

National Drug Control Program for Fiscal Year 2020



Audit Report 50301-0001-11

January 2021

OFFICE OF INSPECTOR GENERAL



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AUDIT

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TO: Tracy S. Perry
Director
Law Enforcement and Investigations
Forest Service

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Forest Service

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: National Drug Control Program Agency Compliance Review for Fiscal Year 2020

The Office of Inspector General (OIG) received the Forest Service's Performance Summary for fiscal year 2020, copy attached, to be submitted to the Office of National Drug Control Policy (ONDCP), as required under ONDCP Circular: *National Drug Control Program Agency Compliance Reviews*, dated October 22, 2019 (hereinafter referred to as the "circular").

Section 10 of the circular specifies when drug-related obligations total less than \$50 million and a detailed accounting would be an unreasonable burden, agencies may submit alternative reports. For this reason, the Forest Service submitted an alternative report on Budget Formulation Compliance, Detailed Accounting, and Performance Summary. According to ONDCP guidance, an OIG attestation is not required for an alternative report. For fiscal year 2020 reporting period, OIG was not required and did not conduct an attestation review of the Forest Service's report on National Drug Control Program activities. Accordingly, we do not express a conclusion on the reliability of the assertions made in this report.

We reviewed the Forest Service's Performance Summary for fiscal year 2020 to be submitted to ONDCP to determine whether the alternative report met the criteria established in the circular. In addition, we reviewed the Forest Service's processes and internal controls for budget formulation, accounting, and performance measures to gain an understanding of the methodology used for drug control funding obligations. The Forest Service's Performance Summary identified \$13 million in budget authority related to drug control obligations in fiscal year 2020. The Forest Service met the criteria for alternative reporting; however, we identified that the Forest Service's Performance Summary did not include the table of prior-year drug control obligations by decision unit and drug control function, and the assertion on application of drug methodology used to calculate obligations of prior year budgetary resources.

We appreciate the courtesies and cooperation extended to us by members of your staff during our fieldwork and subsequent discussions. If you have any questions, please contact me at (202) 720-6945, or have a member of your staff contact Marlene Parnacott, Director, Financial Audit Operations Division, at (314) 580-5527.

Attachment

DEPARTMENT OF AGRICULTURE



Drug Control Funding Obligations

Drug Resources by Function	FY2018 Actual	FY2019 Actual	FY 2020 Actual	FY 2021 Request
Investigations	\$11.223	\$12.000	\$12.000	\$12.000
Intelligence	0.199	0.200	0.200	0.200
State and Local Assistance	0.600	.600	.600	.600
Research and Development	0.000	0.000	0.000	0.000
Prosecution	0.199	.200	.200	.200
Prevention	0.000	0.000	0.000	0.000
Total	\$12.217	\$13.000	\$13.000	\$13.000
Drug Resources by Decision Unit				
Detection and Monitoring	0.000	0.000	0.000	0.000
Law Enforcement Agency Support	\$12.217	\$13.000	\$13.000	\$13.000
Demand Reduction	0.00	0.000	0.000	0.000
Total	\$12.217	\$13.000	\$13.000	\$13.000
Drug Resources Personnel Summary				
Total FTEs	56	56	56	56
Information				
Total Agency Budget in Billions	\$5.9	\$4.6	\$5.5	\$5.3
Drug Resources as a Percentage	0.3%	0.3%	0.2%	0.2%

Budget Authority in Millions

PROGRAM SUMMARY

MISSION

The mission of the USDA, Forest Service is to sustain the health, diversity, and productivity of National Forest System (NFS) lands to meet the needs of present and future generations. In support of this mission, the Forest Service Law Enforcement and Investigations (LEI) program's basic function is to provide public and employee safety, resource protection, enforcement of U.S. Criminal Law, and enforcement expertise to agency managers. The Forest Service manages 193 million acres in 44 States, the Virgin Islands, and Puerto Rico, encompassing 154 national forests and 20 national grasslands primarily in rural areas of the United States and its territories.

Three drug enforcement issues are of specific concern to the Forest Service LEI program: marijuana cultivation, methamphetamine production, and smuggling across international borders. These activities increase security and health and safety risks to the visiting public, employees, and threaten the continued viability of the Nation's natural resources.

DRUG METHODOLOGY

The Forest Service budget structure includes an LEI budget line item within the Forest Service's National Forest Systems appropriation. Within the LEI budget line item, funds planned for use for drug enforcement activities are apportioned based on an analysis of the overall law enforcement workload and activities. Calculations based on the total work time LEI staff spend on drug related duties are quantified as a percentage of the total LEI operations appropriation to obtain an estimate of funds planned or used for drug control activities. The calculations are considered estimates and may not reflect actual funds spent on drug related activities- however, they do serve as a valuable indicator of funding priorities and work emphasis on drug operations in support of the *Strategy*. (See Management Assertion Number 5).

In this reporting period there were no Methodology modifications from prior years. (See Management Assertion Number 5)

Material Weakness or Findings

There were no material weaknesses or findings and funding and spending estimates are consistent with the drug/funding methodology established. (See Management Assertion Number 5).

Reprogramming or Transfers

LEI is a budget line item within the National Forest System appropriation. Funds allocated for drug enforcement activities are apportioned on an as needed basis based on an evolving analysis of the workload. As such no reprogramming or transfers were made.

Other Disclosures

LEI is a small directorate within a larger complex land management agency that comprises approximately 2 percent of the agency's overall \$5.5 billion budget. The Forest Service commits approximately \$13.0 million for drug control and enforcement activities, approximately 0.2 percent of the agency's overall budget. LEI currently has approximately 600 personnel actively engaged in drug control, eradication, investigation and interdiction in addition to normal mission activities and any further accounting would be overly burdensome on our limited resources (See Management Assertion Number 5).

BUDGET SUMMARY

The FY 2021 funding is \$13.0 million and is commensurate with the FY 2020 funding level.

Law Enforcement Agency Support

Forest Service drug-related activities are directed to mitigate threats to the forest, visitors, and employees. LEI accomplishes this mission by detecting, investigating, eradicating, and targeting enforcement measures that provide the greatest impact based on resource availability. Since Transnational Criminal Organizations (TCO) conduct the vast majority of marijuana cultivation on National Forest System lands LEI partners with other Federal, State and local cooperators to investigate, disrupt, and dismantle these organizations. LEI continues to partner with the U.S. Department of Justice through local U.S. Attorney's Offices to coordinate and support prosecutorial efforts. Additionally, LEI continues to partner with the Office of National Drug Control Policy and various High Intensity Drug Trafficking Area (HIDTA) programs to efficiently combat illicit drug production on National Forest System lands and participates in Organized Crime Drug Enforcement Task Force (OCDETF) investigations through assigned personnel. The Forest Service also continues to work with our Federal partners to reduce cross-border smuggling activities on National Forest System lands to ensure the safety and security of the visiting public and employees on those lands contiguous with the international border.

Over the past six years an alarming trend has developed in TCO marijuana cultivation operations. These organizations are smuggling into the United States banned and or restricted pesticides for use in their marijuana growing operations. This trend was observed initially as occurring in a few sparse marijuana grow sites where LEI personnel would infrequently discover small quantities of these banned or restricted substances. As of 2020 these hazardous materials are ubiquitous in marijuana grow sites within California and have also been discovered on public lands outside of California as well.

As these hazardous materials became more prevalent in marijuana growing operations, LEI began a concentrated effort to rehabilitate and recover these sites. Continuing in FY 2021, LEI will further concentrate on the reclamation of these sites by engaging in targeted reclamation and rehabilitation based on resource availability.

Performance Introduction

The information and analysis in this summary report reflect data and outcomes based on analysis of counter drug activities of Forest Service LEI. This analysis includes measures derived from the number of marijuana plants eradicated, drug case investigations, marijuana cultivation sites dismantled and rehabilitated, and percentage of drug related incidents per 100,000 forest visitors. Also, included in this summary are performance measures, targets, and achievements for the years 2017 through 2020 and the targets for 2021 as described in the following tables. These measures provide meaningful assessments of performance related to marijuana control activities on National Forest System lands conducted by LEI. Data compiled and reported in this summary is from LEI’s Law Enforcement and Investigations Management Attainment Reporting System (LEIMARS), internal evaluations, and other agency information.

Performance Measures:

Drug Cases Referred for Adjudication

Percent of Drug Cases Referred for Adjudication					
Fiscal Year	2017	2018	2019	2020	2021
Target	30.0	31.0	32.0	33.0	32.0
Actual	34.9	38.3	25.3	25.8	n/a

Description

Drug Cases Referred for Adjudication quantifies the percentage of assigned drug cases referred for prosecution that resulted in sanctions against defendants. Sanctions can be restitution, fines or imprisonment or any combination thereof. This serves as an indicator of successful investigations and reflects significant effort expended by LEI to combat illicit drug production and associated unlawful occupancy of public lands. Efforts and initiatives to *Eradicate Marijuana Cultivation* are a priority of the *Disrupt Domestic Drug Trafficking and Production* section of the National Drug Control Strategy.

FY 2020 Performance Targets

For FY 2020, LEI previously established a benchmark of 33 percent of drug cases referred for prosecution.

FY 2020 Actual Performance Results

In FY 2020, LEI arrested 98 persons and opened 44 marijuana cultivation investigations resulting in 30 closed/referred cases for prosecution. LEI further closed 96 prior year(s) cases, some of these long-term investigations exceeding five-years resulting in a 23 percent closure/referred for prosecution rate for continued cases.

LEI estimates approximately 25.8 percent of assigned drug cases referred for adjudication in FY 2020 resulted in sanctions against the defendant, and the identified target for FY 2020 was 33 percent. LEI believes that this downturn for FY 2020 in statistical information is due to a variety of factors. Factors such as historic wildfires in California and the Western states, combined with operational impacts related to the COVID-19 pandemic hindered counter-drug operations nationally across all reporting segments. Another ongoing factor involves the movement of cultivation onto private lands due to under regulated growing operations in California’s “legal” marijuana trade.

Marijuana Plants Eradicated

Marijuana Plants Eradicated					
Fiscal Year	2017	2018	2019	2020	2021
Target	*	750,000	650,000	650,000	650,000
Actual	1,487,509	526,330	353,057	344,568	n/a

*New performance measure- no target established.

Description

Marijuana plant eradication is the removal and or destruction of marijuana plants accomplished by a variety of means such as the physical removal of the plants from National Forest System lands or the cutting and destruction of plants in place as appropriate.

FY 2020 Performance Targets

For FY 2020, the target of 650,000 plants eradicated was not achieved.

FY 2020 Actual Performance Results

In FY 2020, 344,568 marijuana plants were eradicated from National Forest System lands compared to 353,057 eradicated in FY 2019 and below the target of 650,000. This represents an approximate 2.4 percent decrease in eradicated plants from FY 2019. LEI believes several factors contributed to this decrease. The Forest Service faced unprecedented wildfires in the West and Northwestern States in 2020. Supporting a wildland fire suppression effort in the midst of a national pandemic created operational challenges unlike previous years. In spite of those challenges, LEI continued to perform its counterdrug mission with positive results.

Additionally, some marijuana growers have moved from National Forest System land to private lands due to increased law enforcement pressure over the past several years and “legalization” has created a situation where can be advantageous to grow on private lands due to lack of regulatory enforcement, easy access to domestic or municipal water sources in drought prone California, and ease of “farm” to market access in more readily realized close to market centers as opposed to the more difficult and remote locations of grows located on National Forest System lands. LEI’s has also seen a reduction in its ability to effectively utilize State and local cooperators in combating marijuana cultivation has significantly reduced due to the need for State and local resources to address regulatory concerns related to “legal” growing activities on private lands. The reduction of these resources negatively impacts LEI’s ability to detect and interdict marijuana growing operations on National Forest System lands.

Legalization in the various States, and an increasing market demand for marijuana creates a situation in which as municipalities begin to regulate “legalized” marijuana, production of this illicit crop will in turn increase on National Forest System lands. In Southern California, where counties are stepping up regulatory enforcement of marijuana growing on private lands, there is anecdotal indications for this case as more marijuana was eradicated in the southern part of the State in FY 2020 than the central and northern areas with less regulatory enforcement.

An additional point of note is that LEI seized 17,695 pounds of processed marijuana during FY 2020 enforcement and investigations operations. This represents significant investigative and enforcement work related to marijuana production on National Forest System lands but not necessarily seized at marijuana grow site operations.

Marijuana Cultivation Sites Dismantled

Marijuana Cultivation Sites Dismantled					
Fiscal Year	2017	2018	2019	2020	2021
Target	*	275	300	275	300
Actual	293	183	240	287	n/a

*New performance measure- no target established.

Description

A dismantled cultivation site is defined as the removal of marijuana plants and infrastructure necessary to maintain marijuana cultivation. A reclamation of a cultivation site includes dismantling and also the removal of all hazardous materials from marijuana cultivation sites and the restoration of the site to a natural state.

FY 2020 Performance Targets

For FY 2020, the target of 275 cultivation sites dismantled was achieved.

FY 2020 Actual Performance Results

In FY 2020, LEI dismantled 287 marijuana cultivation sites and reclaimed 89 of those on National Forest System lands compared to 240 in FY 2019 – a 20 percent increase and above the target of 275. LEI prioritized dismantling and reclaiming sites in early FY 2020 before COVID and extreme wildland fire activity caused operational difficulties. Several of the sites dismantled or reclaimed were hold over sites from prior years that had not been previously reclaimed for a variety of reason including resource availability.

Reclamation and cleanup efforts in which LEI lead or participated resulted in the removal of 45.32 tons of trash, an approximate 84 percent increase over 2019; 460.24 miles of irrigation pipe, an approximate 75 percent increase over FY 2019; 12.28 tons of chemical fertilizers, an approximate 36.37 percent decrease over FY 2019; and approximately 19.66 gallons of restricted or banned use poisons, an approximate 217.6 percent increase over 2019. LEI’s reclamation and cleanup operations also dismantled 192 man-made dams/reservoirs and removed 254 propane tanks and 47 car batteries.

A significant trend that has continued in illegal marijuana cultivation on NFS lands is the routine use of banned pesticides in the carbamate class, in particular Carbofuran (tradename Furadan). These poisons indiscriminately kill wildlife and pose a significant threat to the safety of law enforcement and other personnel at grow sites. The presence of these and other highly toxic chemicals also severely limit LEI’s ability to raid and rehabilitate these sites. In FY 2020, LEI encountered hazardous materials in nearly every illegal site in California. In some instances, the contamination levels were so extensive that LEI ceased eradication and rehabilitation efforts to reassess and consult hazardous materials professionals. In a few instances, there were a number of LEI personnel exposed to these chemicals, resulting in referrals for medical treatment.

Percent of Drug Related Incidents on National Forest System Lands per 100,000 Visitors

Percent of Drug Related Incidents on National Forest System Lands					
Fiscal Year	2017	2018	2019	2020	2021
Target	*	0.019	0.018	0.017	0.017
Actual	.033	0.10	0.049	0.0012	n/a

*New performance measure- no target established.

FY 2020 Performance Targets

For FY 2020, the target of 0.017 was not met.

FY 2020 Actual Performance Results

In FY 2020, there were 0.0012 percent drug related incidents on National Forest System lands per 100,000 forest visitors compared to 0.049 percent in FY 2019. This statistical decrease is consistent with challenges related to the COVID-19 pandemic and State legalization of marijuana, as well as the substantial increase in the number of visitors to NFS lands. With more visitors to NFS lands, LEI was required to increase the amount of time and energy spent dealing with common visitor issues and other public safety incidents. Additionally, large numbers of enforcement and investigation personnel were tasked with providing support to unprecedented wildland fire suppression and evacuation efforts in the West and Northwest.

Quality of Performance Data

This performance data is derived from the Law Enforcement and Investigations Management Attainment Reporting System (LEIMARS), internal evaluations, and other agency information. The LEIMARS system encompasses data provided by field agents and cooperators and produces quantitative reports from case information entered into the case tracking system and controlled substance activity report section. LEI conducts multiple samples and maintains strict reporting requirements to ensure the data is reliable and accurate.

Additional Information

The above data represents significant and measurable impacts to National Forest System lands, LEI operations and State and local cooperators. Based on resource availability LEI will continue to provide personnel, support, and leadership necessary to protect natural resources from the harmful effects of drug production and trafficking on public lands. LEI continues to support the *National Drug Control Strategy* and will to the best of its ability continue as stewards of the land to protect these lands for current users and for future generations.

Management Assertions

1. Performance reporting system is appropriate and applied.

LEI utilizes a system of records known as LEIMARS to capture statistical information accurately and the system was applied properly to generate the performance data. The performance measures identified and the approved methodology for determining data and actual performance are appropriate and correctly applied.

Obligations by Budget Decision Unit

LEI believes based on a review of the data submitted in this report that obligations reported by budget decision unit are the actual obligations and expenditures depicted in the table on page two. The obligations are consistent with the approved drug methodology on budget formulation and represent best estimates of planned and or actual expenditures.

2. Explanations for not meeting performance targets are reasonable.

LEI exceeded a number of prior year data points in the area of reclamation. However, in several instances, LEI did not meet the expected targets as established. It is LEI's assessment that the challenges of supporting an unprecedented fire season on National Forests in the Western and Northwest, along with the operational adjustments related to the COVID-19 pandemic, created workforce capacity issues unlike any previous year. Performing the mission-essential function of protecting lives and facilities with finite resources created performance gaps in other areas.

3. Methodology to establish performance targets is reasonable and applied.

The methodology described to establish current and future performance targets is reasonable.

Drug Methodology

The approved methodology utilized to create this report is believed to be as accurate as is possible based on the following:

Data derived from the LEIMARS is the best source of statistical data currently available to the Forest Service. Data derived from this system along with field reporting is utilized to assess and distribute law enforcement resources as efficiently as is practical. Law enforcement activity including drug control and enforcement is a constantly evolving situation requiring significant flexibility.

Financial Systems LEI tracks as accurately as is possible expenditures and believes that the appropriations and expenditures reflected in the table are as accurate as is possible based on LEI's review and availability of resources. The expenditures represented in the tables are all consistent with the approved drug methodology.

Methodology Modifications LEI did not make any modifications to methodology for reporting drug control resources from the previous year's reporting.

4. Adequate performance measures exist for all significant drug control activities.

LEI established performance measures provide a methodology for assessing performance related to all significant drug control activities conducted by the Forest Service.

Material Weakness or Findings

There were no material weaknesses or other findings. The agency annual audit assurance review did not uncover any material weaknesses or findings in agency financial or reporting systems. (See Management Assertion Number 5)

5. General.

Reprogramming or Transfers

LEI is a budget line item within the National Forest System appropriation. Funds allocated for drug enforcement activities are apportioned on an as needed basis based on an evolving analysis of the workload. As such no reprogramming or transfers were made.

Fund Control LEI believes that the data presented are associated with obligations against a financial plan that complies with all Fund Control Notices issued by the Director under 21 U.S.C. § 1703(f) and Section 9 of the ONDCP Circular, Budget Execution. The funding estimates and expenditures are consistent with the approved drug methodology and budget formulation.

ONDCP Circular: National Drug Control Program Agency Compliance Review. An agency or bureau included in the National Drug Control Budget with prior year drug-related obligations of less than \$50 million may submit Alternative Budget Formulation Compliance, Detailed Accounting, and Performance Summary reports. Due to the



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