via internal JIEDDO policy documented in the JIEDDO Organization and Functions Guide.

b. JIEDDO's COIC, a subordinate staff component, does carry out intelligence activities as part of its mission and, as such, already meets the definition of a Defense Intelligence Component (DIC) under paragraph DL1.1.8.16 of DoD 5240.1-R. It is, therefore, already subject to the provisions governing intelligence oversight.

c. JIEDDO as an organizational entity should not be designated a DIC as recommended. JIEDDO in and of itself is not an intelligence organization and Director, JIEDDO does not require the additional authority granted by DoD 5240.1-R to the Head of a named DIC.

d. In accordance with its responsibilities articulated in DoDD 2000.19E, paragraph 6.3.1., USD(I) will ensure that JIEDDO understands which specific collection authorities it has already and which will require additional approvals.

2. Recommendation 2. "Approve DoDD 3000.19E to reflect JIEDDO COIC's authorized intelligence functions, roles and responsibilities, and assign an executive agent for JIEDDO's external intelligence oversight." **PARTIALLY CONCUR.**

a. The current version of DoDD 2000.19E will be updated.

b. A Deputy's Management Action Group (DMAG) decision memo, dated September 6, 2013, directs the transition of JIEDDO "to an integrated joint organization that enables tactical responsiveness and anticipatory acquisition to prepare for and react to battlefield surprise in counter-terrorism, counter-insurgency, and other related mission areas to include counter-IED." Deputy Secretary of Defense memorandum, "Quick Reaction Capabilities Task Force," November 17, 2013, established under the Warfighter Senior Integration Group (in accordance with DOD Directive 5000.17), a Task Force to coordinate the transition of JIEDDO and other Quick Reaction Capability offices. This Task Force will coordinate the update or replacement of the existing DoDD 2000.19E, ensuring issues raised in this DoD IG report are appropriately addressed.

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c. Given the time that will be required to produce a comprehensive draft that addresses the changes anticipated as a result of the requirement in paragraph 2.b., DoD recommends a suspense of 180 days from the approval of a reorganization concept to produce the associated directive addressing the DODIG concerns raised in the ROI. This document will also provide the appropriate means to address the issues addressed in Recommendations 2 and 4.

3. Recommendation 3. "Direct that the Joint Improvised Explosive Device Defeat Organization participate only in tasks directly related to its counter-IED mission." **PARTIALLY CONCUR.** This recommendation is valid for activities carried out under the current charter. The mission scope may be effected by the issuance of a chartering directive as described in 2b above addressing the new mission sets for the follow-on organization.

4. Recommendation 4. "Determine whether the Joint Improvised Explosive Device Defeat Organization's mission evolution from "defeat the network" to "attack the network" is in accordance with DoDD 2000.19E." **CONCUR.** This will be effected in the reissuance of a chartering directive as described in 2b above addressing the new mission sets for the follow-on organization.

5. Recommendation 5. "Create an internal Inspector General for JIEDDO to oversee the organization's intelligence oversight program." **CONCUR.** The reissuance of the JIEDDO chartering directive will be used to clarify both the role of a JIEDDO IG and that IG's relationship to a more senior IG in an appropriate defense component with regard to Intelligence Oversight responsibilities.

a. Procedure 14 of DOD 5240.1-R requires that "each Inspector General responsible for a DoD intelligence component shall ensure that procedures are in effect that will achieve the objectives" of personnel familiarity with intelligence oversight requirements for the conduct of intelligence activities. Historically, ATSD (IO) has found that this objective is best accomplished through periodic assessments by independent evaluators answering to organizational leadership, a traditional and appropriate role for IGs.

b. The Director, JIEDDO, as the head of a flag level organization merits the support provided by an internal IG office and is presently empowered by paragraph 5., DODD 2000.19E, to organize such force structure internally. Establishment of the internal IG is expected to be accomplished by the Director, JIEDDO as soon as feasible. This will be also be effected in the reissuance of a chartering directive as described in 2b above, addressing the new mission sets for the follow-on organization.

c. Oversight of an organization's intelligence oversight program also involves the provision of day to day command and control of intelligence activities, as well as legal review of the plans for and conduct of those activities. Provision for those functions would best be documented in internal JIEDDO policy and procedures as addressed in the ROI recommendations for Director, JIEDDO.

(U) Appendix B: Director, JIEDDO Comments

~~SECRET~~

JOINT IED DEFEAT ORGANIZATION
2500 ARMY PENTAGON
WASHINGTON DC 20310-2500

12 December 2013

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE AND SPECIAL PROGRAMS

SUBJECT: Response to Hotline Allegations of a Questionable Intelligence Activity Concerning The Joint IED Defeat Organization (JIEDDO) Counter-IED Operations / Intelligence Integration Center (COIC)

1. (U/~~FOUO~~) Thank you for the opportunity to review and comment on the DODIG Draft Report dated 12 November 2013 concerning the above-captioned subject.

2. (U/~~FOUO~~) The Report contains five findings. The attached memorandum from the JIEDDO General Counsel details our analysis and conclusions regarding these elements of the report. My specific comments follow.

a. I partially concur that Finding 1 (that the JIEDDO COIC improperly collected, retained and disseminated information on US persons) is substantiated. However, this is based on the substantiation of only one of the five subordinate factual findings and the partial substantiation of another. The other subordinate factual findings are not legally or factually substantiated.

b. I partially concur that Findings 2 and 3 concerning retention and dissemination of US persons information are substantiated. They are substantiated only as to the two subordinate factual findings substantiated in Finding 1.

c. I do not concur in Finding 4, alleging a lack of effective intelligence oversight at COIC, is substantiated. This finding is conclusory and fails to adequately recognize the major strides COIC has made with respect to intelligence oversight.

d. I partially concur that Finding 5 (that COIC authority as a DOD Intelligence Component (DIC) is unclear) is substantiated. JIEDDO COIC's legal authority to collect intelligence is very clear. However, the nature and scope of its intelligence mission under which it accomplishes its collection activities should be clarified.

3. (U/~~FOUO~~) Context is very important regarding the alleged deficiencies in Findings 1-3. The Report should recognize that the cited violations represent a tiny fraction of the tens of thousands of collection and analysis activities ongoing at the COIC, the remainder of which complied with DOD 5240.1-R and other intelligence directives. Further, these deficiencies resulted from human error and deviations from existing JIEDDO procedures. The Report should further acknowledge that COIC has made great strides on refining and improving its compliance with all applicable laws and regulations, working closely with the Assistant to The Secretary of Defense for Intelligence Operations (ATSD-IO). COIC published JIEDDO Instruction 5240.1 in January 2012 and is in the final stages of approving a Standard Operating Procedure on handling US persons' information. Finally, the comment that JIEDDO leadership failed to give Intelligence oversight the appropriate level of attention is not supported by the facts.

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(U) Director, JIEDDO Comments (cont'd)

4. (U//~~FOUO~~) The Report contains five recommendations for action by JIEDDO.

a. *Cease intelligence collection activities.* I do not concur. Such action would needlessly deprive the warfighter of critical support regarding the IED threat in Afghanistan and elsewhere. While JIEDDO COIC is not formally designated as Defense Intelligence Component (DIC), it is used for foreign intelligence activities to which part 2 of EO 12333 applies and is subject to the provisions of DOD 5240.1-R. One of JIEDDO's key missions under DOD Directive 2000.19e, *Joint IED Defeat Organization (JIEDDO)* is to defeat the IED system. COIC's information and intelligence collection activities are in support of this mission and conducted in accordance with Executive Order 12333 and DOD 5240.1-R.

b. *Authorize the COIC to fill the existing Deputy General Counsel for Operations and Intelligence billet.* I concur. This action is complete. This position was created and filled in March 2010, and is a permanent position on our Joint Manning Document. It was vacant for approximately eight weeks from December 2012 to February 2013, between the time the incumbent was detailed to the General Counsel's Office at the Office of the Director of National Intelligence and the arrival of a senior Army Reserve judge advocate with considerable experience in intelligence matters who was assigned to the COIC on a full-time basis. The permanent Deputy General Counsel for Operations and Intelligence will return to her position in January 2014.

c. *Review hardcopy and softcopy holdings for U.S. persons' information, and delete or retain in accordance with DoD 5240.1-R.* I concur. This review is part of our ongoing Intelligence Oversight program.

d. *Review internal procedures and current legal opinions to ensure that collecting information about U.S. persons is handled in accordance with Title 10 U.S.C, EO 12333, DoD 5240.01 series.* I concur. JIEDDO published JIEDDO Instruction 5240.1 in January 2012 which reviewed our procedures and opinions for compliance. JIEDDO COIC is close to finalizing a Standard Operating Procedure on intelligence oversight and handling of US persons' information, lead by the IO officer and closely coordinated with the General Counsel's office.

e. *Tailor JIEDDO's intelligence oversight training.* I concur. JIEDDO tailored its training as part of JIEDDO Instruction 5240.1 in January 2012 and continues to refine it to ensure compliance.

4. (U//~~FOUO~~) The following comments are offered on the five recommendations for action by Deputy Secretary of Defense.

a. *Determine whether JIEDDO should be designated a DOD intelligence Component.* JIEDDO COIC has sufficient intelligence-related legal authorities to carry out its current mission to "defeat the IED system" even though it is not formally designated as a Defense Intelligence Component (DIC) under DOD 5240.1-R. This regulation applies to JIEDDO COIC's activities. However, the DOD IG Report highlighted the fact that JIEDDO's actual intelligence mission requires further clarification. JIEDDO will prepare a detailed mission statement for its intelligence operations as its overall mission changes in the future.

(U) Director, JIEDDO Comments (cont'd)

b. *Approve DODD 2000.19e to reflect JIEDDO COIC's authorized intelligence functions, roles and responsibilities, and assign an executive agent or JIEDDO's external intelligence oversight.* This will be accomplished in the next update to DODD 2000.19e

c. *Direct JIEDDO to participate only in tasks directly related to its specified counter-IED mission.* JIEDDO adheres to activities within the scope of its current authorities, subject to continuous oversight by senior leadership and the JIEDDO Office of General Counsel. This will change as JIEDDO's mission evolves.

d. *Determine whether JIEDDO's mission evolution from "defeat the network" to "attack the network" is in accordance with DoDD 2000.19E.* This mission evolved fully within the scope of JIEDDO's authorities under DODD 2000.19e and applicable law. Future chartering documents will provide greater detail on specific intelligence missions.

e. *Create an internal Inspector General position for JIEDDO to oversee the organization's intelligence oversight program.* This will be accomplished.

5 (U//~~FOUO~~) The DOD IG referred eight matters for further investigation. Of the eight referrals, one was administratively investigated and not substantiated. Another appears to be substantiated but the [redacted] DoD OIG (b)(6) hwarting any ability to further investigate the matter. Four were referred to other agencies for investigation, the results of which are still pending. Two other violations relating to a single activity were substantiated through the DOD investigation and together constituted one of the two factual conclusions supporting the substantiation of Finding 1.

6 (U//~~FOUO~~) Thank you for the opportunity to provide our comments. My POC for this matter is Mr Andrew Turley, JIEDDO General Counsel. He may be reached at 703-602-7611 or by email at [illegible].

JOHN D. JOHNSON
Lieutenant General, U.S. Army
Director

Attachment:
JIEDDO GC Analysis, 12 Dec 2013

(U) Director, JIEDDO Comments (cont'd)

JOINT IED DEFEAT ORGANIZATION
9001 ARMY PENTAGON
WASHINGTON DC 20310-5000

12 December 2013

MEMORANDUM FOR DIRECTOR

SUBJECT: Analysis of Hotline Allegations of a Questionable Intelligence Activity Concerning The Joint IED Defeat Organization (JIEDDO) Counter-IED Operations / Intelligence Integration Center (COIC)

1. (U//~~FOUO~~) DOD IG substantiated the allegation that the JIEDDO COIC improperly collected, retained and disseminated information on US persons. DOD IG further found COIC lacked effective intelligence oversight, and that its authority as a DOD Intelligence Component was unclear. This memorandum evaluates those specific findings and the factual bases underlying each of these findings.

2. (U//~~FOUO~~) While Finding 1 is substantiated, this is based on substantiation of one of the six subordinate factual findings and partial substantiation of another. The other findings are, in my view, legally and factually insufficient. Findings 2 and 3 concerning retention and dissemination of US persons information are reasonably substantiated by the information in the report. Finding 4, alleging a lack of effective intelligence oversight at COIC, is conclusory and does not recognize the major strides COIC has made with respect to intelligence oversight. Finding 5, that "COIC authority as a DOD Intelligence Component (DIC) is unclear", is true as far as it goes. Current authorities contain sufficient legal authority for COIC to perform its present mission. However, greater clarity is needed to define COIC's intelligence mission.

3. (U//~~FOUO~~) Finding 1: *The COIC Improperly Collected Information on US Persons.*

[redacted] JIEDDO (b)(1), 1.4(c)
JIEDDO (b)(1), 1.4(c)

(U//~~FOUO~~) Collection of US person information by overt means from publicly available sources is an "intelligence activity" covered by E.O. 12333, as amended. The authority to do so is subject to the procedures established by the Secretary of Defense and approved by the Attorney General in DOD 5240.1-R, *Activities of DOD Intelligence Components That Affect United States Persons* (December 1982). Publicly available sources would include the internet, subscriptions to news or business services, and similar sources.

(U//~~FOUO~~) While JIEDDO COIC is not formally designated as Defense Intelligence Component (DIC) under DOD 5240.1-R, this directive provides that "...other organizations, staffs and offices, when used for foreign intelligence or counterintelligence activities to which part 2 of EO 12333 applies..." are considered DICs for the purposes of applicability of the

(U) Director, JIEDDO Comments (cont'd)

~~[redacted]~~

regulation.[1] This activity is within the scope of the JIEDDO's assigned mission to "defeat the IED system."[2] COIC analysts may overtly collect, retain and disseminate information about US persons, but only if JIEDDO COIC employees (civilians, military, and contractors) comply with Procedures 2, 3, 4 as well as 10, 11 and 12 contained in DOD 5240.1-R.[3] However, greater clarity is needed to define the specific *intelligence* mission assigned to JIEDDO.[4]

~~(S//NF)~~ JIEDDO (b)(1), 1.4(c)
JIEDDO (b)(1), 1.4(c)
[redacted]

b. (U/~~FOUO~~) Collection on US Persons Held as Hostages. The collection of US Persons data regarding hostages was incidental to execution of its primary mission to assist US forces in defeating improvised explosive devices.[5] While JIEDDO does not have a hostage rescue mission, it does have a mission that focuses on the terrorist networks that used IEDs, defined as "*...actions and activities designed to reduce the effects and interrupt the insurgent chain of IED activities through intelligence, surveillance, reconnaissance, information operations, counter-bomber targeting, device technical and forensic exploitation, disposal of unexploded and captured ordnance, and persistent surveillance...*"[6] In this case Special Operations forces requested use of COIC "tools" to help geo-locate foreign nationals who held a US person captive. The operational focus was not on the hostage but on the terrorist network and the foreign persons that held the individuals. Information on hostages may be collected by a DIC if it is necessary to the conduct of a function assigned to it.[7] Here, the information on foreign persons was necessary to the conduct of JIEDDO COIC's mission to support US forces. It did not violate DOD 5240.1-R. Further, such action is consistent with Executive Order 13388, which requires "... to the maximum extent consistent with applicable law, agencies shall, in the design

[1] DOD 5240-1.R, para DL1.1.8.16.
[2] Department of Defense Directive (DODD) 2000.19E, *Joint Improvised Explosive Device Defeat Organization (JIEDDO)*, February 14, 2006, para 3.3.1.
[3] JIEDDO General Counsel Opinion, *Request for Legal Opinion – Authority to Collect Open Source Intelligence (OSINT)*, dated 4 December 2012.
[4] This is consistent with the recommendations in GAO Report #09-1226 (S/NF). The unclassified title of the report is *Defense Management: The JIEDDO Provides Valuable Intelligence Support but Actions are Needed to Clarify Roles and Improve Coordination*. GAO notes that the "defeat the network" or "attack the network" mission is not adequately defined by the OSD, and that doing so would better clarify the scope of the JIEDDO COIC's mission.
[5] *See generally*, DODD 2000.19E, *Joint Improvised Explosive Device Defeat Organization (JIEDDO)*, February 14, 2006. Beginning in FY 2007, Congress specifically authorized JIEDDO and created a special appropriation called the Joint IED Defeat Fund (JIEDDF), the purpose of which is to allow the Director of JIEDDO to "...investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States Forces in the defeat of improvised explosive devices..." *See, e.g.*, Public Law 111-383..., Section 1503. JIEDDO's "Attack the Network" mission is within the scope of JIEDDO's authority to "... assist United States Forces in the defeat of improvised explosive devices."
[6] DODD 2000.19e, para 3.3.2
[7] DOD 5240.1-R, para C2.3.3.4.

~~[redacted]~~

(U) Director, JIEDDO Comments (cont'd)

and use of information systems and in the dissemination among agencies…give the highest priority to.. the interchange of terrorism information."[8]

c. (U//~~FOUO~~) Collection on a US Military Person. The US Marine arrested on 17 Jun 2011 near Arlington Cemetery was found carrying bomb-making materials and pro-al Qaeda literature. JIEDDO was alerted to this incident through media reports. In anticipation of a possible request for information from US law enforcement through USNORTHCOM or the Department of Defense, the JIEDDO COIC conducted certain collection activities to determine any information in its possession that may help determine whether the individual was reasonably believed to be engaged or about to engage in what could have been international terrorist activity, especially given the literature found on him. The information was necessary to the conduct of JIEDDO COIC's mission to assist US forces in defeating IEDs. Under DOD 5240.1-R, para C.2.3.3.3, foreign intelligence information may be collected about a US person for this purpose. Such information may also be collected in anticipation of a request from law enforcement officials to assist in cooperating with them for the purpose of protecting DOD employees, information, property and facilities under DOD 5240.1-R, para C.12.2.1.3. This collection did not violate DOD 5240.1-R because it was a permissible use of collection authorities.

d. (U//~~FOUO~~) The Bowling Green Case. An FBI representative in the US requested information from FBI agents in Afghanistan about a named former Iraqi national who had settled in Bowling Green, KY. The FBI agents in Afghanistan then requested JIEDDO COIC's assistance for any information that may be available. COIC provided information about the individual's involvement with IEDs when he lived in Iraq, which was foreign intelligence information as defined in DOD 5240.1-R, para D1.1.11. This activity did not violate DOD 5240.1-R because it was appropriately processed in accordance with DOD 5240.1-R Procedure 12 and constituted information collected during the course of military operations by US forces in Iraq that is permitted to be shared with US law enforcement officials under 10 USC § 371

e. (U//~~FOUO~~) Foreign Intelligence Collection by a COIC Contract Analyst. The report alleges that a JIEDDO contractor telephoned farmers in Kandahar, Afghanistan using an unauthorized and uncoordinated national cover as an American university student. JIEDDO has no factual basis to challenge the truthfulness of the allegation and concedes that it constituted a violation of DOD Directive S-5200.37, *Management and Execution of Defense Human Intelligence (HUMINT)*, Enclosure 2, paragraph 3h. The contractor was neither authorized nor directed by the US government to conduct this activity.

f. (~~S//NF~~) JIEDDO (b)(1), 1.4(c)
JIEDDO (b)(1), 1.4(c)

[redacted]

[8] Executive Order 13388, *Further Strengthening the Sharing of Terrorism Information to Protect Americans*, October 25, 2005

(U) Director, JIEDDO Comments (cont'd)

[redacted]

JIEDDO: (b)(1), 1.4(c)

[redacted]

~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c)

J EDDO: (b)(1), 1.4(c)

[redacted]

4. (U/~~FOUO~~) Finding 2: *The COIC Improperly Retained Information on US Persons.*

(U/~~FOUO~~) COIC procedures on retention of US Persons information have been improved considerably since implementation of the formal Intelligence Oversight program in 2010. US persons information was collected in accordance with Procedure 2 and retained in accordance with Procedure 3 under DOD 5240.1-R. Anomalies were self-reported through the quarterly intelligence oversight reports. The issuance of JIEDDO Instruction 5240.01, *JIEDDO Intelligence Oversight*, in January 2012 has led to the substantial improvement of IO activities especially as they relate to the retention of US persons information. A separate Standard Operating Procedure is currently in the final stages of completion which will provide further detailed guidance on the handling, retention and dissemination of US persons information.

5. (U/~~FOUO~~) Finding 3: *The COIC Improperly Disseminated Information on US Persons.*

(U/~~FOUO~~) The Report of Investigation cited two products released outside of COIC in which the US persons information was not properly marked. The issuance of JIEDDO Instruction 5240.01, *JIEDDO Intelligence Oversight*, in January 2012 has led to the substantial improvement of IO activities especially as they relate to the retention and dissemination of US

[redacted]

[1] See *Statement of Rights and Responsibilities*, para 4.1, found at [illegible]

[2] DOD 5240.1-R, para C10.2.4. "Participation" is defined as any action undertaken with the structure or framework of the organization, to include acquiring membership in the organization.

(U) Director, JIEDDO Comments (cont'd)

persons information. A separate Standard Operating Procedure is currently in the final stages of completion which will provide further detailed guidance on the handling, retention and dissemination of US persons information.

6. (U//~~FOUO~~) Finding 4: *The COIC Lacked Effective Intelligence Oversight.*

(U//~~FOUO~~) Since the inception of COIC as JIEDDO's intelligence arm in 2007, questions have persisted as to responsibility for overseeing its IO program. USD(I), in a memo dated 1 June 2007, determined that the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD-IO) would provide oversight to JIEDDO's intelligence activities. In 2010, USD(I) revisited the issue of institutional intelligence oversight regarding JIEDDO and tentatively determined that the Army's National Ground Intelligence Center (NGIC) should assume these duties. After considerable discussion, it was finally determined that ATSD-IO should retain intelligence oversight responsibilities for JIEDDO in accordance with its charter to conduct inspections to ensure the program meets the requirements of DOD 5240.1-R and provide staff assistance when requested. This turmoil regrettably detracted from and delayed to an extent the development of an effective IO program.

(U//~~FOUO~~) Since the appointment of a Deputy General Counsel for Operations and Intelligence in March 2010 and implementation of a number of formal IO measures, leading up to the publication of JIEDDO Instruction 5240.01 in January 2012, JIEDDO's intelligence oversight program has demonstrated continual improvement. Processes have been streamlined and adhere to DOD 5240.1-R, EO 12333 and other governing directives. Formal IO training programs introduced in 2012 and beyond have further increased the effectiveness of the JIEDDO IO program.

7. (U//~~FOUO~~) Finding 5: *COIC Authority as a DOD Intelligence Component was Unclear.*

(U//~~FOUO~~) JIEDDO was formally established by the Secretary of Defense on 18 Jan 2006 pursuant to his authority under 10 USC §113, when the Deputy Secretary of Defense (DSD) signed a memorandum *Establishment of the Joint Improvised Explosive Device Defeat Organization*. DOD Directive 2000.19E was issued on behalf of the Secretary of Defense on 14 Feb 2006 and is currently in effect. It establishes JIEDDO as a "joint entity" and "jointly manned activity" of the Department of Defense with the "…mission, responsibilities, functions, relationships and authorities as prescribed herein." It further provides that JIEDDO operates under the "…authority, direction and control of the Deputy Secretary of Defense." JIEDDO's Director reports to the Deputy Secretary of Defense. At the time JIEDDO was created, its charter directive did not contain any reference to COIC, or any other component that would accomplish JIEDDO's original "defeat the IED system" mission, which was specifically assigned to JIEDDO in the 2006 directive.[11] Early internal organizational charts referred to the COIC simply as "Reston East."[12]

[11] DODD 2000.19E, para 3.3.1.

[12] GAO conducted an audit of COIC's mission and activities in late 2008. The report is GAO-09-/722 (S/NF). The unclassified title of the report is *Defense Management: The JIEDDO Provides Valuable Intelligence Support but Actions are Needed to Clarify Roles and Improve Coordination*. GAO notes that the "defeat the network" or "attack the network" mission is not adequately defined by the OSD, and that doing so would better clarify the scope of the JIEDDO COIC's

(U) Director, JIEDDO Comments (cont'd)

(U//~~FOUO~~) The Under Secretary of Defense (Intelligence (USD-I) confirmed in 2007 that the COIC was the intelligence component of JIEDDO.[13] Legal authority for JIEDDO to collect US person information during the course of performing its mission or function (intentional collection of US person information from publicly available sources) is based upon the COIC's status as the "intelligence component" of a defense activity, agency, or organization, and because the activity is required in order to perform a function assigned the component, as set out in DOD 5240.1-R paragraph C2.3.2. For cases not involving publicly available information, the JIEDDO COIC has authority to collect it if it meets the definition of foreign intelligence, as set out in DOD 5240.1-R Procedure 2, paragraph C2.3.3.[14] JIEDDO COIC has the same authority to collect as all non-intelligence community components of the Department of Defense.

(U//~~FOUO~~) JIEDDO's mission is to "...focus (lead, advocate, coordinate) all Department of Defense actions in support of the Combatant Commanders and their respective Joint Task Forces' efforts to defeat Improvised Explosive Devices as weapons of strategic influence..." DOD Directive 2000.19E identified three discrete components of this mission: : "Defeat of the IED," (today "Defeat the Device"); "*Defeat of the IED System*" (today "Attack the Network"); and "Training the Force" (today "Train the Force"). "Defeat of the IED System" is the Line of Operation (LOO) that pertains to the mission of the JIEDDO's Counter-IED Operations/Intelligence Integration Center (COIC) that has evolved into "*Attack the Network*" or *AtN*. As defined in the 2006 Directive, the mission authority of JIEDDO within this LOO, is "*...actions and activities designed to reduce the effects and interrupt the insurgent chain of IED activities through intelligence, surveillance, reconnaissance, information operations, counter-bomber targeting, device technical and forensic exploitation, disposal of unexploded and captured ordnance, and persistent surveillance ...*"[15]

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mission. The report noted that JIEDDO's charter did not give it any tasking authority over the COMCOMs or MILDEPs, or other members of the IC, and this caused problems with ensuring the JIEDDO COIC mission was effectively executed or was not duplicative.

[13] Memorandum for Director, Defense Intelligence Agency, *Joint IED Defeat Organization (JIEDDO) and Intelligence Oversight Responsibilities*, 1 June 2007.

[14] By memo dated 1 June 2007, USD(I) confirmed that the JIEDDO's Counter-IED Operations/Intelligence Integration Center (COIC) was performing intelligence or intelligence-related activities and must comply with E.O. 12333 and implementing DoD Directives and Regulations. This memo was written in response to an 8 Feb 2007 memo from the Director, DIA, concerning the role and responsibilities of DIA in assisting ATSD/IO in providing external intelligence oversight over the JIEDDO COIC's intelligence activities. JIEDDO's first Director (GEN Montgomery Meigs, USA-Ret) established the COIC by memorandum, "*Establishment of the Counter-IED Operational Integration Center*," on 22 Aug 2007. It reads in pertinent part:

> In response to the urgent threat from IEDs in Iraq and Afghanistan, the Director, JIEDDO, in coordination with the Deputy Secretary of Defense and Vice Chairman of the JCS, approved the establishment of the Counter-IED Operational Integration Center (COIC) in the National Capital Region on 17 March 2006. The formal activation of the COIC as an organization was effective 1 August 2006. The COIC enables offensive operations to defeat IEDs as weapons of strategic influence through the operational integration of intelligence, analysis and technology in support of the warfighter. The COIC has had a substantial impact on national, joint, and coalition Counter-IED efforts. The JIEDDO COIC mission continues to contribute significant protection to US forces in the Global War on Terrorism.

[15] Department of Defense Directive 2000.19E, para 3.1.1. Beginning in FY 2007, Congress specifically authorized JIEDDO and created a special appropriation, called the Joint IED Defeat Fund (JIEDDF), the purpose of which is to allow the Director of JIEDDO to "...investigate, develop and provide equipment, supplies, services, training, facilities,

(U) Director, JIEDDO Comments (cont'd)

(U//~~FOUO~~) Current authorities contain sufficient legal authority for COIC to perform intelligence-related activities within the scope of its current mission, as provided for under DOD 5240.1-R, para DL1.1.8.16. However, the DOD IG report highlighted the need to more clearly define JIEDDO COIC's intelligence mission. Collection of US person information by overt means from publicly available sources is an "intelligence activity" covered by E.O. 12333, as amended. The authority to do so is subject to the procedures established by the Secretary of Defense and approved by the Attorney General in DODR 5240.1-R, *Activities of DOD Intelligence Components That Affect United States Persons* (December 1982). Formal designation of JIEDDO COIC as a DOD Intelligence Component is not necessary for COIC to continue to operate but would recognize the current status of COIC's operations and would not impose any additional operational or administrative burdens, since it already follows and substantially complies with DOD 5240.1-R.

F. ANDREW TURLEY
General Counsel

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personnel and funds to assist United States Forces in the defeat of improvised explosive devices..." *See, e.g.*, Public Law 111-383..., Section 1503. JIEDDO's "Attack the Network" mission is within the scope of JIEDDO's authority to "...assist United States Forces in the defeat of improvised explosive devices..."

(U) APPENDIX C: Director, JIEDDO Comments to Findings and Our Response

(U//~~FOUO~~) Finding A: The COIC Improperly Collected Information on U.S. Persons

(U//~~FOUO~~) Our investigation substantiated the allegation that COIC personnel improperly collected information about U.S. persons. At the direction of COIC and JIEDDO leadership, analysts collected information on U.S. companies and their CEOs, U.S. hostages held by foreign extremists, and specific U.S. persons. In addition, COIC analysts improperly collected intelligence using aliases and uncoordinated cover. As a result, COIC leadership and analysts actions violated, or were inconsistent with, Executive Order 12333, "United States Intelligence Activities"; DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"; and DoD Joint IED Defeat Organization Instruction 5240.01, "JIEDDO Intelligence Oversight"; as well as DoDD S-5200.37 "Management and Execution of Defense Human Intelligence (HUMINT);" and DHE-M 3301.002 "Defense Human Intelligence (HUMINT) Enterprise Manual, Volume II: Collection Operations."

(U) Director, JIEDDO Comments

~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

JIEDDO: (b)(1), 1.4(c) [redacted].

(U) For the complete text of JIEDDO's response to our findings, see Appendix B: Director, JIEDDO, Comments.

(U) Our Response

(U) Our response to JIEDDO's comments regarding each of the six examples cited as improper collection on U.S. persons is below.

~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

~~(S//NF)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

JIEDDO (b)(1), 1.4(c)

(U//~~FOUO~~) Collection on U.S. Persons Held as Hostages: JIEDDO responded that U.S. Special Operations forces specifically requested JIEDDO COIC assistance in locating hostages, specifically the "use of COIC 'tools' to help geo-locate foreign nationals who held a US person captive," not in defeating the IED threat. JIEDDO contended that "the operational focus was not on the hostage, but on the terrorist network and the foreign persons that held the individuals." JIEDDO contends that information on hostages may be collected by a DIC [designated intelligence component] if it is necessary to the conduct of JIEDDO COIC's mission to support U.S. forces. We maintain that DoDD 2000.19E gives JIEDDO the mission to defeat IEDs as weapons of strategic influence; however, it says nothing about defeating terrorist networks that may use IEDs. While JIEDDO's capability and desire to assist the warfighter are commendable, this assistance falls outside JIEDDO's original charter. Furthermore, we did not find where this activity received a collectability determination or was supported by a legal opinion.

(U//~~FOUO~~) JIEDDO's Collection on a U.S. Military Person: JIEDDO responded that according to media reports, the U.S. Marine arrested on June 17, 2011, near Arlington Cemetery was found carrying bomb-making materials and pro-al Qaeda literature. JIEDDO contends that in anticipation of a possible request for information from U.S. law enforcement, through USNORTHCOM or the Department of Defense, the JIEDDO COIC conducted certain collection to determine if it possessed any information that could help determine whether the individual [U.S. Marine] was reasonably believed to be engaged in, or about to engage in, what could have been international terrorist activity. According to JIEDDOI 5240.01, "reasonable belief" must rest on facts and circumstances that can be articulated; "hunches' or intuitions are not sufficient." We maintain that collection on a U.S. person in the United States who is suspected of terrorist-like activity is domestic collection. The collection on this U.S. Marine was inappropriate because no valid mission requirement existed, the FBI did not request support through USNORTHCOM, and reasonable belief had not been established that this U.S. person was involved in international terrorism. When an activity does not reasonably constitute foreign intelligence, intelligence support to civilian law enforcement must also adhere to DoDD 5525.5 and receive SECDEF approval. Furthermore, we did not find where this activity received a collectability determination or was supported by a legal opinion.

(U//~~FOUO~~) Bowling Green Case: JIEDDO responded that the request came directly from FBI agents in Afghanistan. Alwan and Hammadi were U.S. persons at the time of collection, as defined by EO 12333 and DoD 5240.01. We maintain that JIEDDO had no authority to collect on U.S. persons in the United States because the request did not come through USNORTHCOM. In accordance with Chapter 18, Title 10, U.S.C, JIEDDO can support civilian law enforcement involving matters of the

Military Cooperation with Civilian Law Enforcement Agencies Act of 1981 provided the request is staffed through USNORTHCOM.

~~(S//NF)~~ JIEDDO (b)(1), 1.4(c) [redacted]

(U//~~FOUO~~) Finding B: The COIC Improperly Retained Information on U.S. Persons.

(U//~~FOUO~~) Our investigation revealed that the COIC improperly retained information about U.S. persons. The COIC failed to consistently conduct collectability and retention reviews on U.S. persons information in the COIC's holdings, and U.S. persons information collected by COIC analysts was not compartmentalized on the occasions when a collectability and retention review was completed. The COIC did not comply with the 90-day retention timeframe because of poor intelligence oversight reviews. Finally, the COIC also lacked a systematic means for purging U.S. persons information that was inappropriate for retention.

(U//~~FOUO~~) As a result, COIC analysts collected and retained U.S. telephone numbers in the COIC's Palantir database. In addition, COIC analysts collected and retained information on U.S. persons in support of law enforcement activities. Requests for U.S. persons information and intelligence products that contained U.S. persons information were reportedly not always vetted through the COIC's General Counsel for Intelligence, as JIEDDOI 5240.1 required. Finally, U.S. persons information was retained past the 90-day timeframe in violation of DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons" and DoD Joint IED Defeat Organization Instruction, JIEDDOI 5240.01, "JIEDDO Intelligence Oversight."

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, partially concurred with Finding B regarding the retention of U.S. persons information, but only regarding the two examples substantiated in Finding A. JIEDDO stated that COIC procedures on retaining U.S. persons information have improved considerably since implementation of the formal Intelligence Oversight program in 2010. According to JIEDDO,

U.S. persons information was collected in accordance with Procedure 2 and retained in accordance with Procedure 3, under DOD 5240.1-R, and anomalies were self-reported through quarterly intelligence oversight reports. Finally, JIEDDO contended that the issuing of JIEDDO Instruction 5240.01, JIEDDO Intelligence Oversight, in January 2012, has led to a substantial improvement of IO activities, especially on how they relate to retaining U.S. persons information. A separate SOP, currently in the final stages of completion, will provide further detailed guidance on the handling, retaining, and disseminating of U.S. persons information.

(U) For the complete text of JIEDDO's response to our findings, see Appendix B: Director, JIEDDO, Comments.

(U) Our Response

(U//~~FOUO~~) JIEDDO collection activities did not always undergo a collectability determination and based on a manager's review of its information technology department, JIEDDO's intelligence oversight officer or general counsel never processed a request to purge its systems of any information on U.S. persons. We acknowledge that JIEDDO procedures may have improved since our investigation concluded. However, we have no data, beyond what is contained in our report, on which to base further comment.

(U) Finding C: The COIC Improperly Disseminated Information on U.S. Persons

(U//~~FOUO~~) Our investigation revealed that the COIC improperly disseminated information about U.S. persons by releasing products that contained U.S. persons information without proper "U.S. persons" markings. The COIC failed to properly mark these products because, according to a COIC analyst, such dissemination occurred so infrequently. Additionally, COIC intelligence products that contained U.S. persons information did not always go through the COIC's intelligence oversight review prior to dissemination, as required by JIEDDOI 5240.1.

(U//~~FOUO~~) As a result, the COIC violated DoD 5240.1-R, "Procedures Governing the Activities of DOD Intelligence Components That Affect United States Persons"; and DoD Joint IED Defeat Organization Instruction, JIEDDOI 5240.01, "JIEDDO Intelligence Oversight." Furthermore, products that contained U.S. persons information that did not undergo an intelligence oversight review were not minimized by replacing identity information with "USPER", or U.S. Person.

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, partially concurred with Finding C that JIEDDO improperly disseminated U.S. persons information, citing the fact that only two examples in Finding A were

substantiated. JIEDDO said that our report cited two products released outside the COIC in which U.S. persons information was improperly marked. JIEDDO also said that the issuing of JIEDDO Instruction 5240.01, JIEDDO Intelligence Oversight, in January 2012, has led to substantially improving IO activities, especially as they relate to retaining and disseminating U.S. persons information. A SOP is currently being staffed, which will provide detailed guidance on the handling, retaining, and disseminating of U.S. persons information.

(U) For the complete text of JIEDDO's response to our findings, see Appendix B: Director, JIEDDO, Comments.

(U) Our Response

(U//~~FOUO~~) COIC procedures may have improved since our investigation concluded. However, we have no additional data, beyond what is contained in our report, on which to base further comment.

(U) Finding D: The COIC Lacked Effective Intelligence Oversight

(U//~~FOUO~~) Intelligence oversight training, knowledge, and practices in the COIC were inconsistent and some COIC members characterized them as "minimal at best." The COIC lacked an effective intelligence oversight program because prior to 2012, JIEDDO leadership had significantly emphasized the program. In addition, the COIC's workforce had varying degrees of initial intelligence and intelligence oversight training.

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, non-concurred with Finding D that the COIC lacked effective intelligence oversight. In his opinion, the finding was conclusory and failed to adequately recognize the major strides COIC had made regarding intelligence oversight. According to JIEDDO, questions about who would provide its intelligence oversight detracted from and delayed developing an effective IO program. JIEDDO appointed a Deputy General Counsel for Operations and Intelligence in March 2010 and published JIEDDO Instruction 5240.01 in January 2012. In JIEDDO's opinion, its intelligence oversight program has demonstrated continual improvement, processes have been streamlined and adhere to DOD 5240.1-R, EO 12333, and other governing directives and formal IO training programs have been introduced since 2012.

(U) For the complete text of JIEDDO's response to our findings, see Appendix B: Director, JIEDDO, Comments.

(U//~~FOUO~~) Our Response

(U//~~FOUO~~) In 2010, JIEDDO was tasked to establish an intelligence oversight program. As cited in the ATSD (IO) report of a Staff Assistance Visit of August 9, 2011, intelligence oversight knowledge in the [JIEDDO] workforce was inconsistent. In July 2012, JIEDDO finally approved its intelligence oversight policy. In addition, statements from a variety of COIC personnel, both at the senior and junior levels, indicated that intelligence oversight training, knowledge, and practices in the COIC remained inconsistent. COIC personnel rated the Intelligence Oversight training program from "minimally sufficient" to "average," and several members believed that the training was conducted only to "check the block." The JIEDDO intelligence oversight program may have improved and become more consistent since our investigation concluded in January 2013; however, the effectiveness of the JIEDDO intelligence oversight program since their changes can only be determined during the next external intelligence oversight inspection.

(U) Finding E: COIC Authority as a DoD Intelligence Component was Unclear

(U//~~FOUO~~) The COIC's authority, roles, and responsibilities as a DoD intelligence component were unclear and undocumented. DoDD 2000.19E was written prior to the COIC's establishment and therefore did not specify the COIC's authority to collect raw data under the auspices of research. COIC senior leadership incorrectly perpetuated the idea that the COIC did not conduct intelligence collection. Likewise, DoDD 2000.19E did not specify the COIC's authority to collect raw intelligence and produce original intelligence products. According to officials from OUSD(I), the DoD Office of General Counsel, and the Office of the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)), no DoD directives or guidance existed that defined the COIC, its designated functions, or its authorized roles and responsibilities. DoDD 2000.19E tasked OUSD(I) to provide policy, guidance, and oversight for information management and intelligence to assist the JIEDDO on matters pertaining to IED Defeat. But inconsistencies existed about the COIC's authorities, roles, and responsibilities. As a result, the COIC leadership was confused about its authority to conduct intelligence collection and therefore unable to definitively provide written authorizations to their employees when questions arose.

(U) Director, JIEDDO, Comments

(U//~~FOUO~~) The Director, JIEDDO, partially concurred with Finding E that the COIC's authority as a DOD Intelligence Component was unclear. But he stated that JIEDDO COIC's legal authority to collect intelligence was very clear. However, he added that the nature and scope of its intelligence mission to accomplish its collection activities should be clarified.

(U//~~FOUO~~) The Director said the Secretary of Defense formally established JIEDDO on January 18, 2006, and that DOD Directive 2000.19E was issued on behalf of the Secretary of Defense on February 14, 2006. He added that when it was created, JIEDDO's charter directive lacked any

reference to COIC, or any other component that would accomplish JIEDDO's original "defeat the IED system" mission, which was specifically assigned to JIEDDO in the 2006 directive. According to JIEDDO's response, current authorities contained sufficient legal authority for COIC to perform intelligence-related activities within the scope of the current mission, as provided by DOD 5240.1-R, paragraph DL 1.1.8.16.

(U) For the complete text of JIEDDO's response to our findings, see Appendix B: Director, JIEDDO, Comments.

(U) Our Response

(U//~~FOUO~~) We continue to submit that the JIEDDO's authority, roles, and responsibilities as a DoD intelligence component remain unclear. Because the mission statement in DoDD 2000.19E does not specifically include any reference to the terms "Defeat the IED," "Defeat the IED System," or "Training the Force," one must assume the terms and the mission statement are connected. In addition, at the time of our investigation, no clear understanding existed of JIEDDO COIC's authority, roles, and responsibilities in the JIEDDO COIC itself, or in the offices of the USD(I), DoD OGC, and ATSD(IO). Also, JIEDDO pointed to what it believed were clear legal authorities to collect intelligence as assigned by the OSD in DoDD 2000.19E, even though previous JIEDDO leadership, senior representatives, OUSD (I), and other DoD representatives found DoDD 2000.19E to be unclear. In addition, the JIEDDO COIC command brief (slide 12) of July 16, 2012, read: "JIEDDO-COIC has no authorities to conduct intelligence collection missions." The brief added: "JIEDDO has no authorities to collect on U.S. Persons and must adhere to applicable USG and DOD Directives." The Acting Deputy Secretary of Defense and the Director, JIEDDO, stated in response to Recommendation A.2 that DoDD 2000.19E will be updated. We underscore the importance of specific written guidance from USD (I) to clarify JIEDDO's intelligence authorities pending amendment of DoDD 2000.19E.

(U) APPENDIX D: Prior Coverage

(U) COIC Collection on U.S. Persons

(U//~~FOUO~~) No previous reviews or investigations have addressed the allegation that the COIC collected information on U.S. persons.

(U) ATSD (IO) Staff Assistance Visit

(U//~~FOUO~~) In August 2011, the Assistant to the Secretary of Defense for Intelligence Oversight conducted a staff assistance visit, which resulted in a memorandum, subject: "Report of Staff Assistance Visit." The memorandum detailed deficiencies in the COIC's Intelligence Oversight program to include training, intelligence oversight, and reporting, and provided recommendations for improvements. As it related to this investigation, ATSD(IO) recommended:

- JIEDDO should develop a training resource tailored to the nuanced risks of COIC's organization and mission, especially as its mission focus shifts, as anticipated, to new future target sets.
- JIEDDO should establish a process to make and document retention decisions on U.S. person information.
- JIEDDO should establish a policy for marking working papers, files, products or databases containing U.S. person information.
- JIEDDO should review the command's control of database access to include:
    - A review process prior to posting and releasing of products.
    - Control access to SIPR database information.
    - Consideration of a password and login requirement for files containing U.S. person information with special consideration given to the implications and challenges posed by the requirements of Procedure 4, ["Dissemination of Information About United States Persons,"] DOD 5240.1-R.

(U//~~FOUO~~) ATSD(IO) reported that the COIC's intelligence support and oversight relationship was unclear with regard to Executive Agency responsibilities and no dedicated IG support exists for the organization. ATSD (IO) recommended that the COIC establish a way to conduct a periodic independent review of its IO program. ATSD(IO) noted that this was normally performed by an Inspector General, a duty position for which JIEDDO was not currently resourced.

(U) GAO Report on JIEDDO Intelligence Support

(U) In November 2008, GAO published a SECRET-level report, GAO D09172C, "The Joint Improvised Explosive Device Defeat Organization Provides Valuable Intelligence Support but Actions Are Needed to Clarify Roles and Improve Coordination," which stated: "the COIC was developed without specific guidance directing JIEDDO to establish it or defining its roles and responsibilities, and the GAO report found no DOD guidance and limited JIEDDO guidance to provide additional direction regarding the COIC even after it was created." GAO found "confusion over whether the COIC's roles and responsibilities align with the functions of an intelligence agency, which led to concerns about how the COIC coordinates with DOD intelligence organizations in order to vet COIC products, particularly whether the COIC should follow the standards and procedures used by intelligence organizations."

~~(S)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

JIEDDO: (b)(1), 1.4(c) [redacted]

JIEDDO: (b)(1), 1.4(c) [redacted]

Subsequent JIEDDO leaders questioned the COIC's intelligence roles and responsibilities; however, as of the date of this investigation, DoDD 200.19E was in draft and awaiting Secretary of Defense approval.

~~(S//REL TO USA, AUS, CAN, GBR)~~ JIEDDO: (b)(1), 1.4(c) [redacted]

JIEDDO: (b)(1), 1.4(c) [redacted]

(U) APPENDIX E: National and Command Policy

(U) The following relevant paragraphs are included in the directives listed:

(U) JIEDDO Organization and Management

(U) According to DoDD 2000.19E, subject: "Joint Improvised Explosive Device Defeat Organization (JIEDDO)," effective February 14, 2006:

> JIEDDO is hereby established as a joint entity and a jointly manned activity of the Department of Defense, operating under the authority, direction, and control of the Deputy Secretary of Defense. The JIEDDO shall consist of a Director and such other subordinate organizational elements as established by the Director, within resources assigned by the Secretary of Defense.

(U) JIEDDO Relationships

(U) DoDD 2000.19E designated the following relationships:

> 7.1. In the performance of assigned responsibilities and functions, the Director, JIEDDO, shall:
>
> > 7.1.1. Report directly to the Deputy Secretary of Defense
> >
> > 7.1.2. Use existing systems, facilities, and services of the Department of Defense and other Federal Agencies, when practicable, to avoid duplication and to achieve maximum efficiency and economy.

(U) JIEDDO Intelligence References

(U) DoDD 2000.19E references to "intelligence" included:

> 3.3. Joint IED Defeat. The collection of all DoD-wide efforts to reduce or eliminate the effects of all forms of IEDs used against U.S. and Coalition Forces, including policy, resourcing, materiel, technology, training, operations, information, intelligence, assessment, and research. These efforts specifically include the following:
>
> > 3.3.2. Defeat of the IED System. Actions and activities designed to reduce the effects and interrupt the insurgent chain of IED activities through intelligence, surveillance, reconnaissance, information operations,

counter-bomber targeting, device technical and forensic exploitation, disposal of unexploded and captured ordnance, and persistent surveillance.

6.2. The Director, JIEDDO, shall:

6.2.7. Establish a Joint Common Operational Picture and Joint Common Intelligence Picture of the IED system in the Global War on Terrorism.

6.2.15. Collect and analyze data from the field to assess the effectiveness of current intelligence support for the Combatant Commanders and their staffs; develop and track responses to priority intelligence requirements; and, in coordination with the operational chain of command, develop new intelligence support and intelligence requirements against IED threats to ensure the Combatant Commanders' needs are met.

(U) Responsibilities Relating to JIEDDO

(U) DoDD 2000.19E delineated the following responsibilities:

6.3. The Under Secretary of Defense for Intelligence (USD(I)) shall:

6.3.1. Provide policy, guidance, and oversight for information management, intelligence, counterintelligence, operations security, information operations, and security matters to assist the JIEDDO on matters pertaining to IED Defeat.

6.3.2. Coordinate with the Office of the Director, National Intelligence, to provide interagency intelligence analytical products and services from non-DoD organizations to meet the Director, JIEDDO, Priority Intelligence Requirements.

6.3.3. Ensure that the DoD intelligence organizations provide routine and timely analysis to maintain the Joint Common Intelligence Picture of the global IED threat and to meet the requirements of the IED Intelligence Campaign Plan, when published. Analysis will include adversary IED tactics, techniques, and procedures development and maintenance; IED threat system products; IED adversary networks and vulnerability products; and IED threat trends and forecasting.

6.3.4. Ensure the Director, Defense Intelligence Agency, in coordination with the Director, JIEDDO, directs, monitors, and modifies, as necessary, activities

regarding weapons technical intelligence as it pertains to the collection, analysis, and primacy for exploitation of IED components; either forensic or force protection.

(U) JIEDDO Internal Guidance

(U) According to Department of Defense Joint IED Defeat Organization Instruction (JIEDDOI) 5240.01, Subject: "JIEDDO Intelligence Oversight" of January 12, 2012, this instruction applies to all U.S. personnel within JIEDDO, its staff elements, and operating arms that have U.S. military forces, DoD civilian and DoD contractor personnel assigned, attached or detailed to them who perform or support intelligence activities as defined by DoDD 5240.01. This includes attached Reserve and National Guard personnel in a Title 10 status or who are performing a federal mission:

> 4a. (U) Per DoDD 2000.19E, DoD established JIEDDO and assigned responsibility for intelligence oversight to the Under Secretary of Defense for Intelligence (USD(I)) in 2006. Subject to final review and approval by the Office of the Secretary of Defense, a coordinating draft of DoDD 200.19E changes responsibility for JIEDDO IO to ATSD(IO), with the Secretary of the Army advising and assisting the Director, JIEDDO in establishing and maintaining an intelligence oversight program.

(U) Counter-IED Operations/Intelligence Integration Center Responsibilities

(U) According to JIEDDOI 5240.01, per JIEDDO Director, "Appointment as Senior Responsible Intelligence Official [SRIO] for JIEDDO" of February 28, 2011, the COIC is the sole intelligence component of JIEDDO, and the Deputy Director of Intelligence is the SRIO with authority for the COIC's compliance with the JIEDDO Director Instruction, and other DoD implementing directives and policy. The Deputy Director, COIC, is authorized to exercise SRIO responsibilities in the DDOI's [Deputy Director – Operations/Intelligence Integration] absence. The DDOI will designate a COIC Mission Integration Division (MID) government representative (government civilian or military) with extensive intelligence experience and at least one year of service remaining at the COIC to serve as the Intelligence Oversight Officer (IOO). The IOO will... ensure that procedures are established requiring periodic review of all documents or records retrieved or received by DoD intelligence components or personnel subject to this instruction that contain U.S. persons information and for which a permanent retention collectability determination has not been made. The period between regular periodic reviews of this information may not exceed 90 days.

Acronyms and Abbreviations

CI	Counterintelligence
COIC	Counter-IED Operations/Intelligence Integration Center
DoDD	DoD Directive
DoJ	Department of Justice
FBI	Federal Bureau of Investigation
FI	Foreign Intelligence
HME	Homemade Explosives
IED	Improvised Explosive Device
JIEDDO	Joint IED Defeat Organization
OSAAC	Open Source Analysis Augmentation Center
OSD	Office of the Secretary of Defense
OUSD(I)	Office of the Under Secretary of Defense (Intelligence)
RFI	Request for Information
RFS	Request for Support

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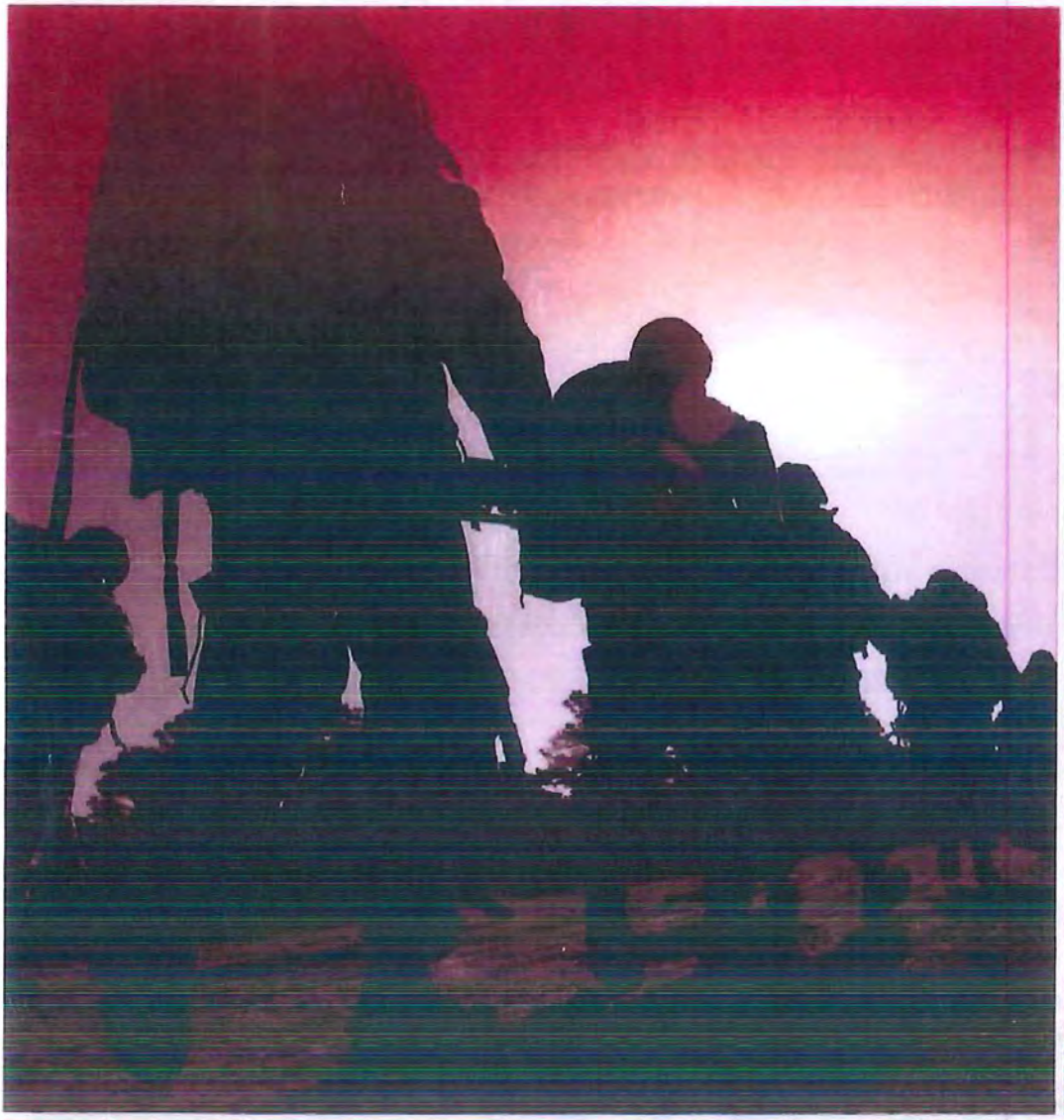

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