

*Central Intelligence Agency
Inspector General*

REPORT OF INVESTIGATION



PROCEDURES USED IN NARCOTICS AIRBRIDGE DENIAL
PROGRAM IN PERU, 1995-2001

25 August 2008

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B. CIA Accountability Standards

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OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS STAFF

REPORT OF INVESTIGATION

[REDACTED] PROCEDURES USED IN NARCOTICS AIRBRIDGE DENIAL
PROGRAM IN PERU, 1995-2001

[REDACTED]
25 August 2008

INTRODUCTION

1. [REDACTED] In the 1990s, the US Government instituted several programs in cooperation with the Government of Peru as part of its "war on drugs." The programs were designed to attack all aspects of the narcotics trade, from an eradication program designed to destroy coca fields under cultivation, to the Airbridge Denial Program (ABDP), designed to interrupt the transport of coca paste by civil aircraft from Peru to Colombia. By 1997, Agency reporting described the ABDP as a major success that played a key role in the significant decline in coca cultivation in Peru and as the linchpin of a successful strategy to disrupt the export of coca products.

2. [REDACTED] The ABDP operated east of the Andes Mountains in an area of Peru designated by the Peruvian Government as a special air defense identification zone. Under the terms of the US-Peruvian program, if an aircraft was reasonably believed to be involved in narcotics trafficking, the Peruvian Air Force (*Fuerza Aérea del Peru* or FAP) was authorized to direct the suspect aircraft to land at a

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designated airfield. If the suspect aircraft failed to follow instructions and after a series of required warnings, FAP fighter aircraft could be authorized to shoot it down.

3. The FAP fighter aircraft did not have radar or infrared technology, however, and could locate target planes only by sight. They also did not have the equipment necessary to communicate with the appropriate commands and bases. The key elements of the US contribution to the program were the assistance of tracker aircraft equipped with appropriate radar and the provision of equipment that allowed effective communication between the US and Peruvian aircraft and their respective commands. Additionally, significant US resources were used to establish and maintain infrastructure and operation of the Peruvian Air Force.

4. CIA involvement in Peruvian air interdictions began in 1991-1992 with the delivery of a tracker airplane and continued, in its first phase, for two years. The program was interrupted in early 1994, when the Department of Defense (DoD), which provided ground-based radar tracking and communications support to Peru, stopped providing information that could be used by the FAP to interdict and shoot down suspect aircraft. That decision was based on concern that US personnel could be held criminally liable under a federal law that prohibits willful destruction of foreign civil aircraft. In May 1994, the Department of Justice (DoJ) issued a formal opinion that US personnel who provided assistance or information used by the FAP to shoot down or destroy a civil aircraft could be held criminally liable under US law. As a result, US support to the Peruvian interdiction of drug flights stopped temporarily.

5. In fall 1994, the US Congress granted immunity to foreign officials and US employees and agents who engage in or provide assistance for the interdiction of civil aircraft in foreign countries, provided certain conditions are met. The two conditions are that the aircraft is reasonably suspected of being primarily engaged in illicit drug trafficking and that the US President has

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determined that the interdiction was necessary because of the extraordinary threat to the host nation's national security posed by illicit drug trafficking and that the host nation has appropriate procedures in place to protect against the innocent loss of life.

6. [REDACTED] Presidential Determination 95-9 (PD 95-9), *Resumption of U.S. Drug Interdiction Assistance to the Government of Peru*, signed by President Clinton on 8 December 1994, and its accompanying Memorandum of Justification (MOJ), renewed US support for the Peruvian air interdiction program and laid out a strict set of standards by which it would operate. The MOJ set forth, in detail, the mandatory interception procedures that had been agreed to by the Governments of the United States and Peru along with the legal obligations of US personnel involved in the program. The primary purpose of these mandatory procedures was to protect against the loss of innocent life.¹

7. [REDACTED] The United States resumed its assistance to Peru in the ABDP in March 1995. From then until 20 April 2001, the FAP, with the assistance of US tracker planes, shot down 15 civil aircraft.² During the fifteenth of these shootdowns, on 20 April 2001, the FAP shot down a single-engine floatplane operated by a US missionary group. Two US citizens, Veronica Bowers and her infant daughter Charity, were killed and pilot Kevin Donaldson was wounded. Bowers' husband and son were not physically injured and survived the crash. Following this tragedy, the program was shut down.

8. [REDACTED] This investigation examines CIA's role in the conduct and operation of the Airbridge Denial Program in Peru from 1995 to 2001, which provided the context in which the 20 April 2001 shootdown occurred, and the performance of CIA officers in its

¹ [REDACTED] Exhibit A contains the complete text of Presidential Determination 95-9 and the accompanying MOJ.

² [REDACTED] This investigation examines only shootdowns; it does not address forcedowns or seizures of aircraft suspected of drug trafficking.

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aftermath. This investigation examines in detail only the 15 intercepts that ended with shootdowns. The first section reviews the 15 shootdowns themselves; the second focuses on CIA's response to the shootdown of the missionary plane.

SUMMARY

9. [REDACTED] In the 1990s, the US Government instituted several programs in cooperation with the Government of Peru as part of the "war on drugs." One program, the Airbridge Denial Program (ABDP), was designed to interrupt the transport of narcotics by civil aircraft. Under terms of this program, if an aircraft was reasonably believed to be involved in narcotics trafficking, the Peruvian Air Force was authorized to instruct the suspect aircraft to land. If the suspect aircraft failed to follow instructions after being given a series of required warnings, the Peruvian Air Force fighter could be authorized to shoot the suspect plane down. The key US contribution to the ABDP was the provision of tracker aircraft equipped with radar and communications equipment assistance that the Peruvian fighters lacked. [REDACTED]

10. [REDACTED] From March 1995 through April 2001, the Peruvian Air Force, with the assistance of US tracker planes, shot down 15 civilian aircraft. The fifteenth shootdown involved a single-engine floatplane operated by a US missionary group. Two US citizens, a mother and her infant daughter, were killed, and the pilot was seriously wounded.

11. [REDACTED] Presidential Determination (PD) 95-9, signed in December 1994, and its accompanying Memorandum of Justification (MOJ) authorized US support for the ABDP. The PD and MOJ set forth mandatory interception procedures and the legal obligations of US personnel involved in the program. The primary purpose of the mandatory intercept procedures was to guard against the loss of

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innocent life. CIA personnel assigned to the ABDP were required to monitor the intercepts to ensure they complied with the required procedures and to report to their superiors any deviations. Congress passed a law providing immunity to US personnel engaged in assisting in the interdiction of civil aircraft as long as the conditions specified in the Presidential Determination were met.

12. [REDACTED] Examination of the events surrounding the shutdown of the missionary aircraft raised questions about whether the intercept procedures required by the PD and MOJ had been followed. The Department of Justice Criminal Division asked the CIA Office of Inspector General (OIG) to investigate CIA's role in the conduct and operation of the ABDP from 1995 to 2001. OIG reviewed documentary reporting on each of the 15 shutdowns, examined videotapes of each shutdown, and conducted more than 200 interviews of participants in the program, including CIA officers, the US air crews on the tracker planes, and the Peruvian Air Force officers and their commanders involved in the shutdowns.

13. [REDACTED] Violations of the required procedures to intercept and shoot down an aircraft occurred in all 15 ABDP shutdowns in which CIA had participated, beginning in May 1995. CIA officers knew of and condoned most of these violations, fostering an environment of negligence and disregard for procedures designed to protect against the loss of innocent life that culminated in the downing of the missionary plane.

14. [REDACTED] Violations of the requirement to report deviations in the conduct of the interceptions, as specified in the MOJ, also occurred after all but one of the shutdowns. Inaccurate statements reporting that all required procedures had been conducted were initiated by CIA personnel on the ground in Peru, endorsed by [REDACTED] responsible Headquarters components, and passed to Congress and the National Security Council (NSC).

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15. [REDACTED] Throughout the life of the ABDP, there was evidence of deviations from the required procedures, both in the videotapes of the shootdowns and in the reporting cables [REDACTED] CIA officers charged with legal and policy oversight of the program ignored this evidence. Their failure to provide adequate oversight and report violations precluded a policy review and a possible change in course that could have prevented the shootdown of April 2001.

16. [REDACTED] The routine disregard of required procedures in conducting interceptions in the ABDP led to the rapid destruction of target aircraft without adequate safeguards to protect against the loss of innocent life. In many cases, performing the required procedures took time and might have resulted in the escape of the target aircraft. In addition, because conducting all the required procedures was difficult – and the Peruvian pilots placed safety of flight first – shooting down an aircraft often was easier than forcing it down. The result, in many cases, was that suspect aircraft were shot down within minutes of being sighted by the Peruvian fighter – without being properly identified, without being given the required warnings, and without being given time to respond to the warnings.

17. [REDACTED] The violations of intercept procedures that occurred in the shootdown of the missionary plane had occurred in many of the previous shootdowns. They included:

- ◆ Failure to identify the suspect aircraft as reasonably suspect of being a narcotrafficker before shooting it down. This violation had occurred in eight previous shootdowns.
- ◆ Failure to conduct the visual signals that were designed to make suspect aircraft aware that they were targets of an interception so they could follow instructions to land. This violation had occurred in all previous shootdowns.

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- ◆ Failure to fire warning shots. This violation had occurred in at least eight previous shootdowns.
- ◆ Failure of the Peruvian chain of command. Some breakdown in the Peruvian chain of command had occurred in 13 of the previous 14 shootdowns.
- ◆ Lack of reasonable time to perform all required procedures and for the target aircraft to respond. This had occurred in nine of the previous shootdowns. In six of these shootdowns, less than two minutes elapsed between initiating the first warning and authorization to fire on the target.

In defending their performance in the wake of the shootdown of the missionary plane, many US participants in the ABDP asserted that most of the shootdowns had occurred at night. They argued that some of the required procedures, such as visual signals, could not be performed at night. In fact, 11 of the 15 shootdowns occurred during the day and another took place in the early evening; only three occurred at night.

18. [REDACTED] Reporting on shootdowns began on the ground in Peru, where Agency officers drafted, reviewed, and released cables containing information they knew to be inaccurate or incomplete. Agency officers and attorneys in Latin America Division and the Crime and Narcotics Center failed to provide adequate oversight to the program, ignoring cables and shootdown videotapes that contained information that contradicted claims of compliance and revealed repeated violations of required procedures. These officers forwarded inaccurate information to senior management of the Agency as well as to Congress and the NSC.

19. [REDACTED] Agency participants in the ABDP, both in the field and at Headquarters, told OIG they understood the requirements of the PD and the MOJ and understood that they were

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required to report any deviation from required procedures. Between May 1995 and April 2001, however, these officers, in almost all cases, failed to report such violations. Instead, they repeatedly and falsely reported that the program was being operated in full compliance with requirements.

20. [REDACTED] Following the missionary shutdown, senior Agency officers involved in the ABDP misrepresented the Agency's performance in running the ABDP. In almost a dozen Congressional briefings and hearings in 2001, these officers asserted that the missionary shutdown had been an aberration; that the speed with which the phases were conducted in that case had been unexpected; and that a language problem had contributed to the accident. At the same time, however, a DCI-directed internal examination of the ABDP (unrelated to this OIG review) was documenting sustained and significant violations of the required intercept procedures dating back to 1995.

21. [REDACTED] Within a month of the missionary shutdown, the Agency's internal review group, known as the Peru Task Force (PTF), had accumulated substantial evidence that procedures required by the PD and MOJ had never been fully followed and that Agency officers in Peru had claimed otherwise in their reporting to Headquarters. The PTF reviewed the shutdown videotapes and found that there were no tapes that showed all the procedures being followed. On the advice of the Office of General Counsel, however, the PTF did not formally report these findings.

22. [REDACTED] Following the missionary shutdown, two external review groups – the NSC-directed Interagency Review Group and the Senate Select Committee on Intelligence – undertook examinations of the conduct of the ABDP. These groups tasked CIA to provide them with relevant information, but no evidence has been found that the Peru Task Force findings were shared outside the Agency. By telling the outside investigatory groups that there was no final report from the internal CIA investigation, the Agency

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successfully denied them access to the PTF's findings. The tactic also concealed the Agency's findings from the victims of the shutdown who were engaged in civil settlement negotiations. The US Government paid \$8 million to the victims based on CIA's assertion that the missionary shutdown had been an aberration in a program that otherwise had complied with Presidentially-mandated procedures.

23. [REDACTED] A senior operations officer assigned the task of conducting an internal accountability review similarly failed to document the extent of non-compliance that existed in the ABDP. Despite having had access to the ongoing work of the Peru Task Force and being advised of its findings, he made no note of these issues in his final report to senior Agency management. This officer served at the same time as the sole CIA representative to the NSC-directed Interagency Review Group and failed to inform that group of the pertinent Agency information.

24. [REDACTED] Agency records reveal several instances in the aftermath of the missionary shutdown when senior Agency managers were asked to inform the NSC about the conduct of the ABDP. Senior Agency officers, though knowledgeable of the Peru Task Force findings that the ABDP had never complied fully with the required intercept procedures, failed to disclose this even after the National Security Advisor specifically asked who gave CIA approval to change the program's required procedures.

25. [REDACTED] Concerned about possible criminal charges against Agency officers, CIA's General Counsel, in late 2002, asked an Office of General Counsel (OGC) attorney to conduct an independent review of the ABDP and the shutdown of the missionary plane. This attorney noted deviations in the conduct of the program and advised the General Counsel that there were grounds for possible criminal prosecution of Agency officers for making false statements in Agency reporting and to Congress.

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26. [REDACTED] In 2003, OGC prepared a defense theory of the Agency's performance in running the ABDP and briefed it to the DCI. OGC's theory contradicted the findings of both the PTF and OGC's own review. OGC attorneys also undertook other actions in support of the defense without the knowledge of the Department of Justice (DoJ), which was conducting an ongoing criminal investigation. In fall 2004, after repeated interventions by OGC, DoJ indicated that it would not prosecute Agency officers involved in the ABDP if CIA could assure an adequate administrative remedy. In October 2004, the then-DDCI provided this assurance in a letter to DoJ. DoJ declined criminal prosecution in February 2005.

27. [REDACTED] A number of Agency officers bear responsibility for failing to appropriately monitor ABDP activities and for providing inaccurate reporting. These individuals include [REDACTED] [REDACTED] officers-in-charge and personnel [REDACTED] and officers at Headquarters. In addressing issues of accountability, OIG has focused on those officers who clearly understood the requirements of the PD and MOJ; knew those requirements were not being met; failed to report the fact that requirements were not met to their managers; failed in their oversight responsibilities; and were involved in multiple incidents of inaccurate reporting. This Report includes systemic recommendations to ensure adequate legal and managerial oversight of Agency programs and independence in Agency internal reviews of operational failures.

PROCEDURES AND RESOURCES

28. [REDACTED] In May 2001, DoJ's Criminal Division initiated a preliminary review of the procedures employed in the narcotics air interdiction program in Peru as a result of questions arising from the 20 April 2001 shutdown of the missionary aircraft. The purpose was to determine whether a criminal investigation was warranted. In August 2001, DoJ asked the FBI to conduct a preliminary criminal inquiry. In mid-December 2001, DoJ requested that CIA/OIG join

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with the FBI in conducting this investigation. In response, OIG established an investigative team comprised of six special investigators and one research assistant. In addition to this team, 10 special agents from the FBI, six prosecutors and one paralegal from DoJ's Criminal Division, and one Assistant United States Attorney from the District of Columbia also participated in the investigation.

29. [redacted] On 21 December 2001, OIG issued a memorandum to CIA components requesting copies of all internal and external documents related to the investigation. OIG subsequently compiled and reviewed copies of relevant internal and external documents including official files, Official Personnel Folders, correspondence, communications, reports, and electronic files. OIG reviewed CIA policies, regulations, and field directives as well as the PD and MOJ governing conduct of the program in Peru. The investigative team also requested and reviewed pertinent documents in the records of the Departments of State, Commerce, and Defense as well as the Drug Enforcement Administration (DEA) and the US Customs Service (USCS).

30. [redacted] The investigative team traveled to the US Southern Command, the Joint Interagency Task Force-East, and the US Embassy in Lima and reviewed and obtained copies of pertinent US Government records. The team conducted interviews of current and previous officials assigned to the Embassy during the conduct of the air interdiction program. The team traveled to Pucallpa and Piura, Peru, for further interviews. Additionally, the team requested and received classified and unclassified Peruvian Government documents pertinent to the conduct of the interception program.

31. [redacted] The team asked permission to review transcripts of Congressional testimony, hearings, and briefings presented by CIA officers to both the House Permanent Select Committee on Intelligence (HPSCI) and the Senate Select Committee on Intelligence (SSCI). The SSCI provided access to the requested material. The HPSCI declined to provide access to the requested

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material, stating that its own review had determined that the operation of the Airbridge Denial Program, as presented to the Committee by CIA officials, was appropriate.

32. [redacted] In total, the team indexed more than 250,000 pages of documents into its records. It also obtained and reviewed the videotapes of ABDP operations that included 14 of the 15 shootdowns. The videotapes provide a visual and audio record of what transpired in each intercept mission. OIG was not able to obtain a videotape of the shootdown that occurred on 17 August 1997. [redacted] however, had reported multiple violations of procedure at the time of that event.

33. [redacted] The team conducted more than 210 interviews of individuals, some of whom were interviewed multiple times, including current and former employees of CIA, DEA, USCS, Department of State, the National Security Council (NSC), the US Army, and the SSCI staff. Working with the Peruvian Ministries of Justice, Defense, and Foreign Affairs, the team met with the Commander of the Peruvian Air Force and other Peruvian Ministry of Defense officials to arrange interviews of FAP personnel involved in the shootdowns, as well as their commanding generals. In total, 24 Peruvian Air Force officers were interviewed, including five of the six commanding generals as well as available FAP pilots, co-pilots, and Host Nation Riders.

34. [redacted] DoJ declined criminal prosecution in favor of administrative action by CIA on 3 February 2005.

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ISSUES PRESENTED

35. This Report of Investigation addresses the following issues:

Part I: Conduct of the Airbridge Denial Program, 1995-2001

- ◆ Legal Authorities and Procedures for Conducting Interceptions
- ◆ Program Operations
 - ◆ Intercept Phases
 - ◆ Standard Operating Procedures, 1995-2001
- ◆ The Shootdowns, 1995-2001
 - ◆ Violations of Intercept Procedures
 - ◆ Violations in Reporting
 - ◆ Headquarters Review and Oversight
 - ◆ Responsible Officers
 - ◆ Summation
- ◆ Interviews with Key Agency Participants in the Airbridge Denial Program

Part II: CIA's Role in Investigations of the Conduct of the Airbridge Denial Program, 2001-2005

- ◆ CIA Statements Immediately Following the Missionary Shootdown
- ◆ Internal CIA Examinations of Conduct of the Airbridge Denial Program
- ◆ CIA's Internal Accountability Review
- ◆ CIA Reporting to Congress and the NSC
- ◆ External Examinations of the Conduct of the Airbridge Denial Program
- ◆ Role of the Office of General Counsel in CIA's Examinations of the Airbridge Denial Program

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[REDACTED] Chronology of Significant Events, 1994 - 2001

3 October 1994 Congress passed 22 U.S.C. §2291-4, providing immunity for US Government personnel engaged in interdiction provided certain conditions that protect against the innocent loss of life are met.

8 December 1994 President signed Presidential Determination and Memorandum of Justification authorizing air interdiction program in Peru.

16 May 1995 **Shootdown.** Legal review conducted by Latin America Division Legal Adviser. Congress notified that shootdown complied with required procedures.

23 June 1995 **Shootdown.** Congress notified that shootdown complied with required procedures.

14 July 1995 **Shootdown.** Congress notified that shootdown complied with required procedures.

21 July 1995 **Shootdown.** Congress notified that shootdown complied with required procedures.

17 August 1995 **Shootdown.** Congress notified that shootdown complied with required procedures.

13 November 1995 **Shootdown.** [REDACTED] reported all procedures followed. No record of Congressional Notification.

27 November 1995 **Shootdown.** [REDACTED] reported all procedures followed. No record of Congressional Notification.

8 July 1996 **Shootdown.** [REDACTED] reported all procedures followed. No record of Congressional Notification.

February 1997 Standard Operating Procedures (SOPs) issued; references International Civil Aviation Organization (ICAO) standards in introduction, but does not specify visual signals as one of the required intercept procedures.

23 March 1997 **Shootdown.** Congress notified that shootdown complied with required procedures.

4 August 1997 **Shootdown.** [REDACTED] reported all procedures followed. No record of Congressional Notification.

17 August 1997 **Shootdown.** [REDACTED] reported deviation in procedures. Conduct of program is reviewed.

September 1997 Headquarters officer [REDACTED] responsible for oversight of the program, traveled to Peru to review program's compliance with procedures and issued report. [REDACTED] report concluded that 17 August 1997 shootdown constituted the single instance in which intercept procedures were not followed, and that the ABDP exceeded requirements of PD/MOJ.

6 October 1997 **Shootdown.** Congress notified that shootdown complied with required procedures.

10 October 1997 On 10 October, Agency advised Congressional Intelligence Committees of violations in required procedures during 17 August 1997 shootdown and told of follow-up corrective measures to be taken that will preclude recurrence.

12 October 1997 **Shootdown.** Congress notified that shootdown complied with required procedures.

February 1999 US and Peruvian aircraft collided during a training exercise.

March 1999 SOPs issued, signed by [REDACTED] and FAP. Did not include all required procedures.

October 1999 SOPs issued, signed by [REDACTED] and FAP. Did not include all required procedures.

17 July 2000 **Shootdown.** [REDACTED] reported all procedures followed. No record of Congressional Notification.

20 April 2001 **Shootdown.** [REDACTED] reported that missionary plane is shot down. Key Agency officers brief Congressional committees on the missionary shootdown, advising that the rapid pace of procedures conducted and deviation of procedures were unexpected.

This box is classified ~~Secret~~~~SECRET~~ [REDACTED]

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FINDINGS

PART I: CONDUCT OF THE AIRBRIDGE DENIAL PROGRAM, 1995-2001

Legal Authorities and Procedures for Conducting Interceptions

36. [redacted] US federal criminal law prohibits the willful destruction of foreign civil aircraft. Specifically, Title 18 U.S. Code §32(b)(2), *Destruction of aircraft or aircraft facilities*, provides that,

Whoever willfully . . . destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight. . . .

is punishable by a fine and a term of imprisonment not to exceed 20 years. When violation of this provision results in the death of any person, U.S.C. §32(b) states that the offense is also punishable by either imprisonment for life or the death penalty.³ The definition of aircraft "in service" includes aircraft on the ground within 24 hours of landing.

37. [redacted] In fall 1994, the US Congress passed Title 22 U.S. Code §2291 to §2294 providing immunity to foreign officials and US employees and agents who engage in or provide assistance for the interdiction of civil aircraft in foreign countries, provided certain conditions are met. This law enabled the United States to resume support to the air interdiction program in Peru. The two conditions required by the 1994 statute are that:

The aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and,

³ [redacted] 18 U.S.C. §34.

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The President of the United States, before the interdiction, has determined that (a) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of Peru, and (b) the foreign country has appropriate procedures in place to protect against innocent loss of life in the air or on the ground in connection with interdiction.

38. [redacted] Presidential Determination 95-9, *Resumption of U.S. Drug Interdiction Assistance to the Government of Peru*, signed by President Clinton on 8 December 1994, and its accompanying MOJ authorized US support for the air interdiction program in Peru. The MOJ set forth, in detail, the mandatory interception procedures that had been agreed to by the US and Peruvian Governments along with the legal obligations of US personnel involved in the program.

39. [redacted] In relevant part, the MOJ stated that only aircraft reasonably suspected of being primarily engaged in narcotrafficking could be legitimate targets under this program and that:

... the use of weapons against [narcotrafficking] aircraft in flight by the Peruvian Air Force may be authorized under very strict conditions after all attempts to identify innocent aircraft and to persuade suspected aircraft to land at a controlled airfield have been exhausted.

40. [redacted] The MOJ then described Peru's interdiction procedures in detail, including the requirement to communicate with the suspect aircraft. The MOJ mandated that Peruvian interceptor aircraft attempt to communicate with the suspect plane by radio, and, if that failed, then the interceptor was to use a series of visual communication procedures:

If radio contact is not possible, the [FAP] pilot must use a series of internationally recognized procedures to make visual contact with the suspect aircraft and to direct the aircraft to follow the intercepting aircraft to a secure airfield for inspection.

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41. [REDACTED] The "internationally recognized procedures" are those established by the International Civil Aviation Organization (ICAO) and require that while flying in front and above the target aircraft, the interceptor plane must wag its wings up and down, flash its navigational lights on and off at irregular intervals, then fly off to the left. This signal is internationally recognized as meaning "follow me." Alternatively, while flying in front and above the target airplane, the interceptor can lower its landing gear or turn on its landing lights, both of which indicate it is directing the target aircraft to land.

42. [REDACTED] The MOJ provided that if the target aircraft did not respond to the visual signals, the interceptor should then fire warning shots, followed by disabling shots:

If the aircraft continues to ignore the internationally recognized instructions to land, the [FAP] pilot--only after gaining the permission of the Commanding General of the VI RAT [FAP Sixth Territorial Air Defense Command] or in his absence the Chief of Staff--may fire warning shots in accordance with specified [FAP] procedures. If these are ignored, and only after again obtaining the approval of the Commanding General of the VI RAT or in his absence the Chief of Staff, the [FAP] pilot may use weapons against the trafficking aircraft with the goal of disabling it.

43. [REDACTED] The remaining procedures for the actual shooting down of aircraft follow in the same paragraph of the MOJ and also require the authorization from the Commander of the VI RAT or his Chief of Staff. The section on the Peruvian procedures concluded with the following statement:

The final decision to use force against civil aircraft in flight--once all other steps have been exhausted--requires authorization from the VI RAT Commander--or in his absence his Chief of Staff--who will verify that all appropriate procedures have been fulfilled.

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44. [REDACTED] The MOJ then addressed the obligations of the US personnel involved in the program.

As part of their standard operating instructions, all official [US Government] personnel in jointly manned facilities and platforms will regularly monitor compliance with agreed procedures and immediately report any irregularities through their chain of command. Should there be evidence suggesting that procedures are not being followed, the [US Government] will reevaluate whether Peru has appropriate procedures to protect against the loss of innocent life.

PROGRAM OPERATIONS

45. [REDACTED] Under Peruvian law, any civil aircraft flying during daylight hours through the special air defense identification zone (ADIZ) below the minimum altitude used by commercial airlines was subject to interdiction by the FAP. At night, civil aircraft were prohibited from flying within the zone, with exceptions for commercial aircraft on scheduled routes and aircraft with specific authorization from the FAP. The Peruvians considered any other aircraft flying in the ADIZ at night to be illegal, and thus subject to interdiction.

46. [REDACTED] The FAP used two types of fighter aircraft, the single-engine turboprop Embraer T-27A Tucano (Tucano) and the twin-engine jet Cessna A-37B Dragonfly (A-37), to interdict suspicious planes. The CIA also used [REDACTED] tracker planes, [REDACTED]

[REDACTED] The responsibility of the US tracker planes [REDACTED]

[REDACTED] was to locate the suspicious aircraft and lead the Peruvian fighters to those aircraft.

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47. [REDACTED] tracker aircraft were based in Pucallpa, Peru. The CIA officer-in-charge (OIC) at Pucallpa was responsible for on-the-scene supervision of air operations and [REDACTED] aircrews. During flight missions, the OIC maintained radio communication with the tracker aircraft and monitored the interceptions. The Pucallpa OIC reported on the conduct of procedures to CIA personnel [REDACTED]
[REDACTED]

48. [REDACTED] The tracker aircraft were equipped with videotape capability, and each interception was recorded. CIA personnel supervising the interceptions were to use the videotapes to verify the accuracy of statements about the conduct of the interception and report any irregularities to their managers. If the review of the videotape did not substantiate written statements made in reports, CIA personnel were required to raise the discrepancies with their superiors. According to participants in the air interdiction program, the CIA OIC at Pucallpa Base reviewed the videotapes of shootdowns, then [REDACTED] officers reviewed them. Following [REDACTED] review, the videos were hand carried [REDACTED] to Headquarters for further review.

49. [REDACTED] As part of scheduled patrol missions or as a result of specific intelligence, [REDACTED] tracker aircraft took off from Pucallpa to search for aircraft suspected of being engaged in narcotrafficking. The US tracker crew included a pilot, co-pilot, mission sensor operator who ran the forward-looking infrared radar (FLIR) and video recorder; a FAP host nation rider (HNR) also was on board the tracker aircraft. The HNR was responsible for relaying commands between Peruvian authorities on the ground and the FAP fighter aircraft and for coordinating the positions of the tracker aircraft and the fighter plane.

50. [REDACTED] The first step of the interdiction was to identify the target plane and determine whether it was a legitimate flight. This step was difficult to carry out for a number of reasons.

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Civil pilots did not consistently file plans for flights over the remote jungle region that made up the ADIZ. The FAP could not efficiently check those flight plans that did exist. CIA and FAP personnel were reluctant to attempt radio communication with a suspect aircraft until the fighter plane had arrived for fear that, if the suspect plane was involved in narcotrafficking, the pilot would attempt to escape. Finally, the tail number or other identifying information of the suspect aircraft could not be seen if it was flying at night.⁴

51. [redacted] CIA and FAP personnel did agree, however, that the US tracker aircraft would attempt to obtain the registration number from the tail of the suspect plane. The number would then be called to the Commanding General of the VI RAT, located in Juanjui, Peru, to be compared to a list of registered aircraft. The HNR on board the tracker plane also was supposed to carry a copy of the list. If the target was legitimate, the intercept was to be broken off. If not, or if the tracker aircraft could not get a registration number, the intercept continued. A CIA [redacted] Officer, stationed with the VI RAT Commander at Juanjui and later Iquitos, monitored transmissions between the US tracker aircraft and the commanders on the ground throughout the intercept missions. This officer also reported on the conduct of procedures [redacted]

52. [redacted] If the tracker plane could not get the tail number, US pilots were supposed to radio in a description of the suspect plane's make, model, and color to the VI RAT Commander. At that point, based on the description and the heading of the target, the VI RAT was to check the list of flight plans filed by civil aircraft. If the target was found to be on a legitimate flight plan, the intercept would be broken off. Otherwise, the intercept continued.

⁴ [redacted] CIA officers who participated in the program and were interviewed by OIG stated that it was difficult to get the identifying information and that, even with identifying information, the Peruvians had difficulty determining the nature of the flight and whether it had filed a flight plan. Some of these officers stated that, if a flight occurred at night, it was unnecessary to identify it because it was too difficult and all night flights were illegal.

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53. [REDACTED] According to the MOJ, if attempts to identify the target failed to establish it as a legitimate flight, the VI RAT Commander could authorize the launch of a FAP fighter. When the fighter was airborne, the HNR would communicate the coordinates of the tracker aircraft to the fighter until the fighter crew could see the target plane. At that point, the fighter conducted the intercept while the tracker aircraft moved into position to monitor the event. The tracker aircraft recorded the process via a video recorder connected both to the FLIR and the tracker's radio communication system.

INTERCEPT PHASES

54. [REDACTED] An intercept consisted of three phases. The first was the attempt to communicate with the target. According to the MOJ, after the fighter visually identified the target and confirmed its registration number, it was to attempt communication by radio. Under both Peruvian law and additional agreements between the United States and Peru, the fighter was required to attempt multiple radio contacts with the suspect aircraft on at least two different frequencies.⁵

55. [REDACTED] Because of the very real possibility that radio calls would not reach a small aircraft flying over the jungle, the MOJ mandated that, if radio contact was not possible, the FAP pilot "must use a series of internationally recognized procedures to make visual contact" with the suspect aircraft. These procedures, standardized by the ICAO, required the fighter plane to fly in front of the intercepted plane and wag its wings up and down, lower its landing gear, flash its landing lights, and possibly give hand signals.

56. [REDACTED] In OIG interviews, most CIA officers acknowledged that these visual signals were required, but difficult to perform. Even though they were explicitly called for in the MOJ,

⁵ [REDACTED] Several radio frequencies were routinely used east of the Andes, so standard procedure called for multiple attempts on a range of frequencies. Interviewees indicated, however, that small aircraft pilots usually turned off their radios as they flew over open jungle.

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some officers indicated that they were not sure visual signals were required. Several officers indicated that such signals were not required if they would affect the safety of the fighter, if taking the time to do them would enable the suspect aircraft to escape, or if the suspect aircraft was evading the Peruvian fighter. Peruvian pilots interviewed by OIG stated that visual signals were difficult to perform; not one of these pilots had performed them in the shootdowns he conducted. The videotapes support the Peruvian pilots' testimony. They do not show visual signals being performed in any of the 14 shootdowns for which OIG obtained videotapes from 1995 through April 2001.

57. [redacted] If the target did not respond to the attempts at communication, the VTRAT Commander could authorize Phase II, the firing of warning shots. The warning shots consisted of tracers fired by the fighter aircraft. Some CIA officers stated that the tracers could be seen at night but not during the daytime. However, others observed that the FAP used old tracer ammunition that either did not ignite or ignited only briefly but extinguished by the time it reached the target pilots' field of vision. [redacted]

[redacted] tracer rounds cannot be seen on any of the videotapes from Peru. Moreover, the FAP fighter pilots described being blinded by the firing of their guns at night because they were wearing night vision goggles. As a result, they say they fired only one or two bursts of a few seconds each. Most of the shootdowns in the Peruvian program occurred in daylight when tracer rounds would not have been visible.

58. [redacted] The position of the fighter also decreased the likelihood that the suspect pilot would be able to see the warning shots. The procedures called for the fighter to fly in front and to the left of the target, but almost all of the videos show the fighter behind the target of interest (TOI) during Phase II. Again, some CIA officers indicated that warning shots were not required if the target was

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taking evasive action. If the target did not respond to the warning shots, the VI RAT Commander could authorize Phase III, the use of force. According to the MOJ, in Phase III, if warning shots are ignored – and only after again obtaining the approval of the VI RAT Commander – the FAP pilot may use weapons against the suspect plane with the goal of disabling it. If such fire does not cause the intercepted pilot to obey FAP instructions, the VI RAT Commander may order the aircraft shot down.

59. [REDACTED] It is inherent in the procedures set forth in the PD and the MOJ that a target must be given a reasonable chance to respond to the warnings. It is not clear exactly how much time is required to perform the procedures and allow for a response. Agency officers testifying after the missionary shutdown, however, claimed that the 10 minutes that elapsed between the first radio warning and the shutdown phase in that operation was insufficient. US pilots and others involved in the program told OIG that the procedures themselves could be done in five to 10 minutes, but that time must also be given for the target of the intercept to respond. It is clear from the videotapes and a review of Agency cable traffic that procedures were often compressed or rushed, particularly if the crews perceived that the target was trying to escape. In at least nine of the 14 shutdowns that preceded the missionary operation, less than 10 minutes elapsed between the first attempted radio contact and the shutdown phase. In six of these shutdowns, *less than two minutes* elapsed between the first warning and the shutdown phase.

60. [REDACTED] The MOJ also spelled out the review and reporting requirements of CIA officers involved in the ABDP. They were to "regularly monitor compliance with agreed procedures and immediately report irregularities through their chain of command." The MOJ stipulated that, should there be evidence that procedures had not been followed, the United States would "reevaluate whether Peru has appropriate procedures to protect against the innocent loss of life." Agency officers responsible for operating the ABDP at

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Headquarters and in the field told OIG they understood that these procedures were required; they also understood the stipulation to monitor compliance and report deviations.

STANDARD OPERATING PROCEDURES, 1995 TO 2001

61. [REDACTED] In early 1995, after the December 1994 Presidential approval to restart the program, US and FAP ABDP personnel in Peru prepared a document laying out the technical step-by-step instructions for conducting intercepts. According to program participants, the US and FAP wrote a new document following the yearly change of the VI RAT Commander. Later, new SOPs were signed [REDACTED].

62. [REDACTED] The only written SOPs obtained by OIG in this investigation were one set from 1997 and two from 1999.⁶ None of these documents contained the requirement to conduct visual signals as part of the intercept procedures. According to American pilot [REDACTED] the requirement to perform visual signals was dropped from the SOPs in late 1996 because the Peruvians considered them too dangerous; he said all the aircrews were aware of this change. The absence of the specific requirement to perform visual signals was contrary to the requirements specified by the PD/MOJ. [REDACTED] was the [REDACTED] when the 1997 SOPs were created, but only the Peruvian Air Force Commander signed the document. [REDACTED] signed the SOPs issued in March 1999, and his successor [REDACTED] signed the SOPs issued in October 1999.

63. [REDACTED] In February 1995, [REDACTED] serving in the Directorate of Operations (DO), Military and Special Programs (MSP), [REDACTED] became the first officer-in-charge (OIC) of the reconstituted program. During his 75-day temporary duty tour in Peru, [REDACTED] said

⁶ [REDACTED] US and Peruvian pilots and crew explained that when a new SOPs was issued, the previous version was destroyed, so as not to cause confusion. The SOPs issued in October 1999 was in effect at the time of the April 2001 missionary shutdown.

~~SECRET/~~ [REDACTED]

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he developed intercept procedures in coordination with US and FAP personnel assigned to the program. According to [REDACTED] the intercept procedures that were developed were based upon the PD, MOJ, ICAO requirements, and discussions with the FAP.

64. [REDACTED] said all intercept procedures, to include visual signals such as wing waggling and warning shots, were mandatory both for day and night intercepts, but *effective use* of procedures depended on many things. [REDACTED] noted that warning shots were not effective during the day or night due to the burn time of the tracer ammunition. He explained that the chemicals on the ammunition did not burn long enough after firing to enable a suspect aircraft to effectively observe the tracer. In addition, [REDACTED] noted that suspect aircraft would typically evade by flying at treetop level, and this would make it difficult, if not impossible, for the interceptor to accomplish wing waggling. [REDACTED] said it became a safety of flight issue at that point. According to [REDACTED] if the interceptor was unable to accomplish visual signals, either during the day or at night, because of a suspect aircraft's evasive maneuvers, for example, the interceptor would be required to break off the intercept before shutdown. However, testimony of US and Peruvian aircrews did not support this assertion. Rather, the aircrew members told OIG they were unaware of the requirement to break off an intercept if visual signals could not be conducted.⁷ The videotapes of the shutdowns show that target aircraft were shot down despite the fact that visual signals were not performed.

65. [REDACTED] served in DO/MSP [REDACTED] [REDACTED] from 1995 to June 1996 and [REDACTED] [REDACTED] from June 1996 through 1997. In these positions, [REDACTED] briefed OICs prior to their deployment to Peru about the procedures and said he required them to read the ICAO manual.

⁷ [REDACTED] See Box, "Statements by US and Peruvian Pilots Concerning Pilot Discretion in Conducting Visual Signals," at the end of this section.

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66. [redacted] Program Manager [redacted] from 1993 to 1996, said meetings were held with the FAP, to include VI RAT Commander [redacted] to discuss the intercept procedures.⁸ The meetings included [redacted] management, [redacted] officer [redacted] and [redacted] could not recall the FAP aircrews ever raising a concern regarding the difficulty, or impossibility, of executing any intercept procedures for any reason, day or night, to include safety of flight, nor did [redacted] ever request or make a change in the intercept procedures. [redacted] said he watched all the shutdown videotapes during his assignment in Peru.

67. [redacted] was VI RAT Commander at the time of the restart of the program in 1995 until 1996. In explaining the intercept procedures the FAP conducted, [redacted] said the FAP interceptor attempted to make visual contact by flying alongside the suspect aircraft and performing maneuvers, such as wing waggling, in order to get the aircraft's attention. [redacted] said this procedure was not done at night, however, because it was dark and the aircraft could not see one another. In this case, according to [redacted] the interceptor would fire warning shots as visual signals. [redacted] said Phase II consisted of warning shots that were always done whether it was day or night. [redacted] said visual signals, other than warning shots, were never executed at night because it was too dangerous. [redacted] said FAP pilots did not have discretion to execute visual signals at night. According to [redacted], about 90 percent of interceptions occurred at night.⁹

68. [redacted] said he had the responsibility to formulate the SOPs, containing step-by-step instructions for conducting an intercept, and to ensure they were followed. [redacted] said he, his deputy, [redacted], and [redacted] established the SOPs, and these four individuals essentially set up the program. [redacted] said [redacted] and [redacted]

⁸ [redacted] In reviewing the draft report [redacted] said that his job title was [redacted] for Counternarcotics [redacted]

⁹ [redacted] Of the interceptions, 11 of the 15 shutdowns occurred during the day.

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wrote the phases of interception that were in the 1995 SOPs and he signed the SOPs in 1995 in Juanjui. According to [REDACTED] the procedures written by him, his deputy, [REDACTED] and [REDACTED] stated that pulling up next to a suspect aircraft *should be done at night if* it was clear enough and if there was sufficient moonlight. Visual signals could be executed *if* the interceptor pilot, who was not wearing night vision goggles, *could see* the suspect aircraft, according to [REDACTED]. However [REDACTED] noted, if it was too dark to see, warning shots were to be used instead of visual signals. [REDACTED] could not definitively state that [REDACTED] or [REDACTED] knew the FAP did not use visual signals at night, but he spoke to [REDACTED] all the time on program-related matters and watched shutdown videotapes with [REDACTED] during which they discussed what had occurred during the shutdowns, both good and bad.

69. [REDACTED] [REDACTED] who served in the program from 1995 to 1999 as the [REDACTED] Officer to the VI RAT Command, said his role was to "look over the VI RAT Commanding General's shoulder" at the Juanjui Fusion Center to ensure that the VI RAT Commander abided by the program's rules of engagement and to make sure the program ran according to required procedures. [REDACTED] said he watched videotapes of the shutdowns to ensure that they adhered to the intercept procedures. [REDACTED] understood that visual signals were required in a daytime intercept, if the suspect aircraft was not evading. [REDACTED] said visual signals were not required during night intercepts, other than the use of landing lights.

70. [REDACTED] *A Near Collision.* In February 1999, a Peruvian fighter aircraft and an American tracker plane nearly collided during an exercise. The planes touched in flight, but no damage occurred and no one was injured. As a result, the SOPs were reissued in March 1999, following this incident, to modify the procedures for vectoring the Peruvian fighter to the interception. References to a requirement for visual signals remained omitted from the 1999 SOPs. It had been

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removed from the SOPs from at least the 1997 SOPs and continued to be omitted in the October 1999 SOPs in effect at the time of the missionary shutdown.

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[REDACTED] **Statements by US and Peruvian Pilots Concerning Pilot Discretion in Conducting Visual Signals**

[REDACTED] US pilot on the 23 June, 21 July, and 17 August 1995 and 8 July 1996 shootdowns, told OIG that the FAP did not conduct visual signals in these shootdowns. [REDACTED] further stated that, in the latter half of 1996, the requirement for visual signals was removed from the SOPs at the request of the FAP, which considered the maneuver too dangerous for its aircraft. He said all aircrews were aware of this change in visual requirements, and it was discussed during daily meetings.

[REDACTED] US pilot on the 21 July and 17 August shootdowns in 1995, told OIG that, although visual signals were "mandatory," the FAP fighter pilot could decide whether to actually do the signals during an intercept. He added that, if there was intelligence on the target, one did not have to "waste your time" doing the intercept procedures.

[REDACTED] FAP pilot on the 16 May, 14 July, and 13 November shootdowns in 1995, told OIG that the FAP pilots had discretion whether to use visual signals when bad weather, poor visibility, or an evading target could make the maneuver too dangerous. He did not perform ICAO visual signals in any of his three shootdowns.

[REDACTED] FAP pilot on the 23 June 1995 shootdown, told OIG he went directly from radio warnings to firing warning shots and then shootdown because visual signals were not mandatory.

[REDACTED] FAP pilot on the 21 July 1995 shootdown, told OIG he went directly from radio warnings to warning shots and then shootdown because visual signals would have been too dangerous.

[REDACTED] FAP pilot on the 17 August and 27 November 1995 shootdowns, told OIG that the FAP interceptor pilots had discretion as to how close to get to a suspect aircraft and whether or not it was safe to execute visual signals such as wing wagging.

[REDACTED] the VI RAT Commander in 1996, said that the interceptor pilots generally had discretion whether or not to pull alongside a suspect aircraft to conduct visual signals.

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THE SHOOTDOWNS, 1995-2001

71. [REDACTED] This section of the Report addresses the 15 shootdowns of suspected narcotrafficking aircraft, including the April 2001 shootdown of the missionary plane. It focuses on violations of procedure, violations in reporting, and failures of management and oversight to ensure the program operated in compliance with the law. The most common violations were failure to perform visual signals, failure of the Peruvian chain of command authorizing the shootdown, insufficient time to perform all required procedures and for target aircraft to respond, failure to obtain reasonable assurance that the suspect aircraft was a narcotrafficker, failure to fire warning shots, and interference on the part of the US crew.

72. [REDACTED] Additional violations happened less frequently and are discussed in the context of the shootdown in which they occurred. With the exception of one shootdown in 1997, which the Agency identified as the only shootdown in which procedures were violated, information from interviews and records reveals that none of the violations was reported or addressed in any way throughout the period the program operated.¹⁰

73. [REDACTED] OIG reviewed the videotapes it received of the 14 shootdowns in detail and compared that information with the written reporting [REDACTED] OIG did not receive a videotape of the 17 August 1997 shootdown. The videotapes, recorded from the US tracker plane, show the actions of the Peruvian fighter aircraft from the time it commenced an interception until the shootdown. All but one of the videos shows a clock identifying the hour, minute and second in 24-hour Zulu time (Greenwich Mean Time) running continuously on the bottom of the screen. OIG calculated the time that elapsed during the phases of an interception to establish that, in

¹⁰ [REDACTED] The Agency's post-April 2001 review and its findings with regard to the conduct of ABDP procedures is discussed in Part II of this Report.

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six shootdowns, less than two minutes elapsed between the first warning and the authorization to shoot. As part of the criminal investigation, DoJ showed eight shootdown videotapes to a technical expert;¹¹ in none of these eight shootdown videos did the expert see the Peruvian fighter fly in front of the target plane's wing line as necessary to perform the ICAO procedures.

[REDACTED] **First Shootdown, 16 May 1995**

74. [REDACTED] **Violations of Intercept Procedures.** Violations of required procedures began with the first shootdown after the resumption of the Peruvian Airbridge Denial Program in 1995. The exchange of cables [REDACTED] with respect to this first episode suggests that Agency officers at Headquarters were concerned that not all procedures had been followed.

75. [REDACTED] The shootdown occurred in daylight on the morning of 16 May 1995. OIG review of the videotape revealed the following violations of procedure:

- ◆ No indication that visual signals were employed.¹²
- ◆ Failure of the Peruvian chain of command: authorization to shoot down the plane was not provided by the Peruvian commanders on the ground.
- ◆ US crew interference with the Peruvian chain of command: the US pilot said, "shoot him down," after warning shots were fired, and the HNR repeated the instruction to the A-37 pilot.

¹¹ [REDACTED] The technical expert—a US Marine Corps fighter pilot with expertise in the use and interpretation of FLIR radar—was shown the videotapes of the shootdowns of 16 May 1995, 14 July 1995, 21 July 1995, 23 March 1997, 4 August 1997, 06 October 1997, 12 October 1997, and 17 July 2000.

¹² [REDACTED] The Peruvian pilot during this shootdown told OIG that the FAP pilots had discretion whether to use visual signals when there was bad weather, poor visibility, or the target was evading. He said he did not conduct visual signals in any of his three shootdowns (16 May 1995, 14 July 1995, and 13 November 1995.)

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76. [redacted] **Violations in Reporting.** The cable [redacted] sent to Headquarters on the day of the shutdown reported that the Peruvian A-37 had fully complied with Peruvian law and international forcedown procedures. It said that the A-37, under VI RAT control, had made a "by-the-book" effort, including radio, signals, and warning shots to force the target to comply; the target had taken evasive action, and the A-37 had shot it down.¹³ Headquarters' response [redacted] asked for the shutdown tape and forwarded the State Department cable that laid out procedures for reporting irregularities in shutdowns.¹⁴ [redacted] answered by providing a chronology and repeating that [redacted] had reviewed the incident and that all proper procedures had been followed. A final cable [redacted] indicated that the OIC had conducted a review of the shutdown and that procedures had been followed "ad nauseum."

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¹³ [redacted] This is the first of a number of shutdowns in which [redacted] reporting stated that the target plane "evaded." It is impossible to define evasion in a definitive way; those involved with the program variously offered that a plane is evading when it turns, climbs, descends, goes faster, goes slower, or follows its course without turns. Individuals involved in the program who reviewed the videotapes with OIG generally offered the judgment that suspect planes were not trying to evade. OIG's review of the documentary material revealed that in eight of the fifteen shutdowns, one or another of the officers involved stated that the target was trying to evade. OIG's review of the tapes led investigators to judge that three of the targets clearly attempted to evade; in a fourth shutdown, one target began flying erratically after being fired on. In any case, there was nothing in the interdiction authorities to suggest that required procedures could be disregarded because a plane may be attempting to evade.

¹⁴ [redacted] The Headquarters cable conveyed a 17 May 1995, State Department telegram that provided the Intelligence Community's agreed procedures for reporting force down incidents when, in the opinion of US Government observers, host government forces deviated from US Government-accepted intercept procedures.

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~~SECRET~~ [redacted]**Shootdown Review Process**

[redacted] After each shootdown, the crews of the US tracker aircraft [redacted] and the Peruvian fighter (either an A-37 or a Tucano) returned to Pucallpa Base for debriefings. The CIA OIC in Pucallpa conducted an oral debriefing of the crew, and then they all watched the videotape of the intercept. The CIA OIC drafted a report of the mission and sent it, along with the videotape, [redacted]

[redacted] CIA personnel [redacted] were responsible for reviewing the OIC report and the videotape in order to make sure the intercepts had been conducted in accordance with required procedures. These officers [redacted]

[redacted] combined the report prepared by the OIC in Pucallpa with their own review of the videotape into a cable, which was then sent to CIA Headquarters. The videos were also hand carried [redacted] to Headquarters.

[redacted] Information concerning the intercepts was to be provided to Congress and the NSC. Usually, (LA Division officers prepared a Spot Report for the Deputy Director for Operations (DDO), upon which subsequent Congressional Notifications were based. Records indicate that written notifications were prepared to inform Congress regarding at least 10 of the 15 interdictions that resulted in shooting down suspicious aircraft. Officers in LA Division responsible for managing and overseeing the ABDP operations, to include LA Legal, participated in preparing and reviewing Spot Reports and notifications released to Congress by the Director, Office of Congressional Affairs (OCA).

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77. [redacted] The cables [redacted] failed to report that the tape showed no evidence that visual signals had been conducted; that no Peruvian commander on the ground had given authorization for the shootdown; and that a US pilot had given the order to shoot down the target. Failure to report these violations of procedure was itself a violation of requirements.

~~SECRET~~ [redacted]

First Shootdown Reporting: 16 May 1995						
	Reporting 5/16/95	HO Reporting 5/18/95	Reporting 5/23/95	(OIC) 6/12/95	Congressional Notification 5/23/95	OIG Findings
Management Oversight		Headquarters asks for shootdown tape	In response, [] provided chronology.	Cited shootdown review with VI-RAT commander.		
Phase I Radio Calls	A-37 made an effort to convince the pilot of target to land.		0717(Local): A-37 made radio contact with target. 0719: VI RAT reminded A-37 of procedures. A-37 gave radio warning.	A-37 told target he was intercepted.	FAP made effort to convince target to land.	
Phase I Visual Signals	A-37, under VI RAT control, made by book effort (radio, signals, warning shots, etc) to force target to comply.		... gave visual warning.	The A-37 then moved in to provide the visual cues to instruct the aircraft to land. Upon seeing A-37, TO began to evade in earnest.	FAP made by book effort (radio, signals, warning shots, etc.) to force compliance.	No visual signals seen on video.
Phase II Warning Shots			A-37 fires warning shots. VI RAT gives authorization to engage.	After following procedures, A-37 fired warning shots.		
Phase III Shootdown	0745Local: A-37 fired on narco aircraft.	FAP followed all intercept protocols.	0726: A-37 fires/misses. Target lost, then reacquired at 0731. A-37 fires; target hit.	A-37 received shootdown command from ranking Peruvian authority. 1250Z [0759L] A-37 fired shots in earnest. 1302Z [0802L]: part of target caught fire.		US pilot said shootdown after warning shots. HNR repeated instruction to A-37 without getting authorization from VI-RAT.
Additional Issues	Target took extreme and repeated evasive actions.	Forwards State cable discussing responsibility to report any host nation deviation from required procedures.				
Overall Compliance with Required Procedures	A-37 fully complied with Peruvian law and international forcedown procedures.	"According to State/INL," 45 minutes between intercept and shoot-down gave ample time to comply.	[] reviewed; all proper procedures followed to the letter. Full two hours spent trying to get aircraft to land.		FAP fully complied with Peruvian law international procedures. Action conformed with guidelines established by PD 95-9.	No indication of visual signals. Failure of FAP chain of command. US interference.

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*Name in parentheses indicates classifier of report.

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78. [REDACTED] **Headquarters Review and Oversight.** Headquarters' officers requested that [REDACTED] provide them with the shootdown tape. Violations of procedures were clearly revealed on that tape. A review of the cables [REDACTED] should have raised questions about whether or not all procedures had been conducted. The cables revealed that the Peruvian commander on the ground had reminded the interceptor pilots of required procedures at 0719 hours and that the firing of the first shots at the target occurred only seven minutes later.

79. [REDACTED] A 17 May 1995 Notification Item was sent to [REDACTED] [REDACTED] / LA Division by LA [REDACTED] on 18 May 1995, and stated in part:

The FAP interceptor aircraft continuously made efforts to convince the pilot of the violator aircraft to land . . . however, the violator took extreme and repeated evasive actions. A FAP pilot flying an A-37 made a by-the-book effort (which included talking by radio, signals, warning shots, etc.) to force the violator plane to comply with FAP authority. The FAP rider reported the plane carried a false tail number, which FAP records indicate actually belongs to a DC-8 aircraft located in Lima.

80. [REDACTED] A 19 May 1995 report describes a legal review conducted by CNC Legal Adviser [REDACTED] prepared at the request of the Acting DDO. This review stated in part:

The factual issue is whether the Peruvians had a sufficient basis to reasonably suspect that the aircraft was primarily engaged in illicit drug trafficking. The cable states that aircraft had a false tail number, failed to respond to requests to land, and took extreme and repeated evasive actions. In addition, LA believes that no flight plan was filed and that the aircraft was flying in a prohibited zone since the cable states the aircraft had a false tail number and that the Peruvians complied with Peruvian law and international forcedown procedures. (LA is in the process of confirming these facts.)

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The information in the cable supports the conclusion that there was a reasonable basis for the Peruvians to suspect the aircraft was primarily engaged in trafficking.

81. [redacted] OIG has found no record to show what process LA Division personnel used, or whether this shutdown was further examined, to confirm that the procedures complied with the requirements.

82. [redacted] Talking points prepared on 22 May 1995 for the DCI's use in informing the State Department and the NSC also stated that, based on monitoring of the operation by the [redacted] crew, [redacted] [redacted] concluded the FAP complied with Peruvian law and international forcedown procedures and stated in part:

During the 45-minute interdiction effort, the Peruvian Air Force made efforts to convince the pilot of the Cessna to land, including use of radio communication, signals and warning shots. After these efforts failed, the Peruvian Air Force pilot fired on the aircraft, which then crashed in the jungle.¹⁵

83. [redacted] The Congressional Notification of 23 May 1995 forwarded a background paper on the shutdown. The paper stated that, "based on monitoring of the operation by the [redacted] crew, [redacted] concluded the FAP *fully* complied with Peruvian law and international forcedown procedures." [Emphasis added.] The paper repeated the language used [redacted] — that the Peruvian pilot had made a "by-the-book" effort (which included talking by radio, signals, and warning shots) to force the violator to comply with FAP authority. It also repeated the claim that the action conformed to the guidelines established under PD 95-9. This reporting was inaccurate.

¹⁵ [redacted] As noted earlier, [redacted] reported that the Peruvian commander on the ground had reminded the interceptor pilots of required procedures at 0719 hours and that the firing of the first shots at the target occurred only seven minutes later.

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84. [REDACTED] **Responsible Officers.** The failure to document violations of procedure, and the creation of cables and reports that incorrectly assured that proper procedures had been followed, began with this first shutdown. Responsible officers in the field at the time of the first shutdown included:

- ◆ [REDACTED] the OIC at Pucallpa in May 1995. The OIC's responsibility was on-the-scene supervision of air operations and [REDACTED] aircrews. During missions, the OIC was in radio communication with [REDACTED] aircraft and monitored the conduct of interceptions. After a shutdown, [REDACTED] Peruvian air crews returned to Pucallpa Base for debriefings. The OIC conducted an oral debriefing and then all participants watched the videotape of the intercept together. The OIC drafted a report of the mission and sent it, along with the videotape, [REDACTED]
- ◆ [REDACTED] Program Manager in [REDACTED] from 1993 through the summer of 1996. In 1995, [REDACTED] had worked with the VI RAT Commander to prepare the SOPs for the FAP, and he was familiar with those procedures. He reviewed videotapes of this and subsequent shutdowns and drafted [REDACTED] cables describing the incidents. [REDACTED] told OIG he probably saw all videotapes of shutdowns. He said he was in the chain of command for all reports prepared and sent to Headquarters, but said that he did not change the language provided by the OICs.
- ◆ [REDACTED] Officer to VI RAT Command in Juanjui and Iquitos from 1995 to 1999. The Command in Juanjui was involved in the identification of suspect aircraft, and the VI RAT Commander or Chief of Staff at Juanjui was required to provide authorization for the Peruvian fighter pilots to proceed to Phase II (warning shots) and subsequently authorize Phase III (shutdown) of an

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interception. [redacted] followed the interceptions over the radio with the VI RAT Commander and his staff. [redacted] told OIG that his role was to look over the shoulder of the VI RAT Commander to ensure compliance with the ABDP rules of engagement and to make sure the program ran according to required procedures. He said he watched videotapes of the shutdowns to ensure intercept procedures were followed.

- ◆ [redacted] as the initial US OIC in early 1995, and later as an operations manager [redacted] [redacted] had a key role in setting up the procedures to be followed in air intercepts and was responsible for briefing outgoing OICs. [redacted] told OIG he developed the specific intercept procedures with the FAP and US personnel in early 1995 and as US OIC he supervised all aspects of the ABDP.

85. [redacted] At Headquarters, responsible officers included:

- ◆ [redacted] CNC Linear Program, which included the ABDP, from March 1995 through July 1996.¹⁶
- ◆ [redacted] LA Division from 1995 through July 1996. [redacted] reviewed cables [redacted] [redacted] and assisted in preparing notifications for senior Agency managers and Congress.
- ◆ [redacted] Legal Advisor to LA Division, was responsible for providing legal oversight to LA Division's covert action programs.

¹⁶ [redacted] In commenting on this report in draft, [redacted] says that as [redacted] CNC Linear, he had no operational or supervisory control over the ABDP. He watched shutdown tapes "from time to time" but not for the purpose of assessing compliance with the program requirements. If he had perceived conduct he believed was a violation, he would have brought it to the attention of his superiors, but that did not occur.

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If these Headquarters officers reviewed the cables and the videotape of the shutdown, they were aware of violations of procedure and thus were aware of passing false information to Congress. If they did not review the cables and the tape, they inadequately fulfilled their management oversight responsibility.

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[redacted] The Role of the Legal Adviser

OIG asked Office of General Counsel (OGC) attorneys who served as legal advisers to LA Division throughout the period of the shutdown program in Peru how they ensured the ABDP activities complied with the law. Each legal adviser expressed awareness of the requirements spelled out in the Presidential Determination and accompanying MOJ. Each also described his/her individual role in providing support to this lethal program:

- ◆ [redacted] who served as LA Legal Adviser from February 1994 to November 1995, told OIG that she did not perform any legal reviews or postmortems of ABDP shutdowns. Describing her role as "proactive" with respect to issues in other areas in Latin America, [redacted] said she did not work on the ABDP.¹⁷ She also did not recall any obligation to report any deviations from procedures relating to the ABDP.
- ◆ [redacted] who was the LA Legal Adviser from November 1995 through July 1997, said he also did not monitor compliance in the ABDP. He relied on cables from the field for assurance that required ABDP procedures were followed. Describing his approach, [redacted] said he was in "reactive" mode if a program was already up and running. [redacted] stated that he had no required obligation to conduct a periodic or independent check regarding the ABDP.
- ◆ [redacted] served as LA Legal Adviser from July 1997 through February 2001. [redacted] explained his role as more "reactive" than proactive. He said there was no requirement for him to automatically review any actions surrounding a lethal incident, and that he had no reason to doubt the accuracy of reporting from the field. [redacted] was not aware of any efforts in LA Division to ensure the ABDP complied with the law.
- ◆ [redacted] served as LA Legal Adviser when the missionary shutdown occurred in April 2001. According to [redacted] reporting deviations in the ABDP would begin with the US flight crews in Peru and pass to the Program Managers and [redacted]. That report would be forwarded to the LA Division Chief, who was responsible for notifying the NSC or Congress if a deviation was significant. [redacted] said the ABDP had been running "like a well oiled machine" for five years when he arrived in LA Division.
- ◆ [redacted] supervised the LA Legal Advisers as Counsel to the DO, a position he has occupied since spring 1994. According to [redacted] the LA Division Legal Advisers were responsible for overseeing or monitoring the implementation or execution of the MOJ and the ABDP. Procedural compliance was a shared responsibility between LA Division management and the LA Legal Adviser. [redacted] expected the senior component attorneys to inform him of problems with implementation of the procedures; if just a "regular" shutdown occurred, however [redacted] did not expect or receive an after-action report.

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¹⁷ [redacted] A legal review was conducted by CNC Legal Adviser [redacted] following the first shutdown on 16 May 1995. [redacted] said the CNC Legal Adviser backed her up.

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[REDACTED] **Second Shutdown, 23 June 1995**

86. [REDACTED] **Violations of Intercept Procedures.** This operation occurred at night, and only the audio portion of the tape was available. The OIG review of the audio portion revealed the following violations of procedure:

- ◆ No indication of visual signals.¹⁸
- ◆ Lack of reasonable time for suspect plane to respond to warnings: less than two minutes elapsed between the radio call and authorization for the shutdown and only five minutes between the radio call and shutdown.
- ◆ Phases executed before authorization given: the Peruvian pilot fired warning shots before being authorized to do so, and the HNR gave the fighter pilot orders to shoot the target down before receiving authorization from the ground.

87. [REDACTED] **Violations in Reporting.** The cables [REDACTED] stated that the team "once again" had followed established procedures and that all internationally recognized procedures appeared to be "fully complied with." OIC [REDACTED] commented that the performance of all VI RAT elements had been "excellent." He indicated that only after all appropriate signals had been given and the aircraft had failed to comply was the order given to engage the target. These statements were false.

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¹⁸ [REDACTED] The Peruvian pilot told OIG that he went directly from radio warnings to warning shots and shutdown because doing visual signals would have been too dangerous.

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[redacted] **Second Shutdown Reporting: 23 June 1995**

	Reporting 6/26/95	7/20/95	Congressional Notification w/Attachment 08/02/95	OIG Findings (shape contained; audio portion only)
Management and Oversight	From OIC Log: 2310Z (1810Local): [redacted] reports radar lock on. 0111Z: Tucano passes [redacted] to close on target.	Repeats earlier cable 2310Z: [redacted] reports radar lock on. 0111Z: Tucano passes [redacted] and closes on target.		
Phase I Radio Calls	0115Z-0136Z: (HNR/VI RAT talk) Permission granted to close on target, make radio calls to direct target to land. If instructions not followed, Tucano could fire warning shots, then request further instructions.	0115Z-0136Z: (HNR/VI RAT talk) Permission granted to close on target, make radio calls to direct target to land. If instructions not followed, Tucano could fire warning shots, then request further instructions.	Prior to shutdown, Tucano radioed target, made warning pass, fired warning shots.	
Phase I Visual Signals				Less than 60 seconds between radio calls and authorization to Phase II warning shots.
Phase II Warning Shots	Tucano made three passes on target. First was warning with radio calls and warning shots. Second and third were firing. 0137Z: Target had not responded and permission to engage and destroy was granted by VI RAT. 0142Z: Aircraft shot down and crashed.	Tucano made three passes on target. First was warning with radio calls and warning shots. Second and third were firing. 0137Z: Target had not responded and permission to engage and destroy was granted by VI RAT. 0142Z: Aircraft shot down and crashed.	Commander of VI RAT authorized action.	Tucano fired warning shots before authorization.
Phase III Shutdown				
Additional Issues				Less than two minutes between radio call and shutdown authorization and only five minutes between radio call and shutdown.
Overall Compliance with Program Requirements	Suspect was destroyed "when it failed to heed all recognized international interception signals." [redacted] commented that the team "once again" followed established procedures.	All internationally recognized procedures appeared to be fully complied with. Performance of all VI RAT elements was excellent. Once response was that appropriate signals had been given and target had not complied, order was given to engage.	[redacted] is satisfied Peruvian Air Force followed established procedures before firing on aircraft.	Insufficient time to perform visual signals. Phases executed before authorized. Insufficient time to conduct Phases and allow TOI to respond.

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88. [redacted] **Headquarters Review and Oversight.** A review of the [redacted] cables reveals that there was insufficient time for the interceptor aircraft to carry out all the required procedures. Nor was there time for the target aircraft to respond to any signals that were given. [redacted] reported that less than two minutes elapsed between the first radio call and authorization to shoot the plane down. Any officer reviewing the cables or listening to the audio on the tape knew that it was physically impossible to conduct the required procedures in the time specified in [redacted] reporting to Headquarters, and thus knew the claims that all procedures had been followed were false. Nonetheless, the background paper attached to the Congressional Notification reported that [redacted] was satisfied the Peruvian Air Force had followed all required procedures.

89. [redacted] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [redacted] OIC in Pucallpa.
- ◆ [redacted] OIC in Pucallpa.¹⁹
- ◆ [redacted] Officer to VI RAT in Juanjui.
- ◆ [redacted]

90. [redacted] At Headquarters, responsible officers included:

- ◆ [redacted] CNC Linear Program.
- ◆ [redacted] LA Division.
- ◆ [redacted] Legal Adviser to LA Division.

¹⁹ [redacted] There was an overlap in OICs, who served on a temporary duty basis, during the event of 23 June and 14 July 1995.

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~~SECRET~~ [][] **Third Shootdown, 14 July 1995**

91. [] **Violations of Intercept Procedures.** The third shootdown occurred in the late afternoon/early evening. It involved numerous violations of required procedures. OIG review of the videotape revealed the following violations:

- ◆ Failure to obtain reasonable assurance that suspect plane was a narcotrafficker. There was no intelligence on the flight, which was intercepted randomly. There was no effort to determine whether the target was engaged in narcotrafficking. The tail number was not even checked until after the target had been fired on and the order had been given to shoot it down.
- ◆ No indication of visual signals.
- ◆ Ignoring of possible attempt by the target to communicate: the target turned on its lights (turning lights on and off at regular intervals is an international signal for responding).
- ◆ Failure of Peruvian chain of command: the HNR ordered the shootdown before talking to the VI RAT Commander.
- ◆ US crew interference: the US crew instructed the HNR twice to shoot the target down without authorization.
- ◆ Misinforming US Embassy in Lima: after the target had been shot down, the US Military Group in the US Embassy in Lima reminded CIA's OIC twice that instructions to shoot the target down must be passed directly to the HNR from the Peruvian commander; the OIC responded twice – incorrectly – that the HNR had received the instructions directly from his commander.
- ◆ Inappropriate comments by the US crew: the [] pilots instructed the HNR twice to order the FAP fighter to strafe the

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target after it landed. The HNR was heard passing on this order to the FAP fighter, although shots cannot be seen on the videotape. However, the FAP fighter can be seen coming out of a low pass over the crash site from which people were fleeing. At least one CIA officer believed that this was a firing pass.²⁰

92. [REDACTED] **Violations in Reporting.** The cables [REDACTED] indicated that, "After following all international intercept procedures including radio calls and warning shots, and under the orders of the VI RAT Commander, the aircraft was fired upon" One of the cables reported that the interceptor had visually identified the target aircraft's registration number and that it was a number that did not exist. According to the reporting, the target refused to acknowledge attempts by the interceptor pilot to communicate visually and by radio and that it took evasive action. The cables do not convey any sense of the new and conspicuous violations that occurred with this shutdown—failure to identify the suspect plane; orders by the US crew to strafe the target after it landed,²¹ and ignoring a possible attempt by the target to respond. Nor were the violations – which by now were commonly recurring – mentioned in the cables (e.g., no indication of visual signals; failure of the Peruvian chain of command; and interference by the US crew).

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²⁰ [REDACTED] After the missionary shutdown, at the request of the PTF, a Directorate of Intelligence officer conducted a detailed review of all of the ABDP intercept videotapes from 1995 onward. In his description of the 14 July 1995 event, he observed: "The A-37 is seen coming out of a dive and climbing rapidly. It appears that the A-37 strafed the target while in the water." This videotape review is discussed in detail in Section II of this Report. When interviewed by OIG, the Peruvian co-pilot and the HNR both denied that the Peruvians had strafed the plane after it crashed.

²¹ [REDACTED] Part II of this Report discusses Agency internal review of this event after the shutdown of the missionary plane in 2001 and consideration of making it the subject of a crimes referral to DoJ.

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[redacted] 14 July 1995 Videotape Chronology

The interdiction took place in the early evening. The tape, in Zulu time, begins with the A-37 in pursuit of the suspect plane. The Peruvian Commander [redacted] is at call sign [redacted]

22:51:15 Tape begins. The A-37 is trailing TOI.
 22:53:55 A-37 issues radio warnings.
 22:54:07 A-37 identifies TOI's registration number.
 22:54:31 HNR gives the A-37 permission to fire warning shots.
 22:54:40 Warning shots are fired, according to the US crew. (They cannot be seen on the tape.)
 22:54:55 A-37 issues another radio warning.
 22:55:28 US pilot reports that more warning shots were fired and TOI is evading.
 22:56:00 TOI turns on all of its lights (turning lights on and off at regular intervals is an ICAO sign for responding at night).
 22:57:07 HNR asks about [redacted] orders. US pilot states that [redacted] instructed that TOI is to be shot down if it does not respond. HNR requests confirmation of this order from [redacted].
 22:57:57 US OIC tells HNR that [redacted] confirmed the order to shoot down TOI if it does not respond.
 22:58:07 US pilot says, "Shoot the target."
 22:58:18 [redacted] asks the [redacted] pilots to put HNR on the line.
 22:58:21 HNR orders the A-37 pilots to shoot TOI.
 22:58:23 US pilot replies to [redacted] request to talk to HNR, "Be advised right now he is assisting the A-37s in this, I can't get him to the radio right now."
 22:59:06 [redacted] reports that TOI's tail number is not registered.
 22:59:15 US crew note that TOI has been hit by FAP fire.
 23:00:23 US crew spot TOI crash-landed in the river. HNR sees the survivors swimming away.
 23:00:40 HNR says in English, [redacted] [US pilot], ask for . . . ask [redacted] if the A-37 should shoot down again in the river." The US crew, without consulting [redacted] immediately reply, "Yes." US pilot then says, "Continue to shoot." For the next two minutes HNR unsuccessfully tries to get in touch with the A-37, apparently with the intention of relaying this order.
 23:01:14 US co-pilot reports to US OIC that the A-37 "descended to the St. Cristobal [river] to strafe the . . . to see if the drugs are still there."
 23:01:32 US pilot reports that the A-37 made "another sweep" on TOI.
 23:02:27 HNR asks if the A-37 shot TOI again. US pilot interprets the question as a request for orders, and says, "Yes, shoot again." HNR says, "Okay."
 23:03:04 HNR says to the A-37, "I understand you hit him again." No response from the A-37 pilots is heard before the tape ends nine seconds later.

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Third Shutdown Reporting: 14 July 1995

	Reporting 7/17/95	7/20/95	Congressional Notification 9/11/95	OIG Findings
Management and Oversight			Based on reviews of infrared imagery and discussions with aircrews and VI-RAT Commander, we are satisfied that FAP followed all established procedures.	
Identify and Sort Target		2250Z (1750 Local): HNR directs A-37 to target for visual identification. 2253Z (1753L): VI-RAT notifies that aircraft tail number does not exist.		No base on intelligence. TOI picked up while on patrol. Tail number not sorted until after A-37 ordered to shoot down TOI.
Phase I Radio Calls		A-37 begins intercept procedures. Target evades.	After following all international intercept procedures (radio calls/warning shots), A-37, under orders VI-RAT, fired on and damaged suspect aircraft.	Possible effort to target to communicate - turning lights on/off - ignored.
Phase I Visual Signals	After all international intercept procedures (radio calls and warning shots), under orders from VI-RAT Commander, aircraft fired on by A-37 while trying to evade.			No visual signals seen on video. Only 45 seconds between radio call and Phase II warning shots.
Phase II Warning Shots		2255Z (1755L): A-37 fires warning shots. Target continues to evade.		HNR orders warning shots without talking to VI-RAT. Phase II possibly pre-authorized.
Phase III Shootdown		2300Z (1800L): A-37 engages target, which appears to be hit.		HNR orders shootdown without talking to VI-RAT. Instead, US pilot tells HNR shoot down is authorized.
Additional Issues	2305Z: Aircraft makes emergency landing/sinks.	2303Z (1803L): Target descends to river and sinks.		US crew twice calls HNR to order A-37 to strafing TOI after it lands. Possible strafing of crashed TOI.
Overall Compliance with Program Requirements		The mission followed all internationally recognized intercept procedures. A-37 tried to establish radio and visual contact. A-37 fired warning shots in accordance with VI-RAT instructions. A-37 engaged target.		Failure to identify TOI. No visual signals seen on video. Ignored possible TOI communication. Failure of Peruvian chain of command. US crew interference.

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93. [redacted] **Headquarters Review and Oversight.** Headquarters management gave this episode more intense scrutiny than it had given previous ones. Several officers, including [redacted] CNC's Linear Program, visited Pucallpa [redacted] in the days after the shutdown to review the operation and to discuss procedures. The attachment to the Congressional Notification of 11 September (almost two months after the shutdown) states, however, that, "Based on reviews of infrared imagery and discussions with the aircrews and VI RAT Commander, we are satisfied that FAP followed all established procedures." However, [redacted] cables had reported to Headquarters that only two minutes elapsed between the first attempted radio contact and warning shots. If, as claimed, these reviewers had read the [redacted] reporting or looked at the videotape of the shutdown, they would have seen the violations discussed above because it is physically impossible to conduct radio calls, visual signals, and warning shots within the time [redacted] specified. Nonetheless, Headquarters claimed in its notification to Congress that all procedures had been followed.

94. [redacted] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [redacted] OIC in Pucallpa.
- ◆ [redacted] OIC in Pucallpa.
- ◆ [redacted] Assistant OIC in Pucallpa.
- ◆ [redacted] Program Manager
([redacted] told OIG he had reviewed this videotape and signed off on the cable to Headquarters).

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95. [redacted] At Headquarters, responsible officers included:

- ◆ [redacted] CNC Linear Program, who visited Pucallpa, met with officers involved and reviewed the videotape of the shutdown.²²
- ◆ [redacted] LA Division.
- ◆ [redacted] Legal Adviser to LA Division.

[redacted] **Fourth Shutdown, 21 July 1995**

96. [redacted] **Violations of Intercept Procedures.** OIG review of the videotape revealed clear violations of procedures:

- ◆ No indication that visual signals given.²³
- ◆ HNR given pre-interdiction authorization to shoot down the target – a blatant violation of requirements in MOJ.²⁴
- ◆ Insufficient time to conduct procedures:
 - ◆ Only 49 seconds elapsed between the first audible radio warning and the HNR's order to fire warning shots – not enough time for visual signals to be given.
 - ◆ Only 22 seconds elapsed between the authorizing of Phase II (warning shots) and the order to proceed to Phase III – not enough time for the target to react to warning shots.

²² [redacted] also served [redacted] CNC Linear Committee; this role is discussed in paragraph 204.

²³ [redacted] The Peruvian pilot for this shutdown stated that he had discretion as to how close to get to a suspect aircraft and whether or not it was safe to execute visual signals such as wing wagging. He said he did not execute visual signals in this shutdown.

²⁴ [redacted] Many of these violations are not singular events. Providing authorization before the interdiction also occurred on 14 July 1995, 17 August 1995, and 4 August 1997.

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- ◆ Only 71 seconds elapsed between the first audible radio warning and the HNR's order to shoot down the target. The reason for this haste was unclear; the target was not close to the border nor was the fighter running out of fuel.
- ◆ US interference with Peruvian chain of command: when the HNR said he could not get through to the FAP OIC to confirm receipt of instructions, the [redacted] pilot repeated the instructions to proceed. Subsequently, the HNR asked the [redacted] pilot if shooting authorization had been obtained, and the latter responded in the affirmative. The HNR then ordered the fighter to shoot down the target.²⁵

97. [redacted] This shutdown introduced a new violation—pre-interdiction authorization to shoot down the target. This represented a further weakening of the processes designed to protect against the loss of innocent life. The shutdown also repeated several of the common violations cited in previous episodes, including failure to perform visual signals, compressed timing, and US interference with the Peruvian chain of command.

98. [redacted] **Violations in Reporting.** [redacted] reported that the FAP again had "*fully* followed established Peruvian and international warning procedures." [redacted] also reported that a "review of the FLIR tape, discussions with crew, and conversations between the program manager and the Commander of VI RAT indicated that, as in all other events, the FAP *fully* followed established warning protocols, showed restraint, and only as a last resort destroyed the aircraft." [Emphasis added.] [redacted] also claimed that the review had clearly shown that the pilot of the target aircraft was aware he was being warned to comply with FAP orders.

²⁵ [redacted] This failure of Peruvian-to-Peruvian authorization also occurred on 16 May 1995, 14 July 1995, and 17 August 1995.

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99. [redacted] The cables from the field failed to report the violations of procedure that occurred. In addition, the cables provided misleading information about the timing of the intercept phases. For example, the first cable stated that seven minutes elapsed between the A-37's attempt to establish radio contact and its firing of warning shots; the OIG review of the tape indicates that only 49 seconds elapsed between these phases. The same cable reported that four minutes elapsed between phases two and three; the OIG review of the tape revealed that only 22 seconds elapsed.

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[REDACTED] 21 July 1995 Videotape Chronology

The video, in Zulu time, starts around dusk, but most of the actual intercept is carried out at night. The VI RAT Commander is at call sign [REDACTED]

22:57:48 Target of Interest (TOI) is **identified** by the US crew as OB712.
 22:58:17 Tape cuts off.
 23:21:23 Tape starts again.
 23:23:40 US OIC states that FAP OIC has tried to get through to HNR three times to give him the following instructions: "Tell the aircraft to return to Pucallpa. If it won't return, fire warning shots, and if it won't return then, to engage."
 23:24:04 HNR confirms that he received the instructions.
 23:29:07 HNR requests to call FAP OIC. US pilot responds, "He gave you the instructions. The instructions were . . . To engage the aircraft, if they did not return to Pucallpa, fire warning shots, if they do not go to Pucallpa, shoot." HNR responds, "Yes, I know. Thank you."
 23:29:58 Tape cuts off.
 23:37:47 Tape starts again.
 23:39:51 A-37 acquires TOI.
 23:40:20 US pilot reports that the A-37 is trying to talk to TOI (radio calls not heard on tape).
 23:43:06 HNR confirms that the A-37 is half mile behind TOI.
 23:43:10 Tape cuts off.
 23:44:11 Tape starts again.
 23:44:44 Tape cuts off.
 23:45:11 Tape starts again.
 23:45:18 A-37 issues two **radio calls** warning TOI to veer to a new heading.
 23:46:07 HNR instructs the A-37 "to proceed with the **warning shots**."
 23:46:11 HNR asks the US pilots if shooting authorization has been given, to which one immediately replies, "Yeah."
 23:46:21 US pilot asks, "Has he shot?" HNR says, "Yeah."
 23:46:29 HNR instructs the A-37 to "proceed to **shoot him down**."
 23:47:43 US OIC reports to [REDACTED] "The A-37 **made the radio calls, made the warning shots**, the target is now making wild evasive turns, trying to get away from the interceptor."
 23:48:27 A-37 reports that TOI is on fire and descending.
 23:49:01 TOI crashes in the jungle.

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Fourth Shootdown Reporting: 21 July 1995

	Reporting 24 July 1995	27 July 1995	Congressional Notification 11 Sept 1995	OIG Findings (Audio portion of tape only)
Management Oversight	Review of tape, discussion with crew, conversation between program manager and VI RAT Commander indicate that FAP fully followed established warning protocols, showed restraint, and only as last resort destroyed the aircraft.		Based on reviews of infrared imagery and discussions with aircrews and VI RAT Commander, we are satisfied that the FAP followed all established procedures before firing on aircraft.	
Phase I Radio Calls	2339Z: A-37 tries to establish radio contact with target.	The target ignored repeated attempts to establish radio contact.		Only 49 seconds between first audible radio call and order to fire warning shots.
Phase I Visual Signals			After target ignored repeated warnings and signals, the A-37 obtained permission from VI RAT Commander to fire.	
Phase II Warning Shots	2346Z: Under VI RAT orders, warning shots fired. Target evades wildly.	Target began to wildly evade at rooftop level. A-37 engaged target after following all recognized international intercept signals.		Only 22 seconds between authorization for Phase II and order to shoot.
Phase III Shootdown	2350Z(1850L): Under VI RAT orders, A-37 engages target. Target explodes and crashes.			VI RAT authorization for shootdown given before initiation. US pilot authorizes shootdown during intercept.
Additional Issues				Only 71 seconds between first audible radio warning and HNR order to shoot. TOI.
Overall Compliance with Required Procedures	Fully followed established Peruvian and international warning procedures and protocols.			Failure of Peruvian chain of command. US crew interference. Insufficient time to conduct phases and allow TOI to respond.

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100. [REDACTED] **Headquarters Review and Oversight.** A DO Spot Report of 25 July 1995 repeated much of the language in the cables, stating that the FAP had fired on the target aircraft "after its pilot ignored repeated internationally recognized visual and radio warnings and wildly attempted to evade the FAP aircraft by flying at treetop level." It also stated that, after a review, [REDACTED] was satisfied the FAP had "fully followed all established warning protocols, showed restraint, and only as a last resort destroyed the Cessna." The Congressional Notification, dated 11 September 1995 and covering both this shootdown and the previous one, stated that, "... we are satisfied that the FAP followed all established procedures before firing on these aircraft."

101. [REDACTED] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [REDACTED] OIC in Pucallpa.
- ◆ [REDACTED] OIC in Pucallpa.
- ◆ [REDACTED] Assistant OIC in Pucallpa.
- ◆ [REDACTED] Program Manager [REDACTED]

102. [REDACTED] At Headquarters, responsible officers included:

- ◆ [REDACTED] CNC Linear Program.
- ◆ [REDACTED] LA Division.
- ◆ [REDACTED] Legal Adviser to LA Division.

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~~SECRET~~ [REDACTED][REDACTED] **Fifth Shootdown, 17 August 1995**

103. [REDACTED] **Violations of Intercept Procedures.** This operation occurred in the early morning. The OIG review of the videotape revealed the following violations:

- ◆ Failure to identify tail number of suspect plane: [REDACTED] reported that this mission was launched in response to DEA intelligence lead information "regarding a possible narco flight from the Puerto Victoria area." [REDACTED]
[REDACTED]
- ◆ Thus, the aircraft shot down may not be the one for which there was lead information. Yet the target was never identified; its tail number was never obtained.
- ◆ No visual signals.²⁶
- ◆ Failure of Peruvian chain of command: The HNR never talked to the VI RAT during the interdiction; the CIA OIC expressed concern about the lack of communication, but was ignored.
- ◆ US interference with Peruvian chain of command: The [REDACTED] pilots actively issued instructions to the HNR.
- ◆ Lack of reasonable time for suspect plane to respond to procedures: Only 85 seconds elapsed between the radio warning and the HNR announcing that the A-37 was firing at the suspect plane.

²⁶ [REDACTED] The pilot of the Peruvian fighter aircraft said he had called the target on three radio frequencies and had flown ahead of the target so he could be seen. The HNR stated that no visual signals were done, however, because they were too dangerous.

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104. [redacted] This event revealed violations similar to those in the preceding four shootdowns. The most serious violation was the failure to gain reasonable assurance that the suspect aircraft was a narcotrafficker before shooting it down. That lack of identification was combined with the rapid shooting down of the aircraft—only 85 seconds between issuing radio warning and firing on target and only 22 seconds between firing warning shots and shooting the target down. This combination of violations demonstrates the presumption that unidentified aircraft were guilty and therefore legitimate targets.

105. [redacted] **Violations in Reporting.** Reporting [redacted] stated that, "Discussions with FAP Commander and officer-in-charge lead us to believe that, as in previous actions, FAP *scrupulously* adhered to international and Peruvian protocols." [Emphasis added]

[redacted] asked for time to review the videotape in detail and to examine the entire situation. After review of the situation, [redacted] provided a detailed description of the shootdown. While the cable did not indicate that there had been violations of procedure, it also did not repeat the claim that the FAP had adhered to required procedures.

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[redacted] 17 August 1995 Videotape Chronology

The interdiction takes place in the morning. [redacted] is the Peruvian Commander. The video begins as HNR is vectoring the A-37 to the target.

11:20:55 Video begins.

11:23:51 A-37 acquires TOI. HNR tells the A-37, "Go ahead, you know the instructions."

11:23:59 US pilot says to HNR, "Tell him to shoot." HNR appears to comply by instructing FAP, "Straight ahead, down." The A-37 pilot responds by repeating the order and adding, "No questions asked?"

11:24:09 US co-pilot says "Firma, firma" [this is short for "Affirmative" in Spanish]. HNR repeats this instruction to the FAP pilots. US pilot asks if the A-37 has been able to identify TOI's registration number.

11:24:38 HNR tells the A-37 to proceed normally—to give TOI only one opportunity before shooting it down.

11:24:49 HNR asks the A-37 if he can see any **identification number** on TOI. The A-37 responds that he is not close enough to see.

11:26:09 A-37 gives one **radio warning** to TOI, telling TOI that it has been intercepted by FAP and that it must return to Pucallpa.

11:26:19 US pilot instructs HNR to tell the A-37: "tell him [the TOI] to land at Pucallpa. If he does not land, shoot." HNR complies, ordering the A-37, "Tell him to return back to Pucallpa, if not, you'll kill him."

11:26:41 A-37 reports, "He is ignoring me; do I proceed to shoot him down?"

11:26:47 HNR tells the A-37 "to go ahead with the procedures then."

11:26:57 HNR declares, "He's gonna shoot."

11:27:05 US co-pilot remarks that TOI is banking.

11:27:12 US pilot says TOI is not turning [to Pucallpa] and the A-37 is firing **warning shots**. [The shots are not seen on the video.]

11:27:22 US OIC asks if HNR has talked to [redacted] yet. US pilot replies, "That's a negative, the commander at this location . . ." [The rest is inaudible.]

11:27:34 HNR announces that the A-37 is **shooting at TOI**.

11:27:39 US co-pilot observes that TOI is trailing smoke.

11:27:44 US OIC instructs the US crew that HNR must talk to [redacted] immediately.

11:28:00 HNR says that TOI is not trailing smoke, but that its just "gas."

11:28:55 [redacted] says that the Peruvian commander "insists" on talking to HNR, but is told by US pilot that HNR is busy talking to the A-37.

11:28:56 A-37 reports that he has fired on and hit TOI.

11:29:09 A-37 issues another radio warning to TOI.

11:31:30 A-37 confirms that he has shot down TOI.

11:34:53 Video cuts off.

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Fifth Shootdown Reporting: 17 August 1995

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	Reporting 17 Aug 95	24 Aug 95	3 Oct 95	Congressional Notification 14 Sept 95	OIG Findings
Management Oversight	Discussions with FAP Commander and OIC	Asked for time to review videotape in detail and examine entire situation.			
Identify and Sort Target			Based on DEA tipper information, en route to the target area, the [redacted] picked up a TOI on radar; however, "the target was lost in the Nohaya area." 0615L. Target reacquired.		Tail number never acquired; TOI never sorted.
Phase I Radio Calls			A-37 made radio contact with target and warned him to turn around and go to Pucallpa.	Target ignored repeated	
Phase I Visual Signals				Internationally recognized visual and radio warnings.	No visual signals seen on video. Only 38 seconds between radio calls and order for Phase II warning shots.
Phase II Warning Shots			Target took evasive action. A-37 again issued a warning and then fired warning shots.	Target tried to outrun A-37 to Peruvian border. Ignored orders and warning.	Only 22 seconds between firing of warning shots and firing on TOI.
Phase III Shootdown			A-37 began firing on aircraft as it continued maneuvers to east.	VI-RAT Commander authorized A-37 to fire on target.	HNR received no VI-RAT shootdown authorization during intercept.
Additional Issues					Only 85 seconds between radio warning and time A-37 fired on TOI. US pilots instruct HNR to order A-37 to shoot TOI. HNR relays the order.
Overall Compliance with Required Procedures	Discussions with FAP Commander and OIC indicate FAP scrupulously adhered to international and Peruvian protocols.			Based on after action discussions, [redacted] is satisfied that the FAP fully followed all established warning protocols before firing on the aircraft.	Failure to identify TOI. No visual signals seen on video. Failure of Peruvian chain of command. US interference. Insufficient time to conduct Phases and allow TOI to respond.

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106. [redacted] **Headquarters Review and Oversight.** The Congressional Notification of 14 September provided false information about the shutdown. It stated that, "Based on after action discussions, [redacted] is satisfied that the FAP *fully* followed all established warning protocols before firing on the aircraft, showed restraint, and only as a last resort used force. . . ." [Emphasis added.] The attached background paper omitted the fact that the target aircraft had not been identified as a narcotrafficker. It stated that intelligence had provided initial information about a possible narcotrafficker, but failed to report that this original target had been lost and a subsequent target (not positively identified) acquired.

107. [redacted] The OIC at the time of this shutdown, [redacted] had questioned the lack of communications with the ground during the interception. When reviewing the shutdown tape with OIG, [redacted] told OIG that this shutdown had not been conducted as it should have been, and that although it was his impression and assumption in 1995 that authorization for the shutdown was received, his assumption did not track with the videotape. There is no evidence that [redacted] reported the violations to his superiors, however. [redacted] said videotapes were forwarded to Headquarters but that no one ever challenged him on whether the required intercept phases were performed.

108. [redacted] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [redacted] previously the Assistant OIC in Pucallpa, was the OIC at the time of this shutdown. As seen above, [redacted] had questioned the lack of communications with the ground during the interception. [redacted] told OIG that this shutdown had not been conducted as it should have been and that authorization for the shutdown was not received. No evidence was found that he reported the violations to his superiors at the time. [redacted] said

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videotapes were forwarded to Headquarters and that no one ever challenged him over whether the required intercept phases were followed.

- ◆ [REDACTED] officer to VI RAT. [REDACTED] told OIG he had watched the videotape, although much later, and had reviewed the language of the shutdown reports after they were sent to Headquarters. After watching the videotape of this shutdown in an OIG interview, [REDACTED] admitted that the reporting [REDACTED] was false.

- ◆ [REDACTED] Program Manager [REDACTED]

109. [REDACTED] At Headquarters, the responsible officers included:

- ◆ [REDACTED] CNC Linear Program.
- ◆ [REDACTED] LA Division.
- ◆ [REDACTED] who had returned from serving as an OIC to [REDACTED] MSP [REDACTED] in Headquarters. This component provided direct support to the program. Given her background in the program, [REDACTED] would have been uniquely qualified to review this operation.
- ◆ [REDACTED] Legal Adviser to LA Division.

[REDACTED] **Sixth Shutdown, 13 November 1995**

110. [REDACTED] **Violations of Intercept Procedures.** The shutdown occurred in the early morning while it was still dark, and the videotape contained only partial audio. In spite of the problems with the tape, OIG identified several violations:

- ◆ No indication of visual signals: The rationale is introduced that visual signals are not done at night.

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- ◆ Failure of Peruvian chain of command and lack of reasonable time to respond: [redacted] reported that the A-37 gave verbal warnings and a warning burst of fire at the same time, and that half an hour before the warnings were given, the VI RAT Commander authorized shutdown if target evaded.

111. [redacted] **Violations in Reporting.** The first cable [redacted] following the shutdown indicated that the A-37 had visually identified the target and had initiated communications telling the target to land, but that these warnings were ignored. It stated that, at 1032Z (0532 Local), the VI RAT Commander had authorized the A-37 to fire on the aircraft after following internationally accepted procedures to force it to land. It then said that, at the same time (1032Z), the A-37 had engaged the target and hit it on each of three passes.

112. [redacted] The follow-up cable of 27 November was less precise in describing the timing of specific actions and provided a different description of events. It said that authorization was given by VI RAT at 0957Z to shoot down the aircraft if it evaded; at 1025Z, the A-37 made contact with target, gave verbal warnings and a warning burst of fire; and at 1045, the target entered a cloud bank after being hit by the A-37.

113. [redacted] Neither of these cables declared that all required procedures had been conducted or that the shutdown had fully complied with the procedures.

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Sixth Shootdown Reporting: 13 November 1995

	Reporting 13 Nov 95	[] 27 Nov 95	Congressional Notification 1 Dec 95	OIG Findings (Videotape has no audio portion)
Identify and Sort Target	1024Z: A-37 closed with target to make positive identification; communicated with target indicating for it to land but was ignored by target.	0457L(0957Z): Authorization passed by VI RAT for [] to shoot down aircraft if he evaded.	A-37 visually identified the suspect aircraft and began communications ordering pilot to land.	Before target identified VI RAT authorizes shootdown if target evades.
Phase I Radio Calls		0525L(1025Z): The A-37 made contact with the target.		
Phase I Visual Signals	1032Z: VI RAT Commander authorized A-37 to fire on aircraft after following internationally accepted procedures to force it to land.	[Unspecified time after 0536L] The A-37 gave verbal warnings and a warning burst of fire. The target soon dropped to treetop level as the A-37 began to engage.	After the pilot of the Piper Seneca ignored repeated visual and radio signals, the A-37 pilot received permission to destroy it.	No visual signals seen on video.
Phase II Warning Shots				
Phase III Shootdown	1032Z: A-37 engaged target, hitting aircraft on each of the three passes.			
Additional Issues	1045Z: Target plane crashed into Tigre River.	0545L(1045Z): Target entered a low cloudbank after being hit by the A-37.		Shootdown was authorized before A-37 sighted TCI.
Overall Compliance with Required Procedures			[] was satisfied that the FAP followed fully all established warning protocols, showed restraint, and only as a last resort used force against the Piper Seneca.	No visual signals seen on video. Failure of Peruvian chain of command.

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114. [] **Headquarters Review and Oversight.** This shootdown involved some of the same failures of procedure as in previous shootdowns but added a new approach to reporting. The two [] cables describing the shootdown provided different chronologies. The first cable reported actions that constituted violations of the intercept procedures. The arrival of the second cable, with its differing emphasis, should have alerted Headquarters to the inconsistencies. OIG could find no record to indicate that Headquarters officers took

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any action to address information in the first report that included detailed information showing the elapsed time was insufficient to conduct the required procedures.

115. [redacted] The Congressional Notification of 1 December 1995 advising Congress of this shutdown repeated the false information that the pilot of the target aircraft had "ignored repeated internationally recognized visual and radio warnings and orders to land." It also said that, [redacted] was satisfied that the FAP followed *fully* all established warning protocols, showed restraint, and only as a last resort used force against the Piper Seneca." [Emphasis added.] An attached background paper then provided a precisely crafted description of the incident, combining the two versions contained in [redacted] cables. OIG found no record that Headquarters sought to address the discrepancies raised by conflicting information in the reports.

116. [redacted] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [redacted] the OIC at Pucallpa at the time. [redacted] said he had not composed the first [redacted] cable, but that it was based on his after-action report of the shutdown. In his interview [redacted] told OIG he saw no problems with this shutdown even though visual signals had not been executed. He said he did not know if warning shots had been fired. [redacted] said he was [redacted] on 27 November 1995 and might have written the second cable.
- ◆ [redacted] Program Manager [redacted]

117. [redacted] At Headquarters, the responsible officers included:

- ◆ [redacted] CNC Linear Program.
- ◆ [redacted] LA Division.
- ◆ [redacted] MSP.
- ◆ [redacted] Legal Adviser to LA Division.

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[REDACTED] **Seventh Shootdown, 27 November 1995**

118. [REDACTED] **Violations of Intercept Procedures.** This shootdown was conducted during the daytime and the videotape shows cloudy conditions. The mission began as a training exercise involving one US and two FAP aircraft; during the exercise, an additional aircraft was picked up by ground-based radar at Pucallpa. The fighters and US plane then broke off the training and pursued the civilian plane. OIG identified several violations:

- ◆ No reasonable identification of target as narcotrafficker: The target plane was picked up during an exercise. Moreover, approximately two minutes after the first A-37 sights the target plane, the [REDACTED] crew notes that another unknown plane, a white high-wing, just flew under them. No intelligence reporting indicated that the plane they ultimately shot down was a drug trafficker. Following a review of the videotape during an interview, the US OIC for this shootdown told OIG it could not be determined if the target plane they shot down had been carrying drugs.
- ◆ No indication of visual signals.²⁷
- ◆ No indication of warning shots: despite assertions in the reporting that warning shots were authorized and fired, there is no indication on the videotape that the HNR ever received authorization for or gave the order to fire warning shots or that either of the A-37s involved fired them. The videotape had no audible references to warning shots and no tracer rounds are visible on the tape.

²⁷ [REDACTED] The Peruvian pilot told OIG he had flown alongside the target and was seen by its crew. The HNR claimed that the fighter aircraft had made hand gestures and conducted wing wagging. No such visual signals were evident on the videotape, however.

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- ◆ Failure of Peruvian chain of command: there is no indication that the HNR ever received or gave the order to shoot down the target. Rather, the Peruvian pilot of the backup A-37 apparently gave the order.²⁸

119. [redacted] **Violations in Reporting.** The reporting from [redacted] [redacted] is succinct. It indicates that the required warnings and authorizations were given, stating that the aircraft was "given the usual warnings – radio calls and warning shots – before being shot down by the FAP" while "trying to evade." Once again, the cables do not include claims that all required procedures were followed.

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²⁸ [redacted] The HNR for this operation told OIG that the shutdown was authorized before the mission started and that he never called to the commanding General for authorization to shoot during this interception.

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[] Seventh Shutdown Reporting: 27 November 1995

	11Dec95	11Jan96	OIG Findings [] transmissions between [] and ground not recorded)
Identify and Sort Target	Mission launched as training exercise with [] and two A-37s. During exercise, a fourth aircraft entered exercise area. [] and A-37s moved up behind suspect narco aircraft.		Second unidentified aircraft spotted by [] during intercept, but ignored. Tail number not sorted until after A-37 reports it is going to fire on TOI.
Phase I Radio Calls	1040L: VI RAT gave authorization to warn target to divert to Pucallpa. Warnings were passed and ignored.		
Phase I Visual Signals			No visual signals seen on video.
Phase II Warning Shots	When warning shots made by A-37, target began evasive tactics.		No visual or audible indication of warning shots—neither ordered by HNR nor reported by A-37—none seen on video.
Phase III Shutdown	At 1058L, plane's engine hit by gunfire and caught fire but plane continued to evade until other engine hit.		No indication HNR passed VI RAT order to shoot down target—rather, order apparently came from pilot of back-up A-37.
Overall Compliance with Required Procedures		Aircraft was given usual warnings, verbal and warning shots, before being shot down by the FAP.	Failure to identify TOI as narcotrafficker. No visual signals seen on video. No indication of warning shots. Failure of Peruvian chain of command.

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120. [redacted] **Headquarters Review and Oversight.** OIG found no record to indicate that a Congressional Notification was prepared regarding this shutdown, or that Headquarters management forwarded information concerning the violations of procedure that occurred.

121. [redacted] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [redacted] the OIC at Pucallpa. Following a review of the videotape during an OIG interview, [redacted] said it could not be determined, with certainty, if the target was carrying drugs. He said he did not know if visual signals were part of required procedures, but he did know that radio contact and warning shots were part of required procedures. He also acknowledged that he had watched the videotapes of shutdowns.

- ◆ [redacted] Program Manager [redacted]

122. [redacted] At Headquarters, the responsible officers included:

- ◆ [redacted] CNC Linear program.
- ◆ [redacted] LA Division.
- ◆ [redacted] Legal Adviser to LA Division.

[redacted] **Eighth Shutdown, 8 July 1996**

123. [redacted] **Violations of Intercept Procedures.** This operation occurred in daylight. Review of the videotape and reporting cables revealed the following violations:

- ◆ No indication of visual signals.

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- ◆ No indication of warning shots.
- ◆ Lack of time for suspect aircraft to respond: only two minutes elapsed between the radio call and the time the target was fired on and hit.

124. [redacted] **Violations in Reporting.** [redacted] reported that the A-37 had been directed to "perform identification procedures, and subsequently visual and radio warnings." It said the "violator aircraft failed to comply with instructions and initiated evasive maneuvers at tree-top level in an apparent effort to head for the border." And it maintained that, "In compliance with Peruvian and international law, VI RAT Commander . . . directed the A-37 to take necessary action to force the violator aircraft to comply with orders." The videotape of this shutdown contains no information to substantiate any of these statements.

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Eighth Shootdown Reporting: 8 July 1996

	Reporting 8 July 1996	25 July 1996	OIG Findings (Video does not show Zulu clock)
Identify and Sort Target	A-37 directed to perform identification procedures, then visual and radio warnings. Violator aircraft flying without tail number.		Intercept occurred in daytime.
Phase I Radio Calls	A-37 advised violator aircraft that it was being intercepted by the Peruvian Air Force and was to proceed to Pucallpa.	1635Z: HNR receives intercept orders from [redacted] 1641Z: A-37 makes radio calls to target, which evades.	
Phase I Visual Signals			
Phase II Warning Shots	Violator aircraft failed to comply with instructions and initiated evasive maneuvers at treetop level in apparent effort to head for border.		According to the reporting, only two minutes elapse between time A-37 advises aircraft to land (1641Z) and time target is hit and its fuel tank ruptures (1643Z).
Phase III Shootdown	In compliance with Peruvian and international law, VI RAT Commander directed A-37 to take necessary action to force violator to comply with orders. A-37 fired on violator aircraft, apparently hitting the right engine.	1643Z: Target's right wing fuel tank ruptures.	
Overall Compliance with Required Procedures			Insufficient time for visual signals. Insufficient time for warning shots.

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125. [REDACTED] **Headquarters Review and Oversight.** The cables [REDACTED] show that the required procedures could not have been performed. [REDACTED] reported to Headquarters that the target was shot down only two minutes after the first radio call was made. The key proof is that the A-37 made Phase I radio calls to the target at 1641Z, and the target's right fuel tank ruptured at 1643Z after the plane was shot. There was no time for required warnings to be given or for the target plane to respond.

126. [REDACTED] Again, OIG could find no information to indicate that officers at Headquarters took measures to address [REDACTED] reporting which, upon examination, should have informed them that there was insufficient time to conduct the required procedures. Instead, a DO Spot Report of 12 July 1996 stated that, "All indications are that correct procedures were followed in the forcedown. The suspect plane was flying without a visible tail number or a flight plan and disregarded warnings." OIG could find no record to indicate that a Congressional Notification was prepared to report the facts surrounding this shutdown.

127. [REDACTED] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [REDACTED] Officer at Juanjui.
- ◆ [REDACTED] Program Manager [REDACTED] In an OIG interview, [REDACTED] watched several of the videotapes showing violations of required procedures. [REDACTED] then told OIG he had understood the legal requirements of PD 95-9 and routinely reviewed the tapes. He said it was clear to him now, however, that the FAP had not followed procedures and had not complied with the law from the beginning of the program.

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128. [redacted] At Headquarters, the responsible officers included:

- ◆ [redacted] CNC Linear Program.
- ◆ [redacted] LA Division ([redacted] LAD) with oversight of the air interdiction program.²⁹
- ◆ [redacted] Legal Adviser to LA Division.

[redacted] **Ninth Shootdown, 23 March 1997**

129. [redacted] **Violations of Intercept Procedures.** The shootdown occurred at dusk. The OIG review of the videotape revealed the following violations:

- ◆ No indication of visual signals: Position of A-37 in relation to target indicates visual signals could not have been executed.
- ◆ No indication of warning shots: The fighter gave a radio warning in response to receiving Phase II authorization. No tracer rounds are visible on the videotape, nor is there any reference by the [redacted] crew³⁰ to seeing shots fired.

²⁹ [redacted] Agency records reflect that [redacted] reassignment as [redacted] occurred on 21 June 1996. [redacted] said she believes she moved to the position after the 8 July 1996 shootdown due to her service on a promotion panel that lasted for several weeks. [redacted] in reviewing this report in draft, commented that he may have been in language training on the day of this shootdown. Given the substantive involvement of both [redacted] in the ABDP from 1995 onward -- and the positions of accountability for the program's conduct that each officer occupied [redacted] as the [redacted] from June 1996 to June 1998, and [redacted] from July 1996 to July 1999 -- OIG believes it is reasonable to identify them as responsible officers irrespective of their specific locations on the day of that shootdown.

³⁰ [redacted] The [redacted] tracker plane was crewed by the US Customs Service.

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- ◆ Insufficient time to conduct procedures and for target to respond: The HNR requested authorization for Phases II and III before the target had been identified and warned over the radio. The intercept phases were rushed and abbreviated.
- ◆ Break in Peruvian chain of authority: The A-37 pilot asked the HNR for authorization to shoot down the target, and the HNR provided the authorization without receiving the shutdown order from the VIRAT Commander.

130. [REDACTED] **Violations in Reporting.** In this shutdown, the cables [REDACTED] as well as the OIG review of the videotape, revealed that required procedures could not have been conducted. The chronology and the review provided [REDACTED] indicated that only three minutes had elapsed between the time the A-37 plane acquired the target and the time it received authorization to shoot; not enough time had elapsed for the A-37 plane to position itself to perform visual procedures and warning shots or for the target aircraft to respond. Three minutes after the shutdown authorization, the suspect plane had crashed. Despite evidence to the contrary, [REDACTED] claimed that required procedures had been followed.

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Ninth Shootdown Reporting: 23 March 1997

	Reporting 24 Mar 97	26 Mar 97	Congressional Notification 23 April 97	OIG Findings (No clock on videotape)
Identify and Sort Target		1756L: [redacted] relays target position to A-37.		HNR instructs A-37 to get tail number then requests Phase I and II before getting a response.
Phase I Radio Calls		1759L: A-37 acquired target, tried to get it to land with negative results. [redacted] (This is Phase I of standard procedures).		A-37 pilot initiates one radical call, then says target plane is ignoring signals.
Phase I Visual Signals			Target tried to escape and refused to comply with internationally recognized signals to land.	No visual signals seen on video.
Phase II Warning Shots		1759L: Rider requests VI/RAT authorization to shoot. [redacted] Warning shot is Phase III if target does not comply with Phase I warning.)	A-37, in accordance with proper procedure, received authorization to fire warning shots.	After Phase II authorized, A-37 gives radical call, tells HNR TOI is not responding, and receives Phase II authorization.
Phase III Shootdown		1802L: VI/RAT provides authorization for A-37 to shoot. [redacted] (target continues to evade after warning shots, FAI will automatically move to Phase III - shoot to destroy the aircraft.) 1805L: [redacted] advised that A-37 had shot the target and that target crashed in a large fireball.	When the target continued evasive tactics, the A-37 pilot shot it down.	Per reporting, A-37 acquired target at 1759L and requested authorization to shoot at the same time. Authorization was provided at 1802L and the plane had crashed by 1805L.
Overall Compliance with Required Procedures	1805L: A-37 engaged and shot down a narco aircraft on 23 March. A-37 engaged suspect aircraft after following proper procedures.			Phase II authorized before TOI identified. No visual signals seen on video. No indication of warning shots. Insufficient time to conduct phases.

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131. [REDACTED] **Headquarters Review and Oversight.** OIG found no record to indicate that officers at Headquarters addressed [REDACTED] reports that indicated there was insufficient time to conduct the required procedures between sighting and shooting down the target. Instead, Headquarters conveyed false information to Congress in the Congressional Notification of 23 April 1997 – the background paper stated that the target had refused to comply with internationally recognized signals to land and that the A-37 fighter plane, in accordance with proper procedure, had received authorization to fire warning shots.

132. [REDACTED] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [REDACTED] OIC in Pucallpa.
- ◆ [REDACTED] OIC in Pucallpa, who states that he believed the procedures were followed, particularly visual signals and warning shots.
- ◆ [REDACTED] Officer at Juanjui. [REDACTED] told OIG that several of the videotapes showed "obvious" violations of procedures. He could not explain why reports were inaccurate. His performance evaluation covering this period emphasized his involvement in [REDACTED] reviews of shootdowns for compliance.
- ◆ [REDACTED] Program Manager. This was the first shootdown for which [REDACTED] had primary responsibility for drafting the reporting cables. In discussions with OIG, [REDACTED] said she did not know why there were "inaccurate" statements in the reports she wrote. She claimed that she might have been distracted while she watched the tapes and that she was sick a lot in 1997. Her performance evaluation for this period emphasized her central role in monitoring intercept procedures, however.
- ◆ [REDACTED]

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133. [redacted] At Headquarters, the responsible officers included:

- ◆ [redacted] Peru Desk Officer in LA Division. [redacted] was familiar with the intercept program and its reporting requirements.
- ◆ [redacted] LAD.
- ◆ [redacted] Legal Adviser to LA Division.

[redacted] **Tenth Shootdown, 4 August 1997**

134. [redacted] **Violations of Intercept Procedures.** This operation was conducted in the early evening. The OIG review of the videotape revealed the following violations:

- ◆ Failure to identify tail number of suspect plane: The [redacted] pilot said he did not do so because that would have alerted the target to the tracker plane's presence. There was no effort by the suspect plane to evade. While it flew low from the start of the intercept until it was shot down, it took no evasive action.
- ◆ No visual signals: It is clear from the videotape that the fighter is behind the target the entire time.³¹
- ◆ No indication of warning shots on the videotape: In OIG interviews, the A-37 pilots said they fired one burst of warning shots for 1-2 seconds from 300 to 500 feet behind the target.

³¹ [redacted] The Peruvian pilot and co-pilot both told OIG that no visual signals were done because it was too dark and too dangerous. They indicated that they reported this fact to the US OIC and [redacted]

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- ◆ Failure to follow proper sequence of authorization: VI RAT Commander simultaneously authorized Phases I and II— even before the Peruvian fighter saw the suspect plane.
- ◆ Lack of reasonable time to conduct procedures and for suspect plane to respond: Only 36 seconds elapsed from the start of procedures to shutdown authorization; only 90 seconds elapsed from the attempt to make radio contact until the A-37 fired on the suspect plane.

135. [redacted] **Violations in Reporting.** On 5 August, [redacted] reported the "successful" shutdown of the previous day. It provided a chronology of the shutdown, including the timing, which indicated that the A-37 had attempted radio contact at 1838 local time and had fired on the target at 1841— three minutes later. While the cable did not claim that all required procedures had been conducted, it also did not report that required procedures had not been performed.

136. [redacted] reported that only three minutes elapsed between attempted radio contact and the shooting down of the target. After this incident, Headquarters questioned the reporting [redacted] [redacted] and asked specific questions about performance of the required procedures. In its cable [redacted] also on 5 August, Headquarters asked for clarification of "possible gaps in established procedures." The cable noted that there was no indication as to "if" or "when" VI RAT authorization had been requested and given to proceed with the international warning procedures and then to shoot down the target. Secondly, it noted that the frequency used for radio contact with the target aircraft was not one of the recognized international distress radio frequencies. If this was the only frequency used, the cable said, it was highly likely that the target aircraft never heard the warning. Finally, it was not clear that all the required steps of the international warning and recognition procedure had been carried out before the aircraft was fired upon. Headquarters noted a desire to ensure its subsequent reporting of the action was "full and complete."

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137. [redacted] responded rapidly to Headquarters, stating that:

According to our OIC, all/all warning procedures were complied with prior to the VI RAT Commander giving the order to shoot down the narco aircraft... All of us who work the Airbridge Denial Program (U.S. and Peruvian) **understand and rigorously enforce compliance with all international procedures that must be followed prior to any use of force.** That is a given in the work that is done here. [Emphasis added.]

138. [redacted] Headquarters responded quickly, thanking [redacted] for its clarifications, and reiterated that this "will permit us to report the successful endgame in its full and proper context." Additionally, Headquarters commended [redacted] untiring efforts, which have made airbridge denial a highlight of [redacted] program." Both Headquarters cables originated in LA Division's [redacted] and had been coordinated by [redacted]

139. [redacted] Subsequently, in an 8 September 1997 cable, [redacted] [redacted] reported in more detail on the shutdown. [redacted] reported that the suspect aircraft had not responded to Phase I and Phase II intercept procedures, which included hailing on all appropriate channels, visual recognition, and finally warning shots. It said that the Peruvian command authority had ordered Phase III and that the A-37 had then fired on the suspect plane.

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[REDACTED] 4 August 1997 Videotape Chronology

The video, in Zulu time, begins with the [REDACTED] personnel tracking the TOI. When the video begins, it is daylight; when the video ends, it is dusk.

22:44:57 Tape begins.
 22:54:46 VI RAT asks if the [REDACTED] has identified TOI's tail number. US co-pilot responds, "Negative, we're **not gonna try to close to get the tail number** because we don't want to alert him."
 22:58:27 VI RAT Command gives HNR instructions to "proceed to Phase I and Phase II" and to try to get TOI to land at a specific place.
 23:29:12 A-37 tells HNR that when it finds TOI, the A-37 will have 10 to 15 minutes of fuel left before it has to turn back.
 23:36:16 US co-pilot notes that TOI is 23 miles, or 8 minutes, from the border.
 23:37:46 A-37 sights the [REDACTED]
 23:37:47 HNR orders the A-37 to proceed with Phases I and II, and to instruct TOI to go to airfield "Charlie-Lima."
 23:37:55 US co-pilot reports to US OIC that the A-37 has acquired TOI.
 23:38:33 HNR repeats that the A-37 is to proceed with Phase I and Phase II.
 23:38:55 VI RAT Commander, speaking to HNR, says that he understands that Phases I and II have been carried out.
 23:38:58 A-37 gives **radio warning** to the target . . .
 23:39:00 HNR, responding to his commander, says, "Negative, at this moment the [UI] has called tally-ho and it is getting close to the target to proceed with Phase I and Phase II. I'll call you, if they don't respond, to request authorization for Phase III."
 23:39:15 . . . A-37's radio warning to the target ends.
 23:39:19 A-37 reports that TOI is not responding to radio warnings.
 23:39:22 A-37 appears on the FLIR tape for the first time, trailing TOI.
 23:39:26 HNR confirms that the A-37 has executed **Phase II** and that TOI has failed to respond. [Warning shots cannot be seen on the tape, nor does the US crew remark that they have seen them.]
 23:39:36 VI RAT Commander authorizes Phase III.
 23:39:42 HNR relays the Phase III authorization to the A-37.
 23:39:49 US co-pilot remarks they are six minutes from Brazil.
 23:40:27 US crew remarks, "Oh, there goes firing! Okay, he's **firing on the target.**"
 23:40:44 TOI is hit by FAP fire, according to the US FLIR operator. Six seconds later, the damage to TOI can be seen on the video.
 23:41:32 TOI crashes in the jungle.

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Tenth Shutdown Reporting, 4 August 1997

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	5 Aug 97	Headquarters 5 Aug 97	6 Aug 97	8 Sept 97	OIG Findings
Management Oversight		Notes possible gaps in established procedures and requests clarification	Responds to Headquarters cable raising questions about gaps in procedure.		
Identify and Sort Target	1835L/2335Z: [redacted] and A-37 closed on target. Visibility poor.			Information on narco plane loading in Puerto Rico led to order to launch A-37	Did not acquire or sort tail number.
Phase I Radio Calls	1836R/2338Z: A-37 attempted radio contact with target on 126.9VHF; target did not respond.	Frequency of radio call given was not one of recognized international distress radio frequencies. If this was the only one used, highly likely target never heard warning.	"All/all international warning procedures were complied with prior to the VI RAT Commander giving the order to shoot down [sic] the narco aircraft . . ."	Narco plane did not respond to Phases I and II, which included hailing on all appropriate channels, visual recognition, and finally warning shots.	VI RAT Commander simultaneously authorized Phases I and II. Only one partial radio call can be heard on the tape.
Phase I Visual Signals		Not clear all required steps were carried out before aircraft was fired upon.			No visual signals.
Phase II Warning Shots	A-37 fired warning shots in front of target, which did not respond and which continued toward Brazilian border.				No indication of warning shots, although A-37 pilots said in OIG interviews that they fired one burst for 1-2 seconds.
Phase III Shootdown	1841L/2341Z: A-37 fired three bursts into target. Target exploded.	No indication if/when VI RAT authorization requested given to proceed with warning procedures and ultimately shoot down plane.		Peruvian command authority ordered Phase III and the A-37 fired three bursts into target aircraft.	Per reporting, only three minutes 2338Z-2341Z between attempted radio contact and shootdown. Per the video, less than 90 seconds from the radio calls until the FAP fires on the target plane.
Overall Compliance with Required Procedures			All who work the program "understand and rigorously enforce compliance with all international procedures."		Failure to identify TOI. Inadequate radio calls. No visual signals. Inadequate warning shots. Failure of Peruvian chain of command. Insufficient time to conduct phases and allow TOI to respond.

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140. [REDACTED] **Headquarters Review and Oversight.** Headquarters raised questions about possible violations of procedure, but accepted [REDACTED] claims that procedures had been done according to requirements. Headquarters did not address the issue raised in the first cable [REDACTED] reporting only three minutes between the A-37's first attempt to make radio contact and its firing on the target. This description showed there was not enough time to perform the required procedures.

141. [REDACTED] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [REDACTED] OIC at Pucallpa.
- ◆ [REDACTED] Officer in Juanjui. [REDACTED] was shown the videotape of this shutdown. He told OIG the interceptor never got alongside the suspect aircraft or even attempted to do so and that questions should have been raised. He said that to report that required procedures were completed would be false.
- ◆ [REDACTED] Program Manager [REDACTED] One of the A-37 pilots said that, when he was debriefed in Pucallpa, he had discussed his inability to execute visual signals [REDACTED]. In her interview, [REDACTED] told OIG that, after a shutdown, she, [REDACTED] and sometimes [REDACTED] [REDACTED] reviewed the videotape [REDACTED]. She said that she, [REDACTED] absolutely understood that they had to report failures to follow procedure to Headquarters and that she usually wrote the cables. After watching the videotape of the 4 August 1997 shutdown, [REDACTED] also told OIG that it should have been reported that no visual signals were done and the target was never identified. [REDACTED] said that her reporting was accurate based on the judgments that she, her colleagues, and supervisors made based on their evaluation of the totality of program factors. She claimed that she might have been distracted while she watched the tapes and that she was sick a lot in 1997. Her

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1997 performance evaluation emphasizes her central role in monitoring intercept procedures, however, and records confirm she did not take a significant amount of leave in the crucial timeframe of August to October 1997.

- ◆ [REDACTED] as [REDACTED] supervisor, knew the correct intercept procedures and understood his responsibility for ensuring that the Peruvians complied with the procedures governing the operation of the program.
- ◆ [REDACTED] said he did not remember the 4 August shutdown specifically, but noted that he would have reviewed it [REDACTED] at the time. He said he did not know who had drafted the cables [REDACTED] but was sure he had released them. When they reviewed the videotape with OIG, [REDACTED] [REDACTED] acknowledged that the 90 seconds that elapsed between the attempted radio contact and the shutdown did not allow the target plane a reasonable chance to respond. When given a description of the 4 August 1997 shutdown in the form of a hypothetical, [REDACTED] told OIG, "If everything happens in a minute and a half, you've got a problem."³²

142. [REDACTED] At Headquarters, the responsible officers included:

- ◆ [REDACTED] LAD.
- ◆ [REDACTED] Peru Desk Officer in LA Division. [REDACTED] told OIG that, although he did not specifically remember, if the 4 August 1997 videotape had come to Headquarters he and [REDACTED] would have watched it. He also stated that his

³² [REDACTED] In reviewing this Report in draft, [REDACTED] commented that no one who reviewed the reporting of this shutdown, including lawyers for LA Division and CNC, suggested there was anything noncompliant in prosecuting a shutdown in the reported time frame.

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job on the Peru Desk was to ensure from the [redacted] cables that shutdowns complied with the PD/MOJ.³³

♦ [redacted] Legal Adviser to LA Division.

[redacted] Eleventh Shutdown, 17 August 1997

143. [redacted] This shutdown occurred in the morning. [redacted] reported the successful shutdown of a narcotic trafficking aircraft, but advised that there were possibly numerous violations of intercept procedures. After viewing the videotape, [redacted] reported that the FAP had given no radio warnings or warning shots before shooting down the target plane. Because OIG never received the videotape of this shutdown, the analysis of this shutdown is based on documentary information and interviews of the participants.

144. [redacted] According to [redacted] reporting, locally acquired intelligence indicated that a plane was bringing drugs to Puerto Rico, Peru, early in the morning of 17 August 1997. When interviewed by OIG, the HNR on this intercept, Commander [redacted] recalled that the [redacted] located the target plane as it was approaching Puerto Rico. The target's behavior coincided with the intelligence information and, given the time of day and past experience, the crew knew there would be no flight plan filed for this part of the country. Therefore, [redacted] requested permission for radio calls and the VIRAT Commander, [redacted] granted it. [redacted] said the target plane did not respond to the radio calls and he requested and was granted permission for warning shots to be fired. He recalled that after the warning shots were fired, the target began to take evasive action. [redacted] reported the evasive action and requested authority to shoot the target.

³³ [redacted] said she did not believe the tapes of shutdowns were forwarded to LA Division, and she never watched any with [redacted]

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145. [redacted] told OIG that there was a standard written script by which an HNR requested and the VI RAT Commander granted authorization for each phase. [redacted] said he requested authorization to shoot the target using the standard script language, but was surprised when [redacted] replied, "Proceed to Phase III and neutralize it [the suspect plane]." [redacted] was confused by the introduction of the new term and therefore tried to reconfirm the order using the standard language, "Reconfirming Phase III shutdown." According to [redacted] replied, "No, neutralize it." [redacted] then just asked if Phase III was authorized and [redacted] said, "Yes," so [redacted] passed the shutdown order to the fighter pilot. The suspect plane was shot down before it was able to land. [redacted] then reported the coordinates of the crash site, and the [redacted] returned to Pucallpa. According to [redacted] half an hour after he returned to Pucallpa, [redacted] arrived and yelled at him for not following orders; but as [redacted] pointed out to him, "neutralize" was not standard terminology for the intercept script.

146. [redacted] however, the US OIC at the time [redacted] told a different story. At the time of his report to [redacted] had reviewed the shutdown tape and debriefed both the U.S. and Peruvian aircrews, including [redacted] [redacted] reported that [redacted] had requested permission for Phases I and II but VIRAT Commander [redacted] had refused authorization for either one. Instead [redacted] instructed him to "neutralize" the target on the ground after it had landed. In his "OIC Comments" [redacted] explained that [redacted] confided in him that he had decided the best way to "neutralize" the aircraft was to destroy it, even though he knew he was not authorized to proceed.

147. [redacted] This shutdown resulted in a major review of procedures and operations by Agency managers, both in Peru and in Headquarters. It also led to a Congressional Notification pointing

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out the violations of procedure. It did not, however, result in changes to the intercept procedures used by the FAP that might have prevented subsequent violations.

148. [redacted] **Violations of Intercept Procedures.** OIG identified the following violations:

- ◆ No identification of suspect plane before HNR requested permission to go to Phases I and II.
- ◆ No attempt to make radio contact.
- ◆ No attempt to make visual contact.
- ◆ No warning shots.
- ◆ No authorization for shoot-down: VI RAT Commander told Peruvian fighter not to go to Phases I and II, and he told the HNR to tell the fighter pilots to "neutralize" the target on the ground.
- ◆ Intercept phases, from identification to shutdown, were not conducted.

149. [redacted] **Reporting.** In this particular case—and only in this case—[redacted] reported violations of procedure. In its third cable on the shutdown (21 August 1997), [redacted] reported that the VI RAT Commander had refused to authorize Phases I and II and instead had ordered the fighter to "neutralize" the target on the ground if it attempted to leave.

To the best of our understanding, this is a deviation from established procedures for ground strafing. . . . The Tucano pilot apparently strafed the target aircraft on the ground per VI RAT Commander's orders and advised this fact over the radio (VHF)

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[REDACTED] stated that, "Based on further review . . . [REDACTED] is now certain that the FAP Tucano pilot did engage the narco aircraft while it was in flight."

150 [REDACTED] then gave its reasons for the breakdowns in procedure. [REDACTED] concluded that:

The [REDACTED] Country Team assessment that poorly crafted instructions from the VI RAT Commander and deviation from standard procedure, to include the unfamiliar terminology, contributed to an unauthorized engagement of the narco aircraft. There was no apparent deliberate attempt to circumvent procedures but rather a series of miscues and poor communication. Ambassador has directed [REDACTED] . . . meet with VI RAT Commander . . . to discuss the incident, review procedures, and implement changes that will prevent a recurrence. The Ambassador at this time, does not see a need to address this issue beyond the VI RAT Commander [REDACTED]

151. [REDACTED] A team in Lima Embassy [REDACTED]

[REDACTED] reviewed the episode and concluded that:

- ◆ The suspect plane had been involved in narco trafficking.
- ◆ The shutdown occurred because the VI RAT Commander failed to use standard terminology; the result was that Phases I and II of intercept procedures were not conducted.
- ◆ Miscommunication between the HNR and T-27 Tucano pilot led the pilot to believe he had authorization to shoot the target down, when in fact, no such authorization was given.
- ◆ The T-27 Tucano pilot failed to use established intercept procedures.

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152. [redacted] While acknowledging that there had been violations in this instance, [redacted] provided misleading information about the context in which they occurred. It said that, while the 17 August shutdown had been "a clear deviation from established procedures," it was a "unique exception to normal operations" and "the sole deviation known to have occurred in the history of the program." The cable reported a number of actions [redacted] had taken to prevent a recurrence.

Eleventh Shutdown Reporting: 17 August 1997			
	Reporting 8/18/97	[redacted] 8/20/97	Lima 8/21/97 Congressional Notification 10/07/97
Management Oversight	Notes possible violation of procedures during a successful endgame.	Notes investigation by [redacted] repeatedly watched tape.	Country Team assesses there were poorly crafted instructions from VI RAT and deviation from standard terminology.
Identify and Sort Target	1206Z (0706 local time) [redacted] and Tucano acquire target visually. Could not see distinguishing markings on aircraft.		
VI RAT Instructions	HNR asks permission to go to Phases I and II. Pucallpa OIC says VI RAT Commander said no to Phases I and II. VI RAT instructs HNR to tell Tucano to neutralize target on ground when it landed.	Tape shows VI RAT denied request to go to Phases I and II. Tape shows VI RAT tells pilots to "neutralize" target on ground. This is a deviation from established procedures for ground strafing.	VI RAT and HNR give instructions to engage aircraft after it landed only if it tried to depart the airstrip. Tucano pilot apparently misunderstands and says, "Proceed to down."
Phase III Shutdown	1215Z: Target descended for landing—more of a crash—with flames breaking out near engine.	Peruvian fighter apparently strafed target on ground.	Review of tape and enhancement of audio make it clear Tucano did engage target in flight.
Additional Issues	OIC Comments: HNR confided he decided best way to "neutralize" aircraft was to destroy it—though he knew he was not authorized to proceed.	OIC comments cited in previous cable not accurate; no one admitted firing on target in air.	Tucano shot at target aircraft, which landed in flames.
Remedial Action			Ambassador does not see a need to address the issue beyond VI RAT Commander, nor do we. [redacted] officer [redacted] VI RAT Commander to discuss violations.

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[redacted] **A Look Behind the 17 August 1997 Shootdown Reporting**

[redacted] OIG was unable to determine precisely why this was the only shootdown whose violations were reported to Headquarters and investigated. However, there were several unique elements to this event. First, the VI RAT Commander at the time [redacted] was suspected [redacted] to be in league with narcotraffickers. [redacted] officers believed that [redacted] had agreed to allow the plane on 17 August 1997 to land and unload cash it was bringing into the country, on the understanding that he could interdict the shipment of coca base the plane would be attempting to ship out. The HNR, Commander [redacted] found out afterwards that one of the individuals who died in the crash was an important figure in the drug trade, and he told OIG that the coincidence of the death and [redacted] use of the new term struck everyone as unusual. [redacted] told OIG that there were concerns [redacted] was corrupt, but nothing was ever proven. If [redacted] wanted to impress upon [redacted] that corruption in the ABDP would not be tolerated, a high-level investigation by CIA Headquarters would serve well. In over two-dozen interviews of FAP officers, including [redacted] the VI RAT Commanders, [redacted] was the only one who refused to meet with OIG.

[redacted] Additionally, the OIC for this shootdown [redacted] said in his first OIG interview that he spotted the deviations in intercept procedures when reviewing the video with the aircrews. When he alerted [redacted] to the violations he saw in the shootdown, [redacted] flew to Pucallpa to watch the video for herself. According to [redacted] she then tried to convince him that there was not a problem in this shootdown and that all the procedures had been followed. [redacted] furthermore told [redacted] on 19 August 1997 that the [redacted] officers who went to Pucallpa to review the incident" reported there "may not have been any violation of procedures." [redacted] said that when he refused to go along with [redacted] assessment, [redacted] had no choice but to report the shootdown as a deviation.

[redacted] reversed himself in his second OIG interview, saying that in fact he did not see any violations on the 17 August videotape. The videotape of the 17 August shootdown is the only video that has not been provided to OIG, so no independent analysis is possible.

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153. [REDACTED] *Establishment of the Country Team Review.* After this shutdown, [REDACTED] a formal process at the US Embassy to review all future shutdowns designed to ensure that intercept procedures were followed. While a new review process was established, no changes were made in the actual conduct of the intercept procedures. [REDACTED]

[REDACTED] The review process included watching the videotape of an intercept and examining crew debriefings and all intelligence associated with the given event. [REDACTED] the review team members in Peru were knowledgeable of required intercept procedures and reviewed subsequent shutdowns in "excruciating detail." [REDACTED] except for the 17 August 1997 incident, there were no concerns about the other shutdowns, even after a review of the videotapes.

154. [REDACTED] The new procedures to review shutdowns [REDACTED] did not lead to effective changes on the ground in the actual conduct of interceptions. One of the US pilots told OIG that he could not recall any changes to intercept procedures after the 17 August shutdown. The Pucallpa OIC, [REDACTED] told OIG that, after the 17 August 1997 shutdown, his instructions were to continue procedures as usual unless otherwise instructed. He said that [REDACTED] understood there was a problem, but that there was no stand-down in operations as a result. Thus, despite the response to 17 August, violations in procedure continued as did the failure to report them.

155. [REDACTED] **Headquarters Review and Oversight.** [REDACTED] LA Division's [REDACTED] sent a 19 August 1997 e-mail [REDACTED] that [REDACTED] [REDACTED] said the preliminary report from Pucallpa may be incorrect, and that there may not have been any violation of procedures in the 17 August shutdown. In the e-mail, [REDACTED] indicated that this was a significant issue and said she intended to stay "on top of the

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procedures." [REDACTED] told OIG he recalled that everyone was concerned about the possibility of the shutdown program ending because procedures were not followed and the wrong aircraft was shot down.

156. [REDACTED] That concern prompted [REDACTED] to task her staff with finding the underlying cause of this problem and keeping everyone informed. For his part, on 22 August 1997 [REDACTED] prepared a detailed e-mail to [REDACTED] in MSP, among others, outlining each step of the required procedures and evidence [REDACTED] cables that they were not performed in the 17 August 1997 shutdown. [REDACTED] specifically noted that "[u]nless [REDACTED] can verify that the [FAP fighter aircraft] attempted radio contact and used internationally recognized signals to direct the target aircraft to land, Phase [one] requirements were not met." [REDACTED] responded to him that same day, reaffirming his evaluation that the FAP did not perform "the proper ID and warning phases."

157. [REDACTED] also suggested to [REDACTED] that his summary could be used as the basis for a report to the NSC after [REDACTED] reviewed it for comments and clarification. OIG found no record to indicate that a summary was prepared or sent to the NSC in the days following the shutdown.

158. [REDACTED] However, in a 26 August 1997 cable [REDACTED] reported on the results of a 23 August 1997 meeting between [REDACTED] [REDACTED] In the cable, [REDACTED] reported their discussions of the violations in procedures [REDACTED] attempt to "cover up" the incident, and corrective measures to be instituted to preclude a recurrence. [REDACTED] reported that [REDACTED] was to be responsible for working closely with [REDACTED] to ensure that remedial actions were completed immediately.

159. [REDACTED] told OIG he recalled that [REDACTED] "read the riot act" to [REDACTED] regarding the violations. [REDACTED] told OIG that he had gotten [REDACTED] to conduct an internal FAP investigation into the

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17 August incident prior to his 23 August confrontation with the general. In fact, [redacted] termed his encounter with [redacted] as a "come to Jesus meeting," and said he threatened [redacted] that the program would be closed if the mistakes that led to the 17 August incident were not fixed.

160. [redacted] **Program Review, September 1997.** Headquarters officers [redacted] of MSP, traveled to [redacted] in September 1997 to assess the Airbridge Denial Program.

[redacted] met with the key US and Peruvian participants in the ABDP. According to [redacted] [redacted] briefed [redacted] on the fact that the FAP could not always perform visual signals during an interception for safety of flight reasons. [redacted] said that, if [redacted] did not know before she came to Peru that visual signals were not always done, she knew it after that briefing. [redacted] said that she understood during this visit to Peru that visual signaling was being utilized *when required*. [redacted] said she was not informed that the FAP was not performing visual signaling.

161. [redacted] At the meeting with the VI RAT Commander, [redacted] says [redacted] "hammered" the Peruvians on the requirement to conduct visual signals. [redacted] said her message to the Peruvians in September 1997 was that all procedures had to be followed to ensure against the loss of innocent life, that the primary objective of the ABDP was force down and prosecution, and that shoot down was a last resort. [redacted] said there was no unique emphasis on visual signals, but rather an emphasis on the need to follow all the required procedures in light of the fact that no required procedures had been followed in the 7 August 1997 incident. Similarly, former [redacted] recalled that [redacted] visit to Peru conveyed Washington's concern to the FAP and reinforced [redacted] message that the ABDP could be shut down if the intercept procedures were not followed. He emphasized that [redacted] sitting in a meeting in Juanjui sent a serious message to the Peruvians. [redacted] told OIG the objective of the review was to

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determine if all the procedures had been followed. Although he did not believe that Headquarters planned to close the Airbridge Denial Program as a result of the 17 August incident, [redacted] told OIG that Headquarters would close the program if the problems relating to the incident were not corrected.

162. [redacted] In September 1997 [redacted] prepared a report documenting the investigation of the shutdown and review of the ABDP procedures. The report contained a description of intercept procedures, including the requirement that the interceptor establish radio and visual contact with the target. The report concluded that the intercept procedures followed in the 17 August 1997 shutdown had deviated from established procedures. With regard to the overall operation of the program, however, the report concluded that:

The procedures in place in Peru are **both more stringent and much less random** in terms of targets pursued, **than the procedures outlined in the Presidential Determination** itself, and are **the most adequate measures possible** to ensure protection against loss of innocent life. [Emphasis added.]

163. [redacted] Additionally, in her report [redacted] asserted that more than 90 percent of air interdiction operations were conducted in response to specific intelligence. She emphasized that the detection procedure:

Establishes that the vast majority of interdiction operations are directed against targets already clearly identified as narcotics trafficking aircraft, rather than a more random response to aircraft that appear to be in the wrong place at the wrong time.

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[redacted] **The Nature of Intelligence in the ABDP**

[redacted] The strength of the intelligence leading to identification and shootdowns of suspect aircraft in the ABDP varied widely. Some planes were shot down based on no intelligence at all indicating the planes were engaged in drug trafficking. Some shootdowns were just random intercepts of planes. Other intercepts were based on detailed information indicating the exact date, time, and location of an anticipated flight, sometimes even the amounts of drug shipments and passengers on board.

[redacted] For example, the plane shot down on 14 July 1995 was picked up randomly while the [redacted] was out on patrol in the late afternoon. Although the tail number was acquired, it was not checked until after the A-37 was ordered to shoot the plane down. Similarly, on 27 November 1995, the target plane was intercepted because it happened across the US Customs [redacted] and A-37s during a morning training exercise. Ground-based radar had tracked a small plane [redacted]; yet when the [redacted] spotted another small plane in the same area during the intercept, it was ignored. In neither of these shootdowns was there any attempt to determine if the target plane was "primarily engaged in narco-trafficking" before shooting it down.

[redacted] In contrast, during the 21 July 1995 shootdown [redacted] intelligence reported ongoing conversations between the target plane's pilot and narco-traffickers on the ground. The target pilot reported that FAP fighters were following him and "passing alongside" despite assurances from the narco-traffickers that the FAP had been paid off and would not shoot him down. However, there is no indication in either the records or the recollections of the personnel involved that this information was passed to the US or Peruvian officers actually conducting the intercept.

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164. [REDACTED] Despite the range of deviations in all prior shutdowns, the [REDACTED] report repeated [REDACTED] assertion that the 17 August 1997 shutdown was a "unique exception to normal operations and is the sole deviation known to have occurred in the history of the program."³⁴

165. [REDACTED] *Congressional Notification, October 1997*. Records confirm that following [REDACTED] trip to Peru, the Agency prepared written notice to Congress about the 17 August shutdown. This notice, dated 6 October 1997, described the procedural violations that occurred in the 17 August shutdown, the corrective measures to be taken, and the actions the US Embassy Country Team would take to review future shutdowns for the purpose of ensuring that required intercept procedures were conducted.

166. [REDACTED] *Agency Reporting to the NSC, November and December 1997*. At a 7 November 1997 Interagency Working Group (IWG) meeting, [REDACTED] again reported that the 17 August 1997 shutdown was the only case in the three years of the program's operation that procedures were not followed. In early December, the Agency formally prepared material for the NSC Deputies Committee detailing the procedural violations in the August shutdown and describing the corrective measures.

167. [REDACTED] By the time of the November meeting, there had been two more shutdowns, and the same violations had occurred.

³⁴ [REDACTED] In reviewing this report in draft, [REDACTED] commented that an Embassy cable also stated that this shutdown was the only aberration in the warning procedures of which the Embassy was aware. When interviewed in conjunction with this investigation, the Director of the Embassy's Narcotics Affairs Section said that he classified and released the cable to which [REDACTED] refers, but [REDACTED] he did not verify its accuracy. [REDACTED] also stated that her conclusion also reflected what she was told and understood from her conversations with Embassy [REDACTED] personnel in Peru.

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168. [REDACTED] **Responsible Officers.** The officers responsible in the end for providing misleading information about this shutdown were [REDACTED] [REDACTED] who conducted the post-shutdown review. Both officers continued to assert that this shutdown was the exception when, in fact, the same violations had repeatedly occurred in previous shutdowns.

[REDACTED] **Twelfth Shutdown, 6 October 1997**

169. [REDACTED] **Violations of Intercept Procedures.** This shutdown occurred at night. The OIG review of the videotape revealed the following violations:

- ◆ Failure to obtain reasonable assurance that suspect plane was a narcotrafficker.
- ◆ No visual signals: the videotape clearly shows the fighter behind the target the entire time.³⁵
- ◆ Only one audible radio warning.
- ◆ No indication of warning shots.
- ◆ Phases ordered before being authorized: HNR instructed A-37 pilot to proceed to Phase II, then asked for authorization, and HNR authorized Phase III before asking for authorization.

³⁵ [REDACTED] The Peruvian pilot and the HNR confirmed that no visual signals were done.

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- ◆ Lack of reasonable time for suspect plane to respond: after the A-37 located the suspect plane, the HNR waited only 10 seconds before directing the fighter to proceed with Phase II; only 76 seconds elapsed from the A-37 first sighting the target to the shutdown order.

170 [REDACTED] **Violations in Reporting.** [REDACTED] reporting on this shutdown falsely claimed that all intercept procedures had been followed "to the letter." In its initial report [REDACTED] indicated that the Country Team would meet to assess the shutdown. [REDACTED] subsequently cabled that the Country Team had met and "concluded that all proper intercept procedures were/were followed by the Peruvian Air Force."

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[REDACTED] 6 October 1997 Videotape Chronology

The interdiction takes place at night. The Peruvian commander, [REDACTED] is at call sign [REDACTED]. At the start of the videotape (in Zulu time), the [REDACTED] is monitoring a TOI circling a suspected narco airstrip.

06:59:33 US pilot remarks "the runway is all lit up!"
 07:08:28 US pilot observes "they turned the lights off on the strip."
 07:08:32 HNR reports to [REDACTED] that the A-37 is about to join up with the [REDACTED]
 07:08:54 HNR requests permission for the Phases.
 07:08:59 [REDACTED] gives authorization to proceed with Phase I.
 07:09:18 HNR relays [REDACTED] authorization of Phase I to the A-37.
 07:09:47 HNR says to the A-37 "I have the target on the screen, but not you."
 07:10:19 [REDACTED] states that TOI has landed and is now taking off again.
 07:10:24 US co-pilot responds "I don't think the aircraft ever actually landed, it has departed and we are trailing it at this time." HNR concurs that TOI never landed.
 07:15:10 A-37 first sights TOI.
 07:15:20 HNR instructs A-37 "Proceed, proceed with Phase II."
 07:15:26 A-37 announces it is going to change frequencies to 126.9 to call TOI.
 07:15:27 HNR requests permission from [REDACTED] to implement Phase II.
 07:15:39 Phase II authorized by [REDACTED]
 07:15:46 A-37 issues a **radio call** telling TOI to veer to Pucallpa and to avoid making evasive maneuvers.
 07:15:49 Phase II authorized by [REDACTED]
 07:16:02 The A-37 first becomes **visible** on the video, following TOI.
 07:16:11 HNR announces that he is "going to ask for Phase III."
 07:16:17 HNR tells [REDACTED] "He has ignored **Phase II**, we'll proceed with Phase III."
 07:16:20 A-37 says that TOI is "ignoring," and requests authorization for Phase III.
 07:16:26 HNR tells A-37 "Phase III authorized, Phase III authorized, hit him."
 07:16:44 [REDACTED] authorizes Phase III.
 07:16:48 HNR tells [REDACTED] "I understand Phase III authorized, he's ignoring, should we proceed to shoot him down? We're close to the border, we're 18 miles now."
 07:17:02 [REDACTED] authorizes Phase III.
 07:17:08 HNR reports to the A-37 that Phase III has been authorized.
 07:17:49 US pilot remarks, "There it is, **he's shooting**."
 07:17:54 HNR tells A-37 "He's eluding you, hit him, hit him."
 07:18:08 TOI crashes.

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Twelfth Shutdown Reporting: 06 October 1997

	10/06/97	10/17/97	11/19/97	Congressional Notification (CI) [redacted] 11/07/97	OIG Findings
Management Oversight	Country Team will meet.	Country Team met to study all available information.		In accordance with new measures to monitor intercepts. Country Team is convening Team to review all information.	
Identify and Sort Target					Tail number never acquired.
Phase I Radio Calls	0710Z: HNR requests VI RAT approval for Phase I. Permission for Phase I granted.				Only one audible radio warning.
Phase I Visual Signals			Required intercept procedures were completed.		No visual signals.
Phase II Warning Shots	Permission for Phase II requested. Narco aircraft not responding to Phases I and II.				No indication of warning shots.
Phase III Shootdown	Permission granted by VI RAT for Phase III. 0719Z: Suspect has been shot down.		Authorization for Phase III granted.	Suspect drug aircraft failed to acknowledge warning Phases of procedures. VI RAT authorized shoot down.	HNR tells A-37 to proceed to Phase II; then asks for VI RAT authorization. Same with Phase III.
Overall Compliance with Required Procedures	Initial indications are that all intercept procedures were followed to the letter.	Concluded that all proper intercept procedures were followed.		[redacted] confirms that all intercept and warning procedures were followed to the letter.	Failure to identify TOI. Inadequate radio calls. No visual signals. Inadequate warning shots, if any. Phases ordered before they were authorized.

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171. [REDACTED] *Country Team Review Process*. The new Country Team review process, created [REDACTED] in the wake of the 17 August shutdown, failed to provide effective oversight. [REDACTED]

Several Country Team participants told OIG that [REDACTED] these meetings [REDACTED] walked the group through the process without significant questioning being permitted. [REDACTED] the Ambassador would have endorsed anything [REDACTED] told him regarding the ABDP.

172. [REDACTED] In viewing the videotape with OIG, several Agency officers readily identified violations:

- ◆ [REDACTED] the Program Manager [REDACTED] said she did not see visual signals being conducted; she said that was a violation and should have been reported.³⁶ Upon reviewing the 6 October and 17 October cables, [REDACTED] said that the claims that all procedures had been followed were false.
- ◆ [REDACTED] the [REDACTED] officer in Juanjui, said the fighters obviously did not do any kind of visual signals and that the target was never identified; he said these violations should have been reported. He told OIG [REDACTED] reporting that all procedures were followed was inaccurate and constituted a false report.
- ◆ [REDACTED] the OIC in Pucallpa, told OIG that visual signals were not performed in any intercept while he was OIC. (This included both October 1997 shutdowns). He claimed that [REDACTED] had briefed him and had not told him that there was a requirement if radio contact failed.

³⁶ [REDACTED] Upon reviewing pertinent portions of this report in draft, [REDACTED] stated that if visual signals were not done, it should have been reported. [REDACTED] said she was always assured in aircrew debriefings that the visual signaling was performed.

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173. [redacted] In interviews with OIG:

◆ [redacted] he did not remember observing or hearing about anomalies with the 6 October 1997 shutdown. [redacted] probably drafted the 6 October cable, but he probably would have read it. [redacted]

[redacted]

◆ [redacted] She did not specifically remember the 6 October shutdown. [redacted]

[redacted]

She said she based her cables on reports provided by CIA officers in Juanjui and Pucallpa and on all possible information sources and that she never changed the substance. [redacted]

[redacted]

◆ [redacted] He said it would have been based on the consensus of [redacted] officers involved. [redacted]

[redacted]

174. [redacted] **Headquarters Review and Oversight.** There is no evidence that Headquarters played any oversight role, in spite of the activity that had followed the shutdown of 17 August 1997. [redacted]

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[REDACTED] reported to Headquarters that only 76 seconds elapsed from the Peruvian fighter first sighting the target to shutdown authorization, indicating the physical impossibility of conducting the required procedures. Yet, the Congressional Notification of 7 November 1997 repeated the claim that, "it appears all intercept and warning procedures were followed to the letter" in the 6 October shutdown.³⁷ Discussing the procedures, it said that, "When the suspected drug aircraft failed to acknowledge the identification and warning Phases of the intercept procedures, the Commander of the Peruvian Sixth Air Defense Region (VI RAT) authorized FAP pilots to shoot it down." [REDACTED] the Peru Desk Officer who drafted this Congressional Notification, told OIG that he based it only on the [REDACTED] cables reporting that all procedures had been followed. He stated that the report of the Country Team conclusion that the FAP had used the appropriate warning procedures was enough to satisfy him that procedures were followed. He used the information in the [REDACTED] cables as the material for a Spot Report to the DDO and, later, for a Congressional Notification.

175 [REDACTED] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [REDACTED] OIC in Pucallpa.
- ◆ [REDACTED] Officer in Juanjui.
- ◆ [REDACTED] Program Manager [REDACTED]
- ◆ [REDACTED]
- ◆ [REDACTED]

³⁷ [REDACTED] In reviewing pertinent portions of this report in draft, [REDACTED] commented that she had no reason to believe in November 1997, or now, that [REDACTED] falsely reported that the October 1997 shutdowns complied with the intercept procedures, knowing they did not. By [REDACTED] own statement, she knew intercept procedures. She knew a potential target plane had to be identified as reasonably suspect of being engaged in narcotics trafficking, after which radio calls, visual warning signals such as flying in front of the target, and warning shots all had to be executed before requesting and receiving permission to shoot the target. OIG believes it would be clear to any reader of [REDACTED] reporting that it was impossible to conduct the required intercept procedures in 76 seconds.

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176. [redacted] At Headquarters, responsible officers included:

- ◆ [redacted] Peru Desk Officer.
- ◆ [redacted] LAD.
- ◆ [redacted] Legal Adviser to LA Division.

[redacted] **Thirteenth Shootdown, 12 October 1997**

177. [redacted] **Violations of Intercept Procedures.** This shootdown occurred in the morning. The review of the videotape by OIG revealed the following violations:

- ◆ Problems with identification: Warning shots were authorized before the target's registration was identified. The target plane did not try to evade.
- ◆ No visual signals: Some were ordered, but none were performed.³⁸
- ◆ No evidence of warning shots: If they were fired, target may not have been able to see them in daylight.

178. [redacted] **Violations in Reporting**, [redacted] reported:

Initial indications are that all procedures were followed to the letter. The [redacted] FAP rider requested and received permission for Phase I and subsequently Phase II. The target did not respond during Phases I and II and attempted to evade. . . . Finally, the VI RAT Commander gave authorization for Phase III. [Emphasis added.]

The cable reported that the Country Team would convene a board to study all information to validate the mission. Subsequent reporting indicated that, "After *fully complying* with appropriate Phase I-III procedures . . . a FAP A-37 fired on the aircraft. . . ." [Emphasis

³⁸ [redacted] The Peruvian co-pilot told OIG that visual signals were done, although at a distance because the weather was bad. The HNR, on the other hand, told OIG that pilots on his shootdowns "never did visual signals like wing wagging—doing those things is crazy and dangerous."

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added.] No subsequent reporting mentioned the results of a Country Team review. There is no indication in the reporting that anyone raised concerns about this shutdown.

179. [redacted] *Country Team Review Process.* [redacted] briefed the Country Team review panel and advised them that all of the required intercept procedures had been followed. Several interviewees said [redacted] played the videotape at the Country Team meeting and [redacted] supplied language for [redacted] cables that described compliance with procedures.

180. [redacted] In discussing how [redacted] explained the lack of visual signals in the 6 and 12 October 1997 shutdowns [redacted] told OIG that the limitation on visual signals at night was linked to the night vision goggles (NVGs) and the fact that one cannot see a wing waggle at night. [redacted] said it was common knowledge that the way to conduct visual signals at night was for the fighter pilot to turn on his lights. It was also common knowledge that doing so would blind the pilot. [redacted] said he could not remember if [redacted] explained this circumstance every time, or ever, to the Country Team review group. [redacted] stated that [redacted] knew that visual signals could not be done.

181. [redacted] Several of the key Agency officers in Peru at the time of the shutdown watched the videotape with OIG.

- ◆ [redacted] OIC at Pucallpa, said that this shutdown also did not implement visual signals; he said he thought such signals were optional. He claimed [redacted] had briefed him and had not told him that there was a requirement if radio contact failed.
- ◆ [redacted] Program Manager [redacted] told OIG that no visual signals were executed and the cables [redacted] were inaccurate or false.

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- ◆ [redacted] Officer at Juanjui, said that visual signals and warning shots could not be seen on the videotape even though the interceptor pilot reported all Phases had been completed. He acknowledged that the target was not evading, although the target was using clouds as cover, and [redacted] said he could not hear the interceptor pilot calling the suspect aircraft on the radio. He told OIG that these were violations that should have been reported and that the cables from [redacted] were inaccurate or false.

182. [redacted] told OIG that the 6 and 12 October shootdowns would have been scrutinized with particular care because they followed the bad shootdown of 17 August 1997 and occurred after creation of the Country Team review process. [redacted] said that the ABDP would have been shut down had there had been another significant deviation from the intercept procedures; he said the program would not have survived two consecutive deviations.

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[REDACTED] 12 October 1997 Videotape Chronology

The tape takes place in the early morning and begins as the [REDACTED] is tracking TOI. (The video is in Zulu time.) [REDACTED] is the VI RAT commander at call sign [REDACTED].

11:11:46 Video begins. TOI soon becomes visible.
 11:19:43 Video cuts off.
 11:36:22 Video starts again.
 11:37:17 Video cuts off.
 11:50:38 Video starts again.
 12:04:23 HNR requests authorization to initiate the Phases of the interdiction.
 12:04:29 [REDACTED] tells HNR that, during Phase I, the A-37 is to "try to pass" TOI two or three times and give it warnings over the radio to land in Atalaya. VI RAT wants the fighter "to exhaust all measures from Phase I and II."
 12:05:21 HNR relays the orders to the A-37 as "approach and try to warn" TOI.
 12:06:24 HNR reminds the A-37 that Phase I is to "approach and warn" TOI.
 12:07:46 The A-37 becomes visible on the FLIR behind TOI.
 12:07:54 The A-37 identifies TOI's registration number and claims that TOI "is not responding to the instructions." (No radio calls are heard on the tape.)
 12:08:14 HNR relays TOI's registration number to [REDACTED].
 12:08:23 A-37 says he "crossed" TOI and that TOI is not responding. (The video shows the A-37 behind TOI the entire time.)
 12:09:09 A-37 requests authorization for Phase II.
 12:09:22 [REDACTED] authorizes Phase II.
 12:09:38 HNR relays to the A-37 [REDACTED] order to fire warning shots "passing through his [TOI's] side."
 12:10:47 A-37 says he executed Phase II and received no response. (Warning shots are not visible on the tape and no one in the [REDACTED] remarks seeing them.)
 12:11:20 HNR requests authorization for Phase III.
 12:11:42 Phase III authorized by Colonel [REDACTED] of [REDACTED].
 12:12:06 The order "QAP" from [REDACTED] negates Colonel [REDACTED] authorization of Phase III, causing HNR to exclaim, "Damn!"
 12:13:22 [REDACTED] orders that Phase II be repeated.
 12:13:56 HNR instructs the A-37 to "get beside" TOI and fire more warning shots. (Warning shots cannot be seen on the tape and A-37 remains behind TOI.)
 12:14:55 The A-37 issues another radio warning to TOI.
 12:15:19 HNR says, in English, "If we don't do it now, we're gonna lose it."
 12:15:29 The A-37 reports that TOI is not responding.
 12:16:02 HNR requests authorization for Phase III.
 12:16:29 Phase III is authorized.
 12:16:45 HNR relays the Phase III authorization to the A-37.
 12:17:03 TOI is visibly smoking from gunfire it has sustained.
 12:19 TOI crashes during this minute. (The crash is not visible on tape.)
 12:22:47 The crash site becomes visible.
 12:23:45 Video ends.

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Thirteenth Shootdown Reporting: 12 October 1997

	10/13/97	10/23/97	11/19/97	Congressional Notification 11/07/97	OIG Findings
Management Oversight	Country Team will convene a board to study all information to validate the mission.	No mention of Country Team review.	No mention of Country Team review.	Country Team board will review all information to verify that all procedures were followed.	
Identify and Sort Target		1017Z: [redacted] launched, acquired suspect aircraft identified it as twin-engine Seneca.			Warning shots authorized before registration sorted.
Phase I Radio Calls Phase I Visual Signals	[redacted] HNR requested/received permission for Phase I and subsequently Phase II. Target did not respond during Phases I and II and attempted to evade by ducking into clouds to hide from A-37.			Aircraft failed to respond to identification and warning and took evasive action.	Visual signals were ordered but not done.
Phase II Warning Shots					No indication of warning shots—if fired, difficult to see in daylight.
Phase III Shootdown	Finally, VI RAT Commander gave authorization for Phase III. 1225Z: Target was down.	1225Z: A-37 fired on aircraft after fully complying with appropriate Phase I-III procedures.	After completing the required intercept procedures, authorization for Phase III was granted by VI RAT Commander.	VI RAT Commander authorized interception and the A-37 shot plane down.	
Overall Compliance with Required Procedures					No visual signals No indication of warning shots.

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183. [redacted] **Headquarters Review and Oversight.** There is no evidence of Headquarters review of this shutdown. The Congressional Notification of 7 November 1997 reported that the suspect aircraft had failed to respond to identification and warning and had taken evasive action. It said the VI RAT Commander had authorized the interception. The notification also said that, in accordance with newly established measures to monitor such intercepts, the Country Team would convene to verify that all procedures were followed. As discussed in the previous shutdown, the Desk Officer who drafted this Notification [redacted] based his conclusions entirely upon [redacted] reporting. When asked how he was told to ensure the required procedures had been followed, [redacted] responded, "We didn't review the tapes." He added that he took [redacted] at its word and he "hoped" that the responsibility to review the tapes was not his alone. [redacted] believed Congress would assume that CIA management had verified what had happened in the shutdown.

184. [redacted] **Responsible Officers.** In Peru, the responsible officers included:

- ◆ [redacted] OIC in Pucallpa.
- ◆ [redacted] officer in Juanjui.
- ◆ [redacted] Program Manager [redacted]
- ◆ [redacted]
- ◆ [redacted]

185. [redacted] At Headquarters, responsible officers included:

- ◆ [redacted] Peru Desk Officer in LA Division. At Headquarters, LA Division Desk Officer [redacted] prepared both the initial and revised Congressional Notification that was released on 7 November 1997. After reviewing a videotape of this shutdown [redacted] told OIG he did not know why he

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did not notice that the procedures had not been followed and did not know why this problem was not brought to his attention.

- ◆ [redacted] LAD.
- ◆ [redacted] Legal Advisor to LA Division.

[redacted] **Fourteenth Shootdown, 17 July 2000**

186. [redacted] Following the two shootdowns in October 1997, no shootdowns occurred for two and a half years. The penultimate shootdown of the ABDP occurred in the day of 17 July 2000. The videotape revealed procedural violations very similar to those of the past.

187. [redacted] **Violations of Intercept Procedures.** Violations of procedure include:

- ◆ Failure to identify suspect plane: never obtained target's tail number, radioed description of target, or gave coordinates to determine whether target was on valid flight plan.
- ◆ No visual signals: fighter aircraft did not even appear on videotape until after shootdown had been authorized.
- ◆ No evidence that warning shots were fired. In his OIG interview, [redacted] he considered the shots that hit the target plane to be the "warning" shots.
- ◆ Lack of reasonable time for suspect plane to respond: only 45 seconds elapsed between authorization for Phase I and the HNR's authorization of Phase II— not enough time for visual signals. Less than two minutes elapsed between authorization of Phase I and authorization of Phase III.

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- ◆ Chain of command issues and US intervention: US crew repeatedly directed the HNR to seek authorization for the next Phase.

188. [REDACTED] **Violations in Reporting.** [REDACTED] reported that, "[REDACTED] and the Tucano crews implemented the three phases of the shutdown procedure and on the authority of . . . VI RAT, the Tucano shot down the suspect aircraft." An e-mail [REDACTED] [REDACTED] to Headquarters on the day of the shutdown stated that, "All intercept steps were taken." In a follow-up cable three days after the shutdown, [REDACTED] stated that, "The Country Team confirmed that all the established procedures were correctly followed." "The aircrews quickly, efficiently, and correctly complied with all Phases of the rules of engagement."

189. [REDACTED] Two of the reporting cables, which provided the chronology of the shutdown, clearly reveal that there had been no time for the performance of required procedures. In his OIG interview, Program Manager [REDACTED] stated that he did not question the amount of time between phases; he merely forwarded the information in the cable. He also explained that the wording "three phases" in the first reporting cable meant that there had been identification, warning, and then shutdown; it did not mean visual signals were done. In fact, [REDACTED] said that at that time, it was understood that visuals were not done.

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[redacted] 17 July 2000 Videotape Chronology

The interdiction takes place during the day. The video begins with the US crew tracking TOI and discussing whether they should let it land before starting the intercept. (The video is in Zulu time. Local times are five hours earlier.)

16:15:50 Tape begins.
 16:21:35 US pilot instructs HNR to request authorization for Phases I and II.
 16:22:05 US pilot repeats his instruction to HNR.
 16:29:26 Tucano can be seen briefly flying by. TOI is still on the ground.
 16:30:57 US pilot notes that TOI has taken off, saying, "He's on the move."
 16:31:06 US pilot instructs HNR to "Request autorizado-1 and 2."
 16:32:00 TOI becomes visible on the tape.
 16:32:54 Tucano confirms that he sees TOI.
 16:33:20 HNR issues first **radio warning** to TOI.
 16:33:29 Phases I and II are authorized by VI RAT.
 16:33:40 HNR again issues radio warning to TOI.
 16:34:14 After TOI fails to respond to radio calls, HNR authorizes Phase II.
 16:34:20 Tucano confirms he has received the order from HNR to go to Phase II.
 16:34:44 US crew announces "Area free." [This signals that the Tucano can now maneuver freely to begin the intercept.]
 16:34:54 HNR repeats to the Tucano that Phase II is authorized.
 16:34:56 Tucano confirms that he heard HNR's order to go to Phase II.
 16:35:10 Tucano states that **Phase II has been completed**. (Warning shots are not seen on the tape; the Tucano itself is not yet visible on the tape.)
 16:35:12 US pilot tells HNR, "OK, we need Phase III approved. Request Phase III."
 16:35:17 HNR requests authorization for Phase III.
 16:35:25 Phase III authorization is granted by [redacted].
 16:35:32 US pilot says, "Okay, I heard it. . . autorizado. . . tell the Tucano-authorized Phase III." HNR informs the Tucano Phase III authorized.
 16:35:49 Tucano confirms that he has heard the order to move to Phase III.
 16:36:04 US pilot says to HNR, "Tell him autorizado-I don't think he heard it."
 16:36:07 US pilot notes that the Tucano is "a long way behind" TOI.
 16:36:17 FAP OIC asks three times if the Tucano fired warning shots.
 16:36:20 US pilot repeats to HNR, "Tell him right now-authorized Phase III."
 16:36:38 The FLIR perspective zooms out for two seconds, allowing a viewer to see more of the airspace around TOI. The Tucano is nowhere in sight.
 16:36:57 US crew says the problem is that the Tucano can't keep up with TOI.
 16:37:30 Tucano becomes visible on the video, following TOI.
 16:37:54 Tucano passes over TOI in a **firing pass**. TOI begins smoking.
 16:38:18 HNR affirms to FAP OIC that Tucano fired warning shots.
 16:39:44 TOI crashes.
 16:42:34 Tape ends.

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~~(S)~~ Fourteenth Shutdown Reporting: 17 July 2000

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	Reporting 7/17/00	7/20/00	7/26/00	Headquarters 7/31/00	OIG Findings
Management Oversight				Chief MSP congratulates all hands. Recently received video shows solid team effort between [redacted] crew, HNR, and Tucano pilot.	
Identify and Sort Target		1631Z: [redacted] picked up target departing airstrip.	1632Z: [redacted] says target departed airstrip.		Tail number never acquired or sorted.
Phase I Radio Calls		1633Z: VI RAT authorized Phases I and II. HNR tried radio contact with negative results.	1133L: HNR went to Phase I. Tried radio contact with target; ordered it to land. Did not obey.		
Phase I Visual Signals	Aircraft crews implemented three Phases.				HNR gives two radio calls then immediately orders warning shots.
Phase II Warning Shots		1634Z: HNR told Tucano that VI RAT authorized Phase II. 1635Z: Tucano confirmed completion Phase II.	1134L: Phase II was initiated. HNR told Tucano second phase authorized.		No indication of warning shots—if fired, difficult to see in daylight.
Phase III Shootdown	At 1640Z: ABDP effected successful endgame. Shot down suspect aircraft on orders of VI RAT commander.	1635Z: VI RAT authorized Phase III. 1637Z: Tucano closed on target and fired disabling shot.	1137L: Phase III authorized by VI RAT. 1140L (1640Z): Confirmed that suspect plane shot down.		Less than two minutes between authorization of Phase I and authorization of Phase III.
Additional Issues					[redacted] crew repeatedly directed HNR to seek authorization for next phase. VI RAT authorized Phases I and II simultaneously. Failure to identify TOI. No visual signals. Inadequate warning shots. Failure of Peruvian chain of command. US interference. Insufficient time to conduct phases and allow TOI to respond.
Overall Compliance with Required Procedures		Country Team confirmed all established procedures correctly followed.			

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190. [REDACTED] *Country Team Review Process*. The review process established after the 17 August 1997 shutdown was ineffective. Several participants discussed the process in OIG interviews.

- ◆ A representative of DEA said he watched the videotape of the shutdown, but did not look to see if procedures had been executed because it was not his bailiwick. While he admitted that he did not see warning procedures, such as visual signals, on the videotape, he said he had never questioned CIA on its protocols and would not want CIA to question him on his.
- ◆ One of the US pilots said he had attended a review meeting [REDACTED] and that the videotape of the shutdown had been shown. He said [REDACTED] had provided a quick introduction, mentioning that the videotape had been reviewed and that no issues had been identified. No one had any questions about the procedures.
- ◆ [REDACTED] himself recalled that he had briefed the Country Team representatives. He said he could not recall if he mentioned to the Team that phases one and two were authorized simultaneously, or if it would have meant anything to them if he had. In retrospect, he said, this was a problem and violated the procedures and that the Country Team should have been as knowledgeable as anyone about these issues.
- ◆ Another DEA officer said he had watched the videotape with the review team, but that the only thing the team was interested in was seeing the target plane explode.

191. [REDACTED] *Headquarters Review and Oversight*. [REDACTED] reported that 2 minutes elapsed between authorization to make radio calls and reported completion of visual signals and warning shots. The timing specified in the cable should have prompted responsible officers

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to look more closely at the incident, since it is physically impossible to conduct the intercept procedures in the time specified. However, a cable from Headquarters [REDACTED] on 31 July extended congratulations to "all hands" from [REDACTED] MSP. It stated that, "The recently received end game video reflects a solid team effort between the [REDACTED] crew, the HNR, and the FAP Tucano pilot." In actuality, the videotape revealed the multiple violations of the procedures.

192. [REDACTED] Program Manager [REDACTED] told OIG that there was no inquiry from Headquarters regarding the lack of any mention of visual signals in the shutdown reporting cable. OIG found no record to indicate that officers at Headquarters raised questions about the [REDACTED] reporting that revealed there was insufficient time to conduct the required procedures, either. OIG also found no record to indicate that Headquarters prepared a Congressional Notification to report this shutdown.

193. [REDACTED] **Responsible Officers.** In Peru [REDACTED] had been serving as [REDACTED] Program Manager [REDACTED] since July 1998.

- ◆ [REDACTED] knew the program, its required procedures, and past violations from his previous job in Headquarters. He helped prepare the new set of SOPs with the VI RAT in March 1999 that did not include the requirement to perform visual signals. [REDACTED] also reviewed the videotape of the July 2000 shutdown and approved reports submitted to Headquarters indicating that all required procedures had been conducted. He told OIG that he probably wrote the 21 July 2000 cable reporting that the fighter plane made visual contact with a passenger in the target aircraft prior to Phase III. He said that the purpose of this cable was to report the recovery operations, not the Tucano pilot's claim of making visual contact. He added that, with the benefit of "20/20 hindsight," he had a duty to report the lack of visual signals. He said that he never intended to lie.

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- ◆ [redacted] said that as he recalled, and as reported in cable traffic after the 17 July 2000 shutdown, all intercept steps were taken. This included the firing of warning shots. The target was attempting to conduct evasive action and headed for the Brazilian border. There was also no valid flight plan submitted for this aircraft. [redacted] did not recall if any visual recognition signals were conducted but said that the tail number of the aircraft was not obtained. He was not sure if one was clearly visible.
- ◆ At Headquarters, [redacted] who had served as the Legal Adviser to LA Division since August 1997, knew what had occurred in 17 August 1997 and knew the remedial steps to scrutinize shutdowns more closely that had been implemented in the wake of the August 1997 incident.³⁹

194. [redacted] After the shutdown of the missionary plane in April 2001, Agency officers with long involvement in the ABDP discussed the program in a series of e-mails. These officers sought to explain and justify events that had occurred in the past, including the shutdown of July 2000:

- ◆ In an e-mail of 22 April 2001, [redacted] justified the speed of the conduct of the 17 July 2000 interception, saying that, "Each event is different and dependent on a number of variables to include how suspect is the suspect aircraft, is it taking evasive action, how close to the border, etc., etc. It would also depend on what happened [in Phase] I and how much signaling was done, etc."

³⁹ [redacted] served as [redacted] the Counterproliferation Center from September 1999 to September 2000. [redacted] served as [redacted] of the Office of Congressional Affairs from June 1998 to October 2000.

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- ◆ An e-mail from [REDACTED] discussing the 17 July shutdown, stated that, "There was, for example, little if any preoccupation with the tail number of the aircraft shot down on 17 July 2000; there was simply too much additional information available proving it to be a narco flight to have been a major factor."
- ◆ An 8 May 2001 e-mail from [REDACTED] stated that:

In the 17 July 2000 shutdown the suspect aircraft never got above tree top level and was conducting evasive maneuvers. . . . Due to the low altitude and evasive maneuvers of the suspect aircraft, explicit visual signals such as is the intent of ICAO was simply not possible in that it would endanger the safety of all aircraft. That said, an Embassy review determined that all Phases had been properly implemented.

[REDACTED] also noted that there were no revisions to the SOPs concerning the use of ICAO visual warnings when the A-37s replaced the Tucanos and there was no perceived relaxation of intercept procedures over time.

[REDACTED] Fifteenth Shutdown, 20 April 2001: The Missionary Plane

195. [REDACTED] The repeated flaws in the operation of the ABDP, beginning in early 1995, set the stage for the final shutdown. Most of the violations, which had become common practice in the six previous years, were repeated in the shutdown of the missionary plane. The intercept and shutdown occurred in the daytime and began after the tracker aircraft detected the plane while on patrol. There was no intelligence indicating the presence of a narco trafficker.

196. [REDACTED] The interception and shutdown of the missionary plane occurred over a period of 13 minutes – longer than many of the previous shutdowns. The plane was detected on radar by the [REDACTED] tracker aircraft during a patrol. The FAP OIC was

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unable to identify a flight plan for the plane, and the A-37 launched at 1020 local time. The fighter first sighted the missionary plane at 1035. For the next two minutes, the HNR issued three radio warnings on three different frequencies.⁴⁰ The missionary plane did not respond and continued flying on the same heading, which was into Peru, not toward the border. At 1038, the A-37 obtained the registration number of the missionary plane. One minute later, the HNR informed the FAP OIC that Phase I had been completed and that Phase II would be implemented; then he ordered the A-37 to proceed with Phase II warning shots. Fourteen seconds later, the A-37 pilot reported that the missionary plane was not responding; eight seconds later, he requested approval for Phase III shutdown. At 1040, the HNR requested authorization from the ground for Phase III, and within a minute, the FAP OIC authorized Phase III for the first time.

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⁴⁰ [redacted] One of these frequencies reportedly had been retired from service by the Peruvian civil aviation authorities about four years before the shutdown. The ABDP SOPs still listed this retired frequency as one of its key contact frequencies.

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[REDACTED] 20 April 2001 Missionary Shootdown Videotape Chronology

The missionary plane intercept lasted 13 minutes—longer than many previous shootdowns. It was detected on radar by the [REDACTED] tracker aircraft during a patrol. The FAP OIC was unable to find a flight plan for the plane, and the A-37 launched at 10:20 a.m. local time.

10:35:12 A-37 sights the missionary plane (TOI).
 10:36 -37 HNR issues three **radio warnings** on three different frequencies.
 10:38:08 A-37 identifies TOI as OB-1408.
 10:39:13 HNR informs FAP OIC that Phase I is complete and he is going to Phase II.
 10:39:31 HNR orders the A-37 to proceed with Phase II **warning shots**.
 10:39:45 A-37 reports that TOI is not responding.
 10:39:53 A-37 requests approval for Phase III shootdown.
 10:40:35 HNR requests authorization from the ground for Phase III.
 10:41:32 FAP OIC authorizes Phase III for the first time.
 10:43:18-34 A-37 calls TOI three more times on 126.9 at US crew's request.
 10:44:18 HNR informs FAP OIC that TOI is OB-1408 and simultaneously requests authorization for Phase III.
 10:44:27 FAP OIC once again authorizes Phase III.
 10:44:37 A-37 reports "He's seen me, he's seen me too, but he isn't doing anything."
 10:44:47 HNR informs the A-37 that Phase III has been authorized.
 10:45:00 HNR confirms to A-37 that Phase III is authorized.
 10:45:18-21 A-37 flies around to the left and back behind TOI. Appears to be **firing pass**.
 10:45:24 First radio call from TOI to Iquitos tower.
 10:46:36 US pilots first remark that TOI is talking to Iquitos tower.
 10:46:46 TOI says to Iquitos, "The military is here. I don't know what they want."
 10:46:57 A-37 reports, "We're firing at him; we're firing at him. He's reducing his speed."
 10:47:02 TOI continues to talk to Iquitos, calmly relaying route information.
 10:48:00 A-37 flies around to the left and back behind TOI. Appears to be **firing pass**.
 10:48:03 TOI pilot shouts on Iquitos tower frequency, "They're killing me! They're killing us!"
 10:48:15 HNR tells A-37 "Stop! No more! No more! No more, Tucan! No more!"
 10:48:17 A-37 tells HNR "Roger, we're terminating. He's on fire."
 10:50:32 A-37 reports that TOI has landed in the river.

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197. [REDACTED] At the urging of the US crew, who were not confident that the plane was a narcotrafficker, the HNR ordered the A-37 to attempt to communicate by radio with the missionary plane.⁴¹ The A-37 attempted radio calls and reported that the missionary plane was not responding. At 1044, a [REDACTED] pilot commented that the A-37 could fly in front of the missionary plane so it could be seen. The A-37 did not do so.

198. [REDACTED] At 1045 – seven minutes after it was obtained – the HNR passed the registration number of the missionary plane to the FAP OIC, along with another request for Phase III authorization. Three seconds later, the FAP OIC again approved Phase III. Ten seconds later, the A-37 reported that occupants of the missionary plane saw the A-37, but that the plane was not responding.⁴² Ten seconds later, for the first and only time, the HNR informed the A-37 that Phase III had been authorized. Several seconds later, the A-37 made the first firing pass at the missionary plane.⁴³ At 1048, the A-37 made its second firing pass on the missionary plane. Three seconds later, the missionary plane reported that it was hit and it subsequently landed in the river. Veronica Bowers and her infant daughter had been shot and killed and the plane's pilot, Kevin Donaldson, had been shot in the leg. Jim and Cory Bowers, Veronica's husband and son, were not physically injured and survived the shootdown.

⁴¹ [REDACTED] At 1039-1040, the US crew in the tracker plane expressed uncertainty about whether or not Phase II had been executed. They also informed the US OIC that the target aircraft was not taking evasive action and recommended that the plane be followed and Phase III not be implemented at that time. At 1042, after the FAP OIC had relayed Phase III authorization, a [REDACTED] pilot asked if the A-37 had pulled up in front of the target aircraft to attempt to identify the plane.

⁴² [REDACTED] At 1045, a [REDACTED] pilot commented that the occupants of the missionary plane were not aware of the A-37's presence.

⁴³ [REDACTED] About this time, the pilot of the missionary plane made his first recorded radio call to Iquitos tower. At 1046, he said that he had seen the Peruvian A-37 fighter, but did not know what it wanted. Eleven seconds later, the A-37 reported firing on the missionary plane. At 1047, the pilot relayed his route information to Iquitos Tower.

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199. [REDACTED] **Violations of Intercept Procedures.** OIG identified the following violations:

- ◆ Failure to identify the suspect plane: OB-1408 was owned by the Association of Baptists for World Evangelism and was transporting the missionaries to their home in Iquitos, Peru. No attempt was made to determine the status of the target plane before executing the intercept Phases. The HNR acquired the registration number of the missionary plane at 1038, but did not pass it to the ground until 1045 along with his second request for authorization to go to Phase III shutdown authorization. The FAP OIC had approved the first request to go to Phase III two and a half minutes before he received the tail number. Finally, as noted by the [REDACTED] crew, the missionary plane was not trying to evade; it was flying straight and level, which was unusual for a narco aircraft, and it was heading into Peru, not toward the border. There was no intelligence on the flight and there was no evidence it was engaged in narcotrafficking.
- ◆ No visual signals: The A-37 never came close to or flew in front of the missionary plane or made any attempt to visually signal it, in spite of suggestions by the [REDACTED] crew that it do so.
- ◆ Failure to fire warning shots: There is no indication that warning shots were fired. The [REDACTED] crew said they neither heard nor saw warning shots, nor did they hear the FAP report firing them.
- ◆ Failure of Peruvian chain of command: The HNR ordered Phase II before receiving authorization.

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- ◆ Lack of reasonable time to conduct procedures or for the missionary plane to respond to instructions or signals: This is demonstrated in the chronology above.

SUMMATION

200. [REDACTED] The violations of intercept procedures that occurred in the shutdown of the missionary plane had occurred in many of the previous shutdowns. They included:

- ◆ Failure to acquire reasonable assurance that the suspect aircraft was a narcotrafficker before shooting it down. This violation had occurred in eight previous shutdowns.⁴⁴
- ◆ Failure to conduct visual signals, designed to make the suspect aircraft aware that it was the target of an interception so it could follow instructions to land. This violation had occurred in all previous shutdowns.⁴⁵
- ◆ Failure to fire warning shots. This violation had occurred in at least eight previous shutdowns.⁴⁶
- ◆ Failure of the Peruvian chain of command. Some breakdown in the Peruvian chain of command had occurred in 13 of the previous 14 shutdowns.

⁴⁴ [REDACTED] The shutdowns of 14 July 1995 and 27 November 1995 were not based on accurate intelligence lead information and that of 17 August 1995 was based on faulty lead information. In the shutdowns of 13 November 1995 and 23 March 1997, shutdown was authorized before TOI's tail number was even acquired. In the shutdowns of 17 August 1995, 4 August 1997, 17 August 1997, 6 October 1997, and 17 July 2000, the TOI's tail number was never acquired.

⁴⁵ [REDACTED] reported that visual signals had been conducted in several shutdowns (16 May 1995 and 4 August 1997) and Congressional Notifications stated that visual signals had been conducted in the shutdowns of 17 August 1995 and 13 November 1995. The OIG review of videotapes revealed that visual signals had not been implemented in any of the shutdowns.

⁴⁶ [REDACTED] These shutdowns occurred on 27 November 1995, 8 July 1996, 23 March 1997, 4 August 1997, 17 August 1997, 6 October 1997, 12 October 1997, and 17 July 2000.

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- ◆ Lack of reasonable time to perform all required procedures and for target aircraft to respond. This had occurred in nine of the previous shootdowns.⁴⁷

201. [REDACTED] Some violations that had occurred in previous shootdowns did not occur in the missionary shootdown. For example, improper interference on the part of the US crew had occurred at least five times and usually involved US officers encouraging the Peruvians to accelerate the intercept phases.⁴⁸ In one instance the US crew encouraged the Peruvians to fire on a plane that had already been shot down. Strafing a downed plane is a violation of both US and Peruvian law.

202. [REDACTED] All of the key Agency participants in the ABDP who have been identified in this Report were aware that the ABDP was not being conducted in accordance with the requirements of PD 95-9 and the MOJ. This awareness was demonstrated in the details provided in reporting cables, videotape reviews, and reports from pilots. Visual signals were required by the MOJ, but had not been conducted in any of the ABDP shootdowns. Between March 1995 and April 2001, however, each of these Agency officers failed to report violations of this requirement or any of the others. Instead, they consistently and falsely reported the opposite – that the program was being operated in full compliance with the requirements.

203. [REDACTED] The transmission of inaccurate information began on the ground in Peru with Agency officers stationed at the Pucallpa and Juanjui air bases [REDACTED]. These officers drafted, reviewed, and released cables containing false information. Agency officers in Headquarters condoned and repeated the inaccurate information; they reviewed the cables, many of which contained

⁴⁷ [REDACTED] These shootdowns occurred on 23 June 1995, 21 July 1995, 17 August 1995, 12 November 1995, 8 July 1996, 23 March 1997, 4 August 1997, 6 October 1997, and 17 July 2000.

⁴⁸ [REDACTED] In contrast, in the shootdown of the missionary plane, the US crew was concerned about the failure to identify the plane as a narcotrafficker and was urging caution rather than acceleration.

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detailed and inconsistent information and had the ability to review the videotapes of the shootdowns, which did not demonstrate evidence of the intercept procedures being conducted. These officers forwarded inaccurate information to senior management of the Agency and then on to Congress in the form of Congressional Notifications with their supporting background papers.

INTERVIEWS WITH KEY AGENCY PARTICIPANTS

204. [REDACTED] Between 1995 and 2001, 15 interceptions resulted in the shooting down of aircraft in Peru. During this period, [REDACTED] occupied positions responsible for managing or overseeing the operations of every shootdown but one, that of 17 July 2000.⁴⁹

- ◆ From March 1995 to mid-1996, [REDACTED] CNC's Linear Program and [REDACTED] CNC's Interagency Linear Committee.⁵⁰ [REDACTED] he was directly involved in discussions about establishment of the ABDP and the rules governing its operation as laid out in the 1994 PD and MOJ.
- ◆ From July 1996 through September 1999, [REDACTED] he was responsible for managing, implementing, and overseeing the ABDP. [REDACTED] prepared and released reports to Headquarters on the procedures followed in shootdowns and on the overall operation of the ABDP. [REDACTED] knew that this information was transmitted to senior Agency officials and became the basis of reports prepared for Congress and the NSC.

⁴⁹ [REDACTED] From September 1999 to September 2000, [REDACTED] served [REDACTED] the Counterproliferation Division.

⁵⁰ [REDACTED] The Linear Committee was comprised of several government agencies that had a role in US counternarcotics policy, including the Departments of State and Defense, DEA, and the Office of National Drug Control Policy.

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- ◆ From September 2000 to 2004, [redacted] served as [redacted] LA Division, responsible for oversight of [redacted] programs and activities, including the management and operation of the ABDP. His responsibilities included ensuring the accuracy and completeness of information that provided the basis for Congressional Notifications and briefings as well as for information provided to the NSC on the program's performance.

205. [redacted] *Knowledge of Required Procedures.* [redacted] discussed ABDP procedures during interviews with OIG. He stated that intercept procedures did not change at any time during his involvement with the ABDP. Obtaining a tail number, identifying the suspect aircraft, visual signals, and radio communication were all "drop dead" requirements that had to be done.

206. [redacted] [redacted] explained that the purpose of the ABDP was to stop the movement of drugs through the air, not necessarily by shooting down aircraft, but rather by forcing them down. In particular, [redacted] noted that the PD required that the Peruvian Government have procedures in place to minimize the risk of loss of innocent life. Fulfillment of the required procedures exempted US personnel from the law that criminalized shooting down civil aircraft. [redacted] said that he, along with [redacted] officers involved in the program, understood both the Presidentially-mandated procedures and their obligation to report procedural deviations.

207. [redacted] *Actual Conduct of Procedures.* Despite accurately identifying the Presidentially-mandated intercept procedures and characterizing them as "drop dead" requirements, [redacted] described the actual practice followed in Peru to OIG differently:

- ◆ **Radio Calls.** [redacted] said that radio contact had to constitute more than one call; one call to the target could not be presumed to mean contact had been made. [redacted] said that all ABDP participants knew that FAP aircraft had to

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identify and contact the target aircraft; maybe visual signals like wing waggling were not necessary, but it was necessary to try to raise the suspect aircraft on the radio.

- ◆ **Visual Signals.** [REDACTED] said an *attempt* should be made to contact the suspect aircraft by conducting visual warnings to ensure the suspect aircraft saw the FAP fighter. If there was no response to radio calls, *most often*, the FAP *tried to conduct* visual signals.⁵¹ [REDACTED] described the ICAO visual signals as including possible actions such as flying alongside the suspect aircraft, lowering landing gear, wing waggling, and using hand signals. [REDACTED] commented, however, that turning on landing lights or lowering landing gear to signal the target plane had the effect of slowing down the FAP aircraft.

While [REDACTED] said he understood the FAP had to do everything it could to communicate with the suspect aircraft, he recalled that the radio and visual communications were done simultaneously. He also noted that attempts to communicate with the suspect aircraft were not necessarily followed in chronological order. [REDACTED] characterized the intercept process as a "holistic" package to ensure the FAP did not shoot down the wrong aircraft. [REDACTED] explained that there had to be room for pilot judgment as to which procedures to do and how. He said the concept of safety of

⁵¹ [REDACTED] description of the actual conduct of visual signals is consistent with a 20 April 2001 cable he sent as [REDACTED] LA Division to [REDACTED] following the April 2001 missionary shootdown. In that cable, he stated that "... depending on the circumstances of the intercept, the [Peruvian] pilot should attempt to use a series of internationally recognized procedures to make visual contact with the suspect aircraft. ..." This statement is inconsistent with the requirements of the PID and MOJ, however, and also differs from statements made in 2001 Congressional briefings in which [REDACTED] participated. These issues are discussed in greater detail in Part II of this Report.

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flight was always a consideration. The FAP had to do everything within the realm of safety of flight to warn the target.

[redacted] stated that visual signals, though encouraged when feasible, were treated as superfluous when it was clear that the target plane was aware of the interception and evading pursuit. [redacted] said this view was uniformly held by those associated with the program.

- ◆ **Warning Shots.** If there was no response to radio calls, the VI RAT commander made a judgment call to go to Phase II—firing warning shots—based on various factors, to include intelligence information and input from the HNR.
- ◆ **Evasion.** [redacted] explained that, if a suspect aircraft began to evade, it was assumed to be a "bad guy" and could be shot down. [redacted] described evasion as occurring when a suspect plane moved to a lower altitude or flew at a slow rate of speed. Radio calls were made and warning shots were still fired to give the suspect the option to land. According to [redacted] if a suspect aircraft crossed over the Brazilian border, it should be let go and not shot. As an example, [redacted] said, if the suspect aircraft in a night intercept mission started to evade after radio calls but before visual signals, and the FAP had done all it could to communicate with the target, it was okay to go to Phase II without visual signaling. In this instance, [redacted] believed, procedures had been followed. [redacted] told OIG that, at night, if a suspect aircraft fled after radio calls, there was no need to do visual signals and Phase II warning shots should be fired. [redacted] added that, if the suspect aircraft headed toward the Brazilian border, that action also constituted evasion, so no visual signaling had to be done.

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◆ **Time to Complete Intercept Phases.** [REDACTED] said the length of time taken to complete an interception was considered in determining whether procedures had been followed. If the intercept phases had been conducted too fast, it was questionable that all procedures had been done. [REDACTED] told OIG, "If everything happens in a minute and a half, you've got a problem."⁵²

◆ **Threshold for Reporting Procedural Deviations.** [REDACTED] told OIG that, if a question arose concerning a shootdown's compliance with required procedures, he would have looked at the videotape to determine if there was a problem. If he determined that a problem existed, he would have reported it to Headquarters after checking the facts. [REDACTED] noted that he had personnel [REDACTED] who were more expert than he, so he relied upon them to identify problems. In any event, [REDACTED] said he would not cover up a problem.

208. [REDACTED] described issues that would have prompted him to report a possible deviation in the conduct of intercepts as follows:

- ◆ Failure to identify the suspect aircraft as a narcotrafficker.
- ◆ Failure to see evidence of visual communications on the videotape.
- ◆ Failure to try to communicate by radio or very terse communications with the suspect aircraft.
- ◆ Failure to fire warning shots.

⁵² [REDACTED] In the 4 August 1997 shootdown, 90 seconds elapsed from the attempt to make radio contact to shooting down the suspect plane. In total, there was a lack of reasonable time to perform all the required procedures and for the target aircraft to respond in nine of the 15 shootdowns. Despite this, [REDACTED] reported that all procedures were complied with, and all [REDACTED] personnel working on the program "understood and rigorously enforced compliance with all international procedures."

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- ◆ Firing warning shots in a manner in which the suspect aircraft would obviously not observe them.
- ◆ A very short period of time between phases.

209. [REDACTED] *Oversight of 1995 Shootdowns as Headquarters Manager.* As a Headquarters manager responsible for ABDP oversight in the 1995 to mid-1996 period [REDACTED] told OIG that he reviewed shootdown videotapes. He explained that, after the OIC and [REDACTED] officers reviewed the tapes, they were sent to Headquarters, with CNC as one recipient. [REDACTED] watched portions of the videotapes to see what had occurred. He said that neither he nor anyone else at Headquarters reviewed the tapes to verify the accuracy of reporting from the field or to see if the Peruvians were complying with the Presidentially-mandated procedures. He said that the tapes were not reviewed critically and that he did not recall who was responsible for ensuring that required procedures were followed. Rather, it was assumed everything in a shootdown was done correctly, unless someone said it was not, and [REDACTED] reporting was taken at face value.

210. [REDACTED] As he prepared for the [REDACTED] assignment in Peru, [REDACTED] said he was told to keep the ABDP, which was considered a success, on track. [REDACTED] told OIG that he understood that the ABDP was a lethal program that needed to be conducted properly.

211. [REDACTED] *Oversight of Shootdowns as [REDACTED] 1996-1999.* OIG provided [REDACTED] a hypothetical scenario of an intercept and asked him to comment on the actions he would take as [REDACTED]. [REDACTED] The following scenario was presented:

Intelligence has been received that a suspected narco airplane will fly into a particular airfield at night. The US tracker aircraft is launched and locates a suspect aircraft. The suspect aircraft circles

⁵³ [REDACTED] The details of the scenario match the actual events and procedures conducted in the 4 August 1997 shootdown, which occurred while [REDACTED] did not report any anomalies in [REDACTED] cables to Headquarters at that time.

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the airfield in question but does not land. It then sets a course for the [Brazilian] border and generally maintains that heading without making any dramatic turns.

Intercept procedures conducted after the [redacted] vectors in an A-37 [FAP fighter]:

- ◆ The A-37 does one apparent radio warning but no apparent visual signals.
- ◆ Warning shots are probably fired.
- ◆ The suspect aircraft is then shot down.

[redacted] said that a scenario such as this would have raised questions about compliance with intercept procedures. He would have asked the aircrew, the OIC, and the FAP whether visual signals had been accomplished. If he still did not know after asking, [redacted] said he would have reported the issue to Headquarters.

212. [redacted] told OIG that he reviewed the shutdown videotapes in Peru and that he had no concerns about compliance with required procedures in any shutdown other than that of 17 August 1997. With respect to that shutdown, [redacted] said he was concerned about possible corruption in the FAP and lack of English language skills on the part of the FAP.

213. [redacted] he was responsible for the accuracy of [redacted] reporting to Headquarters. Following the 17 August 1997 incident, [redacted] he introduced a formal evaluation of intercept procedures. Had anyone seen something wrong, he/she would have reported it. [redacted] added that, while the ABDP was the number one counternarcotics priority [redacted] [redacted] with respect to resources and visibility, he had relied on program managers [redacted] [redacted] as well as the OICs and aircrews to be the "eyes" on the ABDP.

214. [redacted] *17 August 1997 Shootdown.* [redacted] said he had no doubt that the FAP went directly from a radio call to shooting the

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plane in the 17 August 1997 incident. [REDACTED] said he had told FAP Commander [REDACTED] that he would close the program if the mistakes that had led to the incident were not fixed.

215. [REDACTED] In early September 1997, LA Division [REDACTED] [REDACTED] and [REDACTED] manager [REDACTED] traveled to Peru to conduct a program review and to make sure adequate intercept procedures were in place. According to [REDACTED] the review also was to determine whether or not the ABDP should continue. [REDACTED] characterized [REDACTED] as a "fact finder" who wanted to determine [REDACTED] had done enough to prevent a recurrence of the 17 August shutdown. The [REDACTED] review concluded that adequate intercept procedures were in place.

216. [REDACTED] Following the 17 August incident, [REDACTED] [REDACTED] the Country Team, reviewed shutdowns in "excruciating detail."⁵⁴ Thereafter, [REDACTED] interagency reporting cables laid out all the intelligence that led to the endgames, including what information was known, the circumstances surrounding the event, and a judgment regarding the procedures followed based on input from the US OIC and aircrews.

217. [REDACTED] if there had been another significant deviation after the 17 August 1997 shutdown, the ABDP would have been shut down. [REDACTED] the program would not have survived two deviations in a row from required procedures.

218. [REDACTED] everyone involved in the ABDP understood the intercept procedures. In particular, everyone directly involved should have understood the rules of engagement, command and control, the role of the United States, the role of the Peruvians, and also the concept that, if an interception cannot be done properly, one should come back the next day to try again.

54 [REDACTED]
[REDACTED]
[REDACTED]~~SECRET~~ [REDACTED]

~~SECRET~~ [REDACTED]219. [REDACTED] *Signing the 1999 Standard Operating Procedures.*

[REDACTED] emphasized that neither the intercept procedures nor the role of the US aircrews changed from the time he began working in the ABDP in 1995. He said he could not explain why the SOPs he signed in March 1999 did not include a complete description of required procedures. He did not catch it at the time the SOP documents were prepared and said that the omission was not intentional.

220. [REDACTED] *Missionary Shootdown.* In explaining distinctions between the procedures conducted on 20 April 2001 and what had transpired in previous shootdowns, [REDACTED] said that the focus of the ABDP had not been on daytime intercept missions until the 20 April shootdown; almost all previous shootdowns had occurred at night when there was a presumption that suspect planes were illegal. In fact, 11 of the 15 shootdowns occurred in the daytime.⁵⁵ During the day, he said, there was enough time to conduct the procedures. He added that the US and the FAP had to be extraordinarily careful during daytime shootdowns. Because the missionary aircraft was flying during the day, [REDACTED] said, even more should have been done to comply with the spirit of the required procedures. Given that the missionary shootdown was a daytime event, there should have been a presumption of innocence, and procedures should have been conducted more slowly.

221. [REDACTED] added that, on 20 April 2001, there was great uncertainty regarding the identity of the suspect aircraft. He noted that even one of the US pilots at some point indicated that maybe the missionary was a "bad guy." [REDACTED] said he did not fault the intercept procedures, however, and emphasized that it was up to

⁵⁵ [REDACTED] The Presidentially-mandated procedures had to be followed regardless of the time of day. Eleven of the 15 shootdowns occurred during the day: 16 May 1995, 14 July 1995, 17 August 1995, 13 November 1995, 27 November 1995, 8 July 1996, 4 August 1997, 17 August 1997, 12 October 1997, 17 July 2000, 20 April 2001. A twelfth shootdown, 23 March 1997, occurred at dusk.

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those involved to be sure they complied. [REDACTED] said that the FAP had not followed the intercept procedures sufficiently to meet the requirements mandated by the Presidential Determination in the 20 April 2001 shutdown.

222. [REDACTED] deployed to Peru in 1993 in support of the Peruvian air interdiction program and served as the Agency OIC at [REDACTED]. Following resumption of US activities in the ABDP in early 1995, [REDACTED] served two 60- to 90-day temporary duty tours in 1995 as the OIC at the air base in Pucallpa, replacing [REDACTED]. Following those assignments, she became the [REDACTED] in Military and Special Programs Division, which provided direct support to the program. In October 1996, [REDACTED] returned to Peru as the [REDACTED] Program Manager [REDACTED] where she served through October 1998. As ABDP program manager, [REDACTED] reported to [REDACTED]. Nine shutdowns occurred during [REDACTED] tours in Peru—five during her 1995 tours as an OIC and four during her tour as Program Manager.

223. [REDACTED] *Responsibilities as OIC, 1995.* [REDACTED] told OIG in interviews that she held the record among OICs for the number of targets shot down and stated that such shutdowns were "huge" events. [REDACTED] explained that, as OIC, she served as the main US communications link in the ABDP. She made sure the Peruvian Air Force (FAP) followed intercept rules and that launch orders were relayed properly. During the intercept, she monitored the radio traffic between the FAP operations center in Juanjui and the FAP OIC in Pucallpa. [REDACTED] said she also relayed information to the US aircrews when phases had been authorized. If intercept procedures were not followed during an intercept, [REDACTED] said, she would have reported it immediately [REDACTED]. She did not report a single failure of procedure during her tours as an OIC.

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~~SECRET~~ [redacted]

224. [redacted] According to [redacted] the OIC ensured that copies of shutdown videotapes were made and sent to [redacted] the FAP in Juanjui, and [redacted] at CIA Headquarters. At the conclusion of an OIC's tour, she said, it was normal practice for the departing OIC to hand carry the tapes to [redacted] where they were kept. She recalled carrying tapes to [redacted] after her OIC tours.

225. [redacted] *Shutdown Reporting as OIC, 1995.* As the OIC, [redacted] watched and reviewed the videotapes after shutdowns with [redacted] who was the US [redacted] at Juanjui, and the US and Peruvian aircrews. She noted that the most important part of the debriefing was confirmation that the target aircraft was a narcotics trafficker. She claimed that there was never a discussion about whether or not visual signals had been implemented. [redacted] provided input for [redacted] cables on the event and forwarded it, with the videotape, to [redacted] who was the [redacted] from 1993-96. She said that [redacted] never questioned her about a shutdown. She recalled reading some of her reports in [redacted] after she returned from Peru and noted that the input she had provided as OIC remained unchanged in the cables sent by [redacted] to Headquarters.

226. [redacted] said that a US pilot could not tell a host nation rider (HNR) to shoot at a target. [redacted] said that she, as the OIC, would have had to report this if it had happened. Had she observed this situation on the tape, she would have reported it to her boss and then questioned the pilot. Had a US pilot repeated this behavior, he could have been relieved of duty.⁵⁶

227. [redacted] *Responsibilities as Program Manager, 1996-98.* As [redacted] program manager for the ABDP, [redacted] annual performance evaluation states that she was:

⁵⁶ [redacted] served as OIC at Pucallpa during the shutdown of 14 July 1995, when a US pilot twice instructed the HNR to order the FAP fighter to strafe the target after it landed.

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~~SECRET~~ [REDACTED]

... responsible for ensuring that all U.S. officials are briefed and understand the established procedures, ... and that these procedures are properly monitored and followed.

[REDACTED] explained that she met with the Sixth Territorial Air Defense Command (VI RAT) commanders and discussed interdiction procedures. She also supervised the OICs, served as [REDACTED] with the US aircrews at Pucallpa, maintained daily contact with FAP Headquarters in Lima, and ensured that intercept training was conducted.

228. [REDACTED] briefed incoming OICs and discussed the required procedures for each phase of an interception. She said that she told the OICs that all the phases had to be accomplished in intercepting a suspect aircraft. She also told incoming OICs to read the Standard Operating Procedures (SOPs) [REDACTED] spent at least one day a week at Pucallpa base.

229. [REDACTED] *Shutdown Reporting as Program Manager, 1996-98.* [REDACTED] told OIG that [REDACTED] as program manager, she typically notified [REDACTED] after a shutdown, then drafted the reporting cable to Headquarters. Sometimes, she flew to Juanjui to pick up the VI RAT commander and then on to Pucallpa to debrief the aircrew and review the videotape. Whether or not she made that trip, the OIC and aircrew had reviewed the tape and discussed the event at Pucallpa within a day of the incident and had provided input on the shutdown [REDACTED]

230. [REDACTED] said that she, [REDACTED] and maybe [REDACTED] usually reviewed the videotape of the shutdown [REDACTED] in order to double check the intercept phases. Given his native language skills, [REDACTED] could pick up things on the videotape that no one else could. Sometimes, even with both the audio and visual parts of the tape, there still was not enough information to

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determine that procedures had been followed. Sometimes the FAP's visual communications efforts with the target aircraft were visible on the radar and sometimes not. If visual signals were not apparent, she tasked the OIC to ask the US aircrew, the HNR, or the FAP aircrew what they saw. As program manager [REDACTED] did not always have the opportunity to speak to the aircrew, but she expected the OIC to do so.⁵⁷ She did not report when visual signals were not visible.

231. [REDACTED] Normally, after a shutdown, [REDACTED] said, she drafted the reporting cable to Headquarters. [REDACTED]

[REDACTED] She said [REDACTED] reporting cables were sent to LA Division, CNC, and [REDACTED]

232. [REDACTED] told OIG that she had watched all the videotapes of endgames that occurred when she was in Peru. With the exception of the 17 August 1997 shutdown [REDACTED] reported as a problem, none of the reporting cables [REDACTED] prepared concerning a shutdown reported any violations of intercept procedures.

233. [REDACTED] *Knowledge of Required Procedures.* [REDACTED] described the intercept procedures as including multiple radio calls, visual signaling, warning shots, and lastly, shutdown. She said that the ICAO visual signaling requirement in the MOJ provided no leeway or authority to deviate from those procedures. While Agency officers did not discuss skipping any phases, [REDACTED] said they might have discussed "abbreviating" the phases. Nevertheless, [REDACTED] said she knew that the phases still had to be conducted.

⁵⁷ [REDACTED] Not one of the more than ten US pilots and OICs interviewed by OIG stated that he/she had ever received such questions from [REDACTED] about a shutdown.

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~~SECRET~~ [REDACTED]

She explained that the purpose of the intercept procedures was to avoid shooting down an aircraft not engaged in drug trafficking.

234. [REDACTED] said that she [REDACTED] "absolutely" understood that they had to report problems or failures to follow the intercept procedures to Headquarters. It was her duty and obligation as an operations officer. [REDACTED] believed that, if they had reported deviations in procedures, however, it would have resulted in the shutdown of the ABDP.

235. [REDACTED] recalled discussing intercept procedures with [REDACTED] in Pucallpa in 1995. [REDACTED] was assigned to [REDACTED] at the time and was the first OIC in Pucallpa. The procedures included radio warnings, visual warnings, and warning shots. [REDACTED] said that [REDACTED] wrote the SOPs based on ICAO procedures and the PD and accompanying MOJ. [REDACTED] did not recall reading the PD or MOJ, however, nor was she certain that the SOPs she saw in 1995 included a requirement for visual signaling. The requirement to conduct visual signals was part of [REDACTED] briefings, however. [REDACTED] said the SOPs did not change during her time as OIC in 1995 and remained the guidance in 1997.

236. [REDACTED] *Actual Conduct of Procedures.* [REDACTED] said the tail number of the suspect aircraft was checked against aircraft for registration records to determine if the flight was illegal. The Peruvian fighter aircraft was not launched until a flight was determined to be illegal.

- ◆ **Radio Calls.** [REDACTED] said there was no set amount of time for the FAP to wait for the target plane to respond to a call on the radio; she thought one minute might be reasonable. As it might take a few minutes to switch to different frequencies, however [REDACTED] said a couple of minutes also might be reasonable to complete the calls and wait for a response.

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~~SECRET~~ [REDACTED]

- ◆ **Visual Signals.** [REDACTED] said visual signals always had to be conducted, but the location of the target plane determined the extent of the signaling. If the target plane was close to escaping across the border or was evading, the process moved "faster." [REDACTED] did not recall any discussions about how long the FAP should wait after visual signaling. It was harder to conduct visual signals at night, but there was still a requirement to do them. When a target aircraft began to evade, visual signals could not be skipped, according to [REDACTED] but the location of the target determined the extent of those signals. Under all circumstances, the fighter had to employ visual signals of some sort in an effort to get the target to land, even if the target aircraft was near the border.
- ◆ **Warning Shots.** [REDACTED] said warning shots were required and could only be authorized by the VI RAT commander or his deputy. She said warning shots could not be seen during the day, but that the target aircraft could hear them. At night, the target could see warning shots because tracer ammunition was used.
- ◆ **Time to Complete Intercept Phases.** [REDACTED] did not know how much time was reasonable to conduct the three intercept phases, since each incident was different. She said 10 minutes might be reasonable, but emphasized that what was reasonable depended on the circumstances of each mission.

237. [REDACTED] *Review of Videotapes.* When she viewed selected shutdown videotapes during an OIG interview, [REDACTED] admitted that several of the videotapes showed obvious violations of intercept procedures, including failure to identify the target and failure to do all the required intercept phases. She made the following specific observations:

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~~SECRET~~ [REDACTED]

- ◆ **4 August 1997 Shootdown:** [REDACTED] said it should have been reported that no visual signals were conducted and that the suspect aircraft was never identified. Conducting all the phases in 90 seconds was also a problem that should have been reported, according to [REDACTED]. She recalled reviewing this videotape with [REDACTED]. [REDACTED] said she probably wrote the initial [REDACTED] cable on 5 August 1997, using input from OIC [REDACTED]. [REDACTED] did not recall the Headquarters response later that day inquiring whether all required intercept phases had been conducted, but said the appropriate response was for her to ask the OIC or aircrews what happened and for the tape to be reviewed again. [REDACTED] also did not recall the [REDACTED] response on 6 August 1997, stating that "All/all international warning procedures were complied with. . . ." She did not think she drafted the 6 August cable because the text included a word with which she was not familiar. [REDACTED] said it appeared that someone had questioned the OIC, but noted that the answers did not seem to track with what the videotape showed. [REDACTED] believed that discrepancy should have been noted in the cable to Headquarters. She said [REDACTED] might have drafted the cable and that [REDACTED] edited it, adding the paragraph identified as [REDACTED] and releasing it.⁵⁸

- ◆ **6 October 1997 Shootdown:** [REDACTED] said that visual signals and warning shots were not conducted and that fact should have been reported. [REDACTED] said that statements in [REDACTED] cables reporting that all procedures were followed "to the letter" were false, and she described management's failure to investigate after reviewing the

⁵⁸ [REDACTED] The [REDACTED] stated that all who work with the program "understand and rigorously enforce compliance with all international procedures that must be followed prior to any use of force. This is a given in the work that is done here."

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6 October videotape as a "breach" of duty. [REDACTED] reviewed the [REDACTED] report to Headquarters and said it looked like her style of writing.

- ◆ **12 October 1997 Shootdown:** [REDACTED] said that [REDACTED] report to Headquarters claiming that all procedures had been followed "to the letter" was inaccurate, and it was "obvious" that procedures had not been followed. She saw no indication that visual signals had been conducted, although there was no apparent reason why they could not have been. [REDACTED] also noted that the target was not identified before it was shot. These issues should have been reported to Headquarters. Neither [REDACTED] nor [REDACTED] raised any questions with her about this shootdown. [REDACTED] said she probably drafted the reporting cable.

In those instances in which she recalled preparing cables to Headquarters that contained inaccurate information, [REDACTED] told OIG that she was unable to reconcile the fact that her reporting directly contradicted the facts evident in the shootdown videotapes.

238. [REDACTED] During his assignment to the ABDP from 1995 to 1999, [REDACTED] served as [REDACTED] officer to the FAP VI RAT Commander at Juanjui. His initial supervisor [REDACTED] [REDACTED] came to Juanjui periodically to check on progress and go over the required intercept procedures with the FAP. [REDACTED] also visited Juanjui regularly. [REDACTED] succeeded [REDACTED] and [REDACTED] overseeing ABDP activities.⁵⁹

⁵⁹ [REDACTED] served two tours as OIC in Pucallpa in 1995, and became [REDACTED] Officer [REDACTED] in 1996.

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~~SECRET~~ [REDACTED]

239. [REDACTED] told OIG that, when he arrived in Peru in 1995, [REDACTED] told him to monitor shootdowns in Juanjui, while [REDACTED] monitored them in Pucallpa. [REDACTED] told [REDACTED] that, if he saw something wrong during an interception, he was to report it to the VI RAT, which would take appropriate action. [REDACTED] said his job was to "look over the commanding general's shoulder" and provide "adult supervision" to make sure the ABDP ran according to required procedures. [REDACTED] reminded all FAP personnel in Juanjui to follow those procedures. He also participated in the annual re-training of all Juanjui personnel.⁶⁰

240. [REDACTED] was at Juanjui for many shootdowns and told OIG that, if a shootdown occurred while he was in Peru in the 1995 to 1999 period, he was involved in discussions and review of it. While in Juanjui [REDACTED] followed intercepts over the radio with the VI RAT Commander and his staff. His responsibilities were to forward any intelligence lead information that had come from the DEA and to ensure that the VI RAT Commander did not "jump the gun" and conduct an intercept too quickly. He also made sure that the target of interception (TOI) was correctly identified as a narcotics trafficker.

241. [REDACTED] told OIG that he viewed shootdown videotapes [REDACTED] at Pucallpa. After shootdowns, he sometimes accompanied the VI RAT Commander to Pucallpa to debrief the aircrews and review the videotape with the OIC and the US pilots. Occasionally, however, he did not watch a videotape of a shootdown until three months after it occurred. His job was to remain at Juanjui, not bounce back and forth to Pucallpa [REDACTED]

242. [REDACTED] sometimes watched the tapes with [REDACTED] [REDACTED] also watched the tapes [REDACTED] knew [REDACTED] watched the tapes because they commented on them to him. It was

⁶⁰ [REDACTED] In reviewing this report in draft, [REDACTED] commented that during a shootdown, he made sure that the VI RAT commander properly authorized the intercept phases, but he did not have any general responsibility to oversee the program's operations.

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the AOO's responsibility to watch the tapes to ensure compliance with procedures, according to [REDACTED] [REDACTED] had this responsibility in 1995; after they left, it fell to [REDACTED]

243. [REDACTED] explained to OIG that he watched shutdown videotapes to see if all the intercept procedures had been followed, to understand the context of communications between the fighter and the host nation rider (HNR), and to make sure their actions occurred after the VI RAT commander's order was given, not before. Everything said on the satellite communication system was recorded on the videotape. [REDACTED] recalled seeing visual signals such as wing waggling and flying alongside the target on the videos. He told OIG that every videotape he watched in 1995 mirrored what he had observed in Juanjui during the shutdowns.

244. [REDACTED] said that, after shutdowns, [REDACTED] asked him if the VI RAT Commander had followed procedures. [REDACTED] answered yes, then gave [REDACTED] the details of the intelligence, the type of aircraft, and how the VI RAT Commander had authorized each phase. [REDACTED] did not ask [REDACTED] about visual signals because [REDACTED] had already watched the videotapes himself.

245. [REDACTED] said he was told to report if the FAP in any way deviated from the proper procedures. [REDACTED] stated that, sitting in Juanjui, however, he had no way of knowing whether or not the fighter had performed procedures. So, whether or not the target evaded, [REDACTED] reported that the VI RAT Commander had authorized shutdown following evasive action by the target. His report and that from Pucallpa were sent to [REDACTED] where the incident cable was drafted. [REDACTED] read these cables after they were sent to Headquarters and told OIG that shutdown videotapes and [REDACTED] reporting cables were never inconsistent. Whatever happened in the intercept mission had to be reported [REDACTED]

246. [REDACTED] None of the cables that [REDACTED] reviewed or helped write reported violations of required procedures. [REDACTED] told OIG that he

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had watched videotapes of all the shootdowns while he was in Peru between 1995 and 1999, and none stood out for not having followed procedures.⁶¹

247. [REDACTED] *Conduct of Procedures.* [REDACTED] explained that, when he began with the ABDP in 1995, the Standard Operating Procedures (SOPs) stated that maneuvering alongside the target and giving hand signals in the absence of radio communication was mandatory. The FAP, [REDACTED] and personnel at Juanjui and Pucallpa knew these procedures and made an effort to ensure the original intent of the MOJ was followed. [REDACTED] noted, however, that all intercept requirements were predicated on pilot safety, meaning that a pilot had discretion in performing the intercept procedures if flight safety was an issue.⁶²

- ◆ **Identification.** The FAP fighter was allowed to approach the target aircraft while waiting to hear from the VI RAT commander, but it could not take any action until it received the commander's confirmation of the target's identity. [REDACTED] told OIG that, if possible, the [REDACTED] reported the tail number of the suspect plane; at other times, the [REDACTED] just called in a general description of the plane – at night, for example, when it was impossible to see a tail number. No non-commercial flights were to fly in a broad area east of the Andes at night, however; so all such flights were considered illegal. [REDACTED] admitted that the tail number was the only way to ascertain that a TOI was not on a valid flight plan. [REDACTED] said that one could not tell who was in the suspect plane or what it was carrying – money, weapons, rebels, or drugs. For the FAP, he said, it did not matter if it was a

⁶¹ [REDACTED] Upon reviewing this Report in draft, [REDACTED] stated that he did not review all shootdown videotapes.

⁶² [REDACTED] In reviewing this Report in draft, [REDACTED] wrote that he believes the April 2001 shootdown resulted from violations of procedures that had never previously occurred; that the failure to give visual signals when a pilot took evasive action or at night was consistent with the intercept procedures because of practical necessity; and that he was aware of no effort to conceal information and believes that the reporting cables were largely accurate.

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~~SECRET~~ [REDACTED]

narcotrafficker as long as it was an illegal flight. Specifically, [REDACTED] said a plane was considered "bad" and could be shot if it had a Colombian tail number, a false tail number, no flight plan, an abnormal flight path, was flying at night, was flying low and slow, was flying low and fast, or had landed and taken off from an illegal airfield.⁶³ [REDACTED] said he had never been told that narcotics traffickers were the only legitimate ABDP targets; in any event, he explained, anything east of the Andes is tied into drugs somehow.

[REDACTED] recounted several anecdotes of legitimate airplanes that the FAP had difficulty identifying. The Peruvian military often took off without flight plans. "Jungle" pilots did whatever they wanted, often changing flight plans while in flight. One time, the FAP intercepted a Peruvian National Police aircraft. Another time, a legitimate flight coincided with the intelligence information they had received. The plane was flying at the "wrong" speed and in a suspicious pattern; it later turned out that this had been an attempt to save fuel. [REDACTED] also recalled a search and rescue mission following a nighttime shootdown during which he helped recover the remains of two men and a woman. This disturbed him because usually women did not fly on narcotrafficker flights. [REDACTED] never found survivors on a search and rescue mission. In fact, no drugs were found either, but most crash sites were burned to a crisp.

- ◆ **Visual Signals.** [REDACTED] explained that the repeated failure to perform visual signals was emblematic of FAP policy. Specifically, by 1997, the fighter group commanders had ordered the FAP pilots not to do visual signals if they felt it was too dangerous, regardless of the VI RAT commanders'

⁶³ [REDACTED] defined an "illegal" airfield as one in the middle of nowhere without any authorized air traffic control. He estimated that there were over 200 suspected illegal airstrips in Peru.

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~~SECRET~~ [redacted]

orders.⁶⁴ This was common knowledge. [redacted] told "everyone." [redacted]

[redacted] knew this. [redacted] said he discussed with [redacted] the fact that the FAP was not always performing visual signals because of the danger involved. Getting the Peruvians to do visual signals was a constant battle for [redacted]. She knew in 1996 that they would not perform visuals if safety of flight was an issue and "constantly nagged" the FAP about compliance with the procedures. By the time [redacted] signed the March 1999 SOPs, visual signals had not been conducted for quite a while.

According to [redacted] as a rule, visual communication was not required during night intercepts, other than the use of landing lights. The written intercept phases were not changed in 1996, but the application of procedures changed, because, at night, the FAP interceptors did not waggle their wings at the target plane or move forward to get their attention. Instead, the FAP fighters turned on their landing lights. The FAP pilots had to be careful at night; they were using early model night vision goggles (NVGs) and could injure their eyes if they were suddenly exposed to a bright light. Therefore, they had to turn off their NVGs and turn on their landing lights to get the target's attention. While the FAP Generals said the fighters turned on their lights at night to signal, [redacted] did not know if they actually did.⁶⁵

After the 17 August 1997 shutdown identified by [redacted] [redacted] as the one shutdown in which the procedures were

⁶⁴ [redacted] confirmed this knowledge of FAP policy in a cable he wrote on 30 May 2001. He wrote: "There was an informal understanding between the FAP command groups that the pilots of T-27s and A-37 [Peruvian fighter planes] would comply with VI RAT interception instructions of completion of visual signals unless the required maneuver would affect the safety of their platform and/or the other platforms engaged in the interception procedure."

⁶⁵ [redacted] In reviewing this Report in draft, [redacted] wrote that he knew visual signals were not given in some circumstances, such as at night or when targets took evasive actions.

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not followed [REDACTED] said he reviewed the videotape with [REDACTED] about 100 times. When [REDACTED] came to Peru after this shutdown, [REDACTED] said, she was adamant about standardizing language and following the three phases of interception. [REDACTED] provided her with background on the ABDP and explained how the incident could have happened. [REDACTED] said he was present when [REDACTED] told [REDACTED] that there were limitations on doing visual signals. If [REDACTED] had not known before that visual signals were not always done, [REDACTED] said, she knew it after that briefing.

- ◆ **Evasion.** If a target plane began evading after radio calls, nothing further was required, and the VI RAT Commander could order the plane shot down, according to [REDACTED]. Evasive action meant the target was aware of the FAP's presence. [REDACTED] defined "evasion" as stark, not just minor flight path adjustments, and added that evasion could be clearly seen on the shutdown videotapes. There was no need to fly alongside at this point. [REDACTED] said he understood that visual communication was required in a daytime intercept, if the target plane was not evading. [REDACTED] explained that the purpose of visual signals was to let the target aircraft know it was intercepted. A target that did not evade could possibly be lost or just in the wrong place at the wrong time. [REDACTED] added that heading for a border constituted evidence of evasion.
- ◆ **Warning Shots.** [REDACTED] stated that warning shots were required if they could be seen and the target was not evading; he was not sure if warning shots could be seen during the day. If the target was evading, warning shots were unnecessary. He observed that an A-37 has "little fuel, little ammunition and little time," so the fighters did not waste any of these on warning shots at the risk of

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"sacrificing" the shutdown. [REDACTED] explained that, in situations where the target was a "bad guy" and time was of the essence, one could go to shutdown without doing every procedure.

- ◆ **Timing.** [REDACTED] observed that, if a FAP fighter were low on fuel or close to the border, the fighter would shoot the target more expeditiously. [REDACTED] recalled that, during the first shutdown, in 1995, the three intercept phases were followed, but there was a very short period of time between them. It scared him how quickly events happened once the US and FAP aircraft linked up. [REDACTED] also remembered how little information they actually had at the time and that scared him too. He estimated that an intercept near the border could take ten minutes; in 1996 and 1997, when the airstrips were closer to the Brazil, it could take less than that. There was no set time to wait for a response to a radio call, but [REDACTED] estimated that one to three minutes would be reasonable. [REDACTED] estimated that the minimum reasonable time from when the fighter begins the phases until shutdown was 5 to 10 minutes. "If the fighter is doing what he's supposed to, he must reposition himself after flying alongside the target. That takes time." Moreover, "it would take us two to three minutes just to make a decision in Juanjui whether or not to shoot him down." But [REDACTED] also observed that, if a target was a "bad guy" and time was of the essence, the fighter could "go to shutdown" without the intervening steps.
- ◆ **Country Team Reviews.** In Country Team review meetings, [REDACTED] described what was happening in the shutdown as the tape was played. There was no dissent that [REDACTED] knew of, but he explained to OIG that, in these meetings, he just answered questions about what had happened at Juanjui. There were times when someone

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asked why the fighter did not come alongside the target to wag its wings, and [REDACTED] said, "We'd say that they were too low or that it was too dark or something similar."

248. [REDACTED] *Review of Videotapes.* When [REDACTED] viewed selected shutdown videotapes in an OIG interview, he stated that the tapes showed obvious violations of procedures, including failure to identify the target, failure to do visual signals, failure to give the target a reasonable chance to respond, failure of the FAP chain of command, and US aircrew interference in the authorization process. [REDACTED] commented on the following shutdowns:

- ◆ **14 July 1995 Shutdown:** The VI RAT Commander was not consulted on the strafing; in fact, US pilots gave the order to strafe civilians fleeing the suspect plane after it crash-landed. FAP policy, according to [REDACTED] did not permit strafing. [REDACTED] said that it was pointless to shoot an aircraft on the ground that is full of evidence and people. This was a violation and had to be reported. The reporting from [REDACTED] was inaccurate. [REDACTED] also agreed that it was a breach of [REDACTED] management's duty if nothing was done to address the US pilots' conduct. He added, "I cringe watching this tape."
- ◆ **17 August 1995 Shutdown:** [REDACTED] recalled this shutdown, which was pre-authorized the night before it occurred, but said he was outside the Juanjui Base doing drills when it occurred. He said he watched the videotape at [REDACTED] and that nothing stood out in his mind about it. While watching the tape in his OIG interview, however [REDACTED] noticed that the VI RAT Commander never gave the order to shoot down the target aircraft. Moreover, when the VI RAT Commander asked to speak with the HNR, the US pilots responded that the HNR was too busy. No

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visual signals were done, even though [REDACTED] thought the fighter could have done them. The report saying that, "FAP scrupulously adhered to international and Peruvian protocols," was a false report. When asked if he thought the intercept procedures were violated in the 17 August 1995 video, [REDACTED] responded, "Did you bring me here to be a witness for the obvious?" [REDACTED] speculated that, in the 17 August shutdown, the FAP Commander "jumped the gun" by giving the HNR pre-authorization to perform the phases. He said that he must have seen this shutdown video, but not until much later. He did not see the problems on the tape at the time, because this was only the fourth or fifth shutdown tape he had seen and he did not know enough yet. [REDACTED] acknowledged that he noticed the problems right away, but explained that, by then, he had five years' experience and had seen "hundreds" of tapes.

- ◆ **4 August 1997 Shutdown:** [REDACTED] commented that the 90 seconds that elapsed between radio calls and shutdown was "too short a time to conduct the intercept procedures." Even though the target was headed to the border, it was not taking evasive action. [REDACTED] wondered whether or not the TOI had even heard the radio warnings. He added that it "made no sense" for the [REDACTED] not to obtain the TOI's tail number during the daytime when it had the chance. [REDACTED] noticed that there was a lot of information missing from this intercept regarding the identity of the TOI and added that he had no idea if the TOI had been positively identified as a narcotrafficker. [REDACTED] said that anyone watching this tape also had to see that the fighter never got alongside the TOI or even attempted to do so. Nor did the fighter turn on his lights or fire warning shots. [REDACTED] believed the effort to

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warn the target was insufficient. The reporting is false [redacted] stated, because identification, visual signals, and warning shots were not done. At the end of this videotape, [redacted] remarked, "That was awful."

- ◆ **6 October 1997 Shootdown:** [redacted] stated that he had never seen this videotape before watching it in his OIG interview. He observed that the fighter "obviously did not do any kind of visuals." It appeared from the tape that the target took no evasive action before being shot, but he speculated that perhaps the target was too low for the fighter to conduct visual signals. If so, this inability to do visual signals should have been reported. Moreover, the target was never identified in the first place. Therefore, the reports about this shootdown were false [redacted] stated.
- ◆ **12 October 1997 Shootdown:** [redacted] said he could not hear the fighter calling the target on the radio. He also observed that the FAP fighter never flew alongside the target, and it was not clear if the target ever saw the fighter.⁶⁶ Although the fighter reported that the phases were complete, [redacted] could not see visual signals or warning shots on the videotape. He also noted that the target "is not evading; he is using the clouds as cover;" [redacted] said that reporting that the target had "evaded" was a stretch. These problems were all violations that should have been reported. The cables saying all procedures were followed were false reports.⁶⁷

⁶⁶ [redacted] stated at the end of this interview that, in retrospect, the 12 October 1997 videotape was less clear than the others because the planes could have been side-by-side at some point. Regardless, he reiterated that the problems evident in the tape should have been reported.

⁶⁷ [redacted] speculated that [redacted] reported that all intercept procedures had been followed in cables because Headquarters already knew there were limitations on what could be done.

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249. [REDACTED] was the [REDACTED] [REDACTED] Program Manager [REDACTED] from the summer of 1993 through the summer of 1996. Eight shootdowns occurred during his tour in Peru. When the ABDP was restarted in 1995, [REDACTED] worked with the FAP VI RAT Commander to develop the process for intercepting narcotics trafficking aircraft. [REDACTED] the Peruvians developed the SOPs in coordination with [REDACTED] Headquarters. [REDACTED] discussions included procedures, such as wing wagging, to be used in intercepting suspect aircraft.

250. [REDACTED] According to [REDACTED] intercept procedures were discussed at many meetings in Peru that were attended by [REDACTED] officers [REDACTED] and the US aircrews. [REDACTED] said the FAP was represented and that later [REDACTED] [REDACTED] participated in these discussions.

251. [REDACTED] said every US pilot knew the rules of engagement through briefings [REDACTED] by the [REDACTED] by the pilots they replaced, and by him. He said he tried to include the FAP OICs and pilots in the process and to ensure a good line of communication to the VI RAT Commander.

252. [REDACTED] also briefed incoming US OICs and made sure they understood their responsibilities. He did not recall if he supplied new OICs with written materials such as the Presidential Determination. The OICs kept a copy of the SOPs, which at Pucallpa included the intercept procedures discussed with the FAP. He said both Headquarters and [REDACTED] probably had copies of the SOPs.

253. [REDACTED] said that the FAP did not have a problem complying with the jointly developed procedures and that the VI RAT Commander neither asked for, nor made changes in, the procedures. [REDACTED] did not recall the FAP indicating that it was

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too dangerous to conduct all the warning signals or that it wanted to take short cuts in the procedures. He said he could not recall any contention, discussions, or meetings dealing with changing the intercept procedures when he served in Peru.

254. [REDACTED] did not take a direct role in the mechanics of the interceptions and did not monitor them on a real-time basis. If he was aware of an intercept mission in progress, he said he might turn on the radio and try to monitor it. [REDACTED] made weekly trips to Pucallpa and Juanjui and sat in on training at Pucallpa when the US and FAP crews discussed ICAO procedures for interceptions.

255. [REDACTED] After a shutdown, [REDACTED] expected the US OIC to review the videotape and write a report containing the details. He indicated that he had looked at most, if not all, of the shutdown videotapes at Pucallpa [REDACTED] and/or with the Peruvians. He reviewed them to see if intercept steps had been followed. He said [REDACTED] also reviewed the tapes. [REDACTED] asserted that the good thing about the tapes was that wing wagging was always visible and that visual signaling could be confirmed.

256. [REDACTED] With respect to observing deviations in intercept procedures, [REDACTED] said he and other [REDACTED] officers were responsible for making the determination that all procedures were followed. [REDACTED] said every [REDACTED] officer saw the tapes and that no one ever raised any concerns with him about procedures and rules. Neither his superiors nor anyone from Washington ever challenged him with respect to the legality of procedures in any shutdown. He said that he took responsibility for making the ABDP work.⁶⁸

257. ~~(S)~~ *Knowledge of ABDP Requirements.* [REDACTED] reviewed the PD and MOJ [REDACTED] in late 1994 or early 1995. He said

⁶⁸ [REDACTED] in reviewing pertinent portions of the draft Report [REDACTED] wrote that he was "satisfied that the requirements of the program SOPs were complied with completely within the limits of mission realities."

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the rules of engagement were "pretty clear to us" from the beginning. The rules were briefed and discussed with the Embassy [redacted] Headquarters, and all participants in the program. He said that everyone clearly understood the rules and that the procedures were well known, well briefed, well discussed, and frequently trained. Everyone knew the rules and knew they had to comply with them.

258. [redacted] said there were frequent cables between [redacted] and Headquarters concerning the SOPs. He remembered that the rules of engagement had three basic parts. The first phase involved identification of the target [redacted] said part of this phase consisted of communication with the VIRAT to determine if a flight plan existed. Additionally, the tracker aircraft would try to get close to the target to obtain an identifying aircraft number. The second phase concerned attempts to make radio contact with the target. The third phase involved visual signals. If it was determined that the flight was illegal, [redacted] said the fighter would try to get close to the target to perform visual recognition signals. [redacted] said wing waggling, in daylight and at night, was part of the visuals as was flashing the aircraft lights at night. [redacted] said radio calls and visual signals were standard requirements that had to be followed. He said that neither FAP nor US crews asked that these procedures be changed and that he never told anyone these procedures could be omitted or ignored.

259. [redacted] could not recall a specific incident in which he challenged the US pilots or the OICs over the conduct of a shutdown other than the incident in which the pilots had directed the FAP to "shoot, shoot," a reference to the 14 July 1995 strafing order of civilians leaving the suspect plane after it crash-landed. In that instance [redacted] instructed the US pilots to let the Peruvians manage the process, because it would be a violation of procedures for US pilots to give the orders.

260. [redacted] understood that the PD and MOJ did not authorize any exceptions to the rules that allowed phases to be

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changed, modified, skipped, or abbreviated in certain circumstances.

[REDACTED] did not recall discussions with anyone, including the FAP, regarding the fact that visual signals might not be conducted during day or night missions because it was too dangerous to do them. He did not remember ever having discussions with anyone about this or deciding that the procedures should be changed.

[REDACTED] said he was not aware that the FAP could not conduct visual signals under certain circumstances and did not recall the FAP telling him they could not conduct visual signals. He said that, if there had been discussions indicating the FAP could not conduct visual warnings because it was too dangerous, he would have known about it. While there were discussions with the FAP regarding warning signals and dangerous circumstances, he did not recall the FAP, or anyone else saying, "We're going to leave off the visuals."

[REDACTED] said it would have been an important matter had the Peruvians skipped an intercept procedure. Had the OIC determined that the FAP skipped an intercept step, the OIC was obligated by the PD and the MOJ to report it [REDACTED]

261. [REDACTED] did not think he had ever told US personnel that reporting violations would be counterproductive to the program. [REDACTED] said there was no such pressure on US personnel.

262. [REDACTED] *Actual Intercept Procedures Used in Peru.*

[REDACTED] said a flight plan had to be checked before the fighter was called out. [REDACTED] said the tracker aircraft crew and HNR checked with the VI RAT for a flight plan to determine if a target was scheduled to be in an area at a particular time. However, Peru had a no fly policy at night, and the VI RAT would not feel it was necessary to check the flight plans at night if the target was over a clandestine airfield. [REDACTED] said visual identification of the target entailed obtaining a tail number or a description of the plane.

- ◆ **Radio Calls.** According to [REDACTED] an effort had to be made to contact a target by radio on a number of

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frequencies. [REDACTED] said the fighter had to be in contact with the target. He indicated that calls were made by the FAP and maybe by the HNR. [REDACTED] was sure there were written FAP policies on how many radio calls were made and what frequencies the FAP used. He did not know if civilian aircraft flying in Peru east of the Andes were required to have radios.

◆ **Visual Signals.** [REDACTED] identified wagging wings or making a right turn as methods to accomplish visual signals. He said the fighters had to be sure a target knew the fighter was there. He said that, at night, the fighter would fly next to a target or turn on its landing lights. According to [REDACTED] if a target evaded, there was probably still a requirement to conduct visual signals. He also said, however, that if a target evaded, it was evidence that the target had been duly signaled.

◆ [REDACTED] said visual signals had to be conducted even if radio communications were successful. He said they had to be conducted in a situation where the target began evading following radio calls. [REDACTED] recognized that this was a problem now, but said it had not been during the time he was [REDACTED]

◆ **Warning Shots.** According to [REDACTED] the fighter first ordered the target to comply by using radio communications and visual signals. Following that, he said, the VI RAT Commander or his deputy, had to authorize the firing of warning shots. The VI RAT Commander could authorize warning shots when a target began taking evasive action. [REDACTED] said it was always a requirement to fire warning shots. [REDACTED] did not know if the fighters could differentiate between firing to disable and firing to destroy.

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- ◆ **Time to Complete Intercept Phases.** [REDACTED] said the time involved in performing the intercept phases could vary dramatically depending upon the circumstances. He said he did not know how long the phases should take and noted that proximity to the border could be a factor. He claimed that the rules and procedures for engagement necessitated giving the target a reasonable time to respond. [REDACTED] was presented with a hypothetical situation in which 90 seconds elapsed between initiation of the intercept procedures and shutdown and asked if that would have been a reasonable amount of time between the required phases. He responded that 90 seconds did not seem reasonable because it was a relatively short time to determine that all critical things had been done. Asked if, in the same hypothetical scenario, visual signals were absent from the videotape of the shutdown, would that have to be reported to Washington as a violation of procedures, [REDACTED] responded, "I think so."⁶⁹

- ◆ **Shutdown Reporting.** [REDACTED] stated that he was in the chain of command for the shutdown cables that were sent to Headquarters. In fact, he said, he wrote most of the [REDACTED] cables regarding shutdowns. Referring to cables reporting that, "all procedures were followed," [REDACTED] said the OICs drafted those reports and he did not change the verbiage. [REDACTED] said [REDACTED] released cable traffic and that he had not released many cables.

⁶⁹ [REDACTED] This scenario corresponds with the events of the 4 August 1997 shutdown.

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263. [redacted] **Review of Videotapes** [redacted] made the following observations after reviewing tapes of four of the shutdowns that occurred during his tour [redacted]:

- ◆ **16 May 1995 Shutdown:** [redacted] believed he wrote the shutdown report stating that all procedures were followed because the writing appeared to be his style.

- ◆ **14 July 1995 Shutdown:** [redacted] saw a problem with US pilots ordering the FAP to strafe the target, but said, "We don't know" whether there was actual strafing. [redacted] told OIG that he was always trying to stop US pilots from giving instructions to the FAP. He also said, however, that he, [redacted] [redacted] should have conducted a review of any reported strafing incident. [redacted] believed that he and [redacted] personnel, together with the FAP, had reviewed the incident based on the tape. He told OIG he believed the events as seen on the tape required [redacted] [redacted] to take action. [redacted] said the US pilots' order to strafe constituted a violation of intercept procedures. [redacted] did not know how he did not recognize it as a violation at the time; in retrospect, he recognized it as a violation. He then stated that back then everyone was "caught up" in the ABDP. He could not explain how he could have signed off on the cable that stated all procedures were followed but failed to report on the strafing order. [redacted] theorized that the phrase – all procedures were followed – may have become a type of mantra or boilerplate used to prepare shutdown cables. [redacted] said he wished that someone had written that the intercept procedures had not been followed.

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- ◆ **21 July 1995 Shootdown:** [redacted] said the issue of US pilots giving direction to the FAP was identified as a problem, and he tried to address it through discussions with US and FAP personnel. [redacted] did not remember discussing this problem with anyone in Washington.
- ◆ **17 August 1995 Shootdown:** [redacted] said it was not clear looking at the tape whether or not visual signals were done and it was "hard to say" if there should have been further reporting.

264. [redacted] said it was clear to him now from reviewing the videotapes that the intercept procedures were not being precisely followed back then, but he claimed that it had never dawned on him that the procedures as conducted could potentially violate US law. [redacted] understood the Presidential Determination required that certain procedures be followed. He said that he now believed the procedures conducted in the ABDP did not comply with the PD from the beginning of the program. He said he could not explain how he did not recognize back then that failure to conduct visual signals was a violation of required intercept procedures. He stated, "We did not see it then," but he saw it now. [redacted] stated, "I always believed we were in good compliance with procedures." In retrospect [redacted] was surprised that more people from Headquarters did not come to Peru to oversee the program. [redacted] now wished everyone had read and signed some type of document indicating understanding of procedures.

265. [redacted] told OIG that the practical realities and legal requirements of the program may have been in conflict from the beginning. He was not aware that anyone else involved in the ABDP at any time recognized the reality that the FAP could not conduct all the intercept procedures. After seeing the videotapes again, [redacted] said he had thought about the procedures and felt that he and the other ABDP participants must have been "hypnotized"

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back then. He could not recall any of the participants recognizing a difference between the required intercept procedures and the procedures actually conducted in endgames.

266. [REDACTED] joined CIA in 1994 and was assigned to Latin America Division in the DO. From January 1995 to July 1996, she served as [REDACTED] LA Division. From July 1996 to June 1998, she served as [REDACTED] LA Division's [REDACTED]. [REDACTED] became [REDACTED] of the Office of Congressional Affairs (OCA) in June 1998, and, in October 2000, was [REDACTED] of CNC. [REDACTED] role in the ABDP was primarily that of oversight. In 1997, she went to Peru to conduct an investigation into reported deviations from required procedures in the 17 August 1997 shutdown.

267. [REDACTED] told OIG that she learned of the authorities for the program – the Presidential Determination and Memorandum of Justification when she reviewed relevant documents after becoming [REDACTED] in July 1996. She was not fully aware of the legislation that led up to the PD and MOJ, but she recalled that the documents were very explicit. She remembered specifically that the PD stated that: (a) the President certifies that drugs are a threat to the national security of the host country, and (b) adequate procedures are in place to protect against the loss of innocent life.

268. [REDACTED] *Knowledge of ABDP Requirements.* [REDACTED] said she fully understood the required intercept procedures. The procedures in the MOJ, which were based on Peruvian law, contained four steps. These were: (a) detection of aircraft, (b) identification of aircraft, (c) interdiction/interception of aircraft, and (d) use of weapons. The procedures required that an attempt be made to identify the aircraft and determine whether it had a legitimate flight plan. If no flight plan had been filed, both radio and visual warnings were given in order that the aircraft could identify itself or land. If there was no compliance at this point, a formal request was made to the VI RAT

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Commander for additional authorization to fire warning shots. If the warning shots were not heeded, a request was made for additional authorization to fire disabling shots into the aircraft, with the understanding that this could destroy the airplane. If that failed, the aircraft could be destroyed.

269. [REDACTED] Visual warnings were implemented in accordance with International Civil Aviation Organization (ICAO) procedures, which could include the FAP fighter flashing its landing lights at night. In daylight, the fighter's landing gear could be lowered or it could waggle its wings. The FAP pilots were required to follow explicit ICAO procedures. [REDACTED] did not know whether all or some of the ICAO procedures were required. She was aware of ICAO procedures in general terms when she was [REDACTED] prior to the missionary shootdown. The objective of the procedures was to ensure that the suspect plane was aware of the fighter plane's presence.

270. [REDACTED] Regarding the phases [REDACTED] said, [REDACTED] had to be sure that there was some attempt at visual signals. If the FAP went directly from radio calls to firing warning shots that would constitute a deviation that had to be reported. Both [REDACTED] and Program Manager [REDACTED] understood that as well. [REDACTED] said she was told during her trip to Peru in September 1997 that there probably was an acceptance in the field of conducting phases two and three at the same time since a suspect aircraft might be maneuvering to escape in a dramatic fashion. [REDACTED] recalled no discussions with [REDACTED] personnel about the procedures being too hard to follow. [REDACTED] knew that a deviation from the procedures during an interception had to be reported.

271. [REDACTED] As [REDACTED] had a formal responsibility to report ABDP shootdowns to the NSC and to Congress. When a shootdown took place, the information was turned into both a Spot Report for the DDO and a Congressional Notification. [REDACTED] also would pick up the telephone and call Rand Beers and Mary

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McCarthy at the NSC.⁷⁰ If she had any questions regarding the manner in which an intercept had been conducted, she acknowledged that she had a responsibility to question [redacted] on the issue.

272. [redacted] Officers on the Peru Desk in [redacted] read incoming ABDP cables [redacted] and typically alerted [redacted] when there had been an interception. There was no formal procedure for this, however, [redacted] usually read the cable traffic from [redacted] to know what was going on and to review [redacted] activities, but noted she could have missed some cables. When reviewing reporting cables, [redacted] looked for whether the cable noted that the procedures had been followed during an endgame.

273. [redacted] As [redacted] made sure that Spot Reports on shootdowns documented the use of the intercept procedures. She said that she did not have a way of double checking how a shootdown had been carried out, however. She stated that tapes of the shootdowns were kept at [redacted] and that none was sent to [redacted].⁷¹ If there was any question about whether a cable had adequately outlined the facts of a shootdown, [redacted] sent a follow-up cable [redacted].

274. [redacted] **Shootdowns of August 1997.** [redacted] recalled two instances in which [redacted] raised questions regarding the adequacy of [redacted] shootdown reporting. In early August 1997, [redacted] felt that a cable did not adequately report what had taken place during a shootdown. The cable from [redacted] provided little detail regarding what steps had taken place during the interception, prompting a Headquarters cable [redacted] requesting more information. [redacted] said she drafted the questions that were

⁷⁰ [redacted] Beers served as Senior Director for Intelligence Programs at the NSC until late summer 1997, at which time he was succeeded by McCarthy. McCarthy had served as Director for Intelligence Programs since 1996.

⁷¹ [redacted] comment that the videotapes were not sent to Headquarters is contradicted by a number of officers who specifically recall carrying the tapes back to [redacted] Headquarters. [redacted] may not have shared the tapes with LA Division, however.

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incorporated into the Headquarters cable. She recalled that the [REDACTED] responded quickly and said that the required intercept procedures, including radio and visual signals, had been followed. The cable from [REDACTED] added that everyone associated with the program was aware of the procedures and, according to [REDACTED] was a little defensive. [REDACTED] response was emphatic and reported that the aircrews and other relevant personnel had been interviewed. [REDACTED] said she had no reason to believe that they were making it up.

275. [REDACTED] The second event occurred later in August 1997, when [REDACTED] alerted Headquarters that a problematic shutdown had taken place. [REDACTED] added that Headquarters was dependent upon [REDACTED] evaluation of what had happened. She was comfortable that [REDACTED] understood what the intercept procedures required and that [REDACTED] was reporting the information honestly.

276. [REDACTED] In response to this second August 1997 event, [REDACTED] traveled to Peru with [REDACTED] the [REDACTED] in MSP. [REDACTED] recalled that she and [REDACTED] met with Embassy officials and advised them that her trip was the result of possible Congressional interest following the 17 August 1997 incident. [REDACTED] discussed the required ICAO procedures and was given assurances regarding their use. [REDACTED] believed [REDACTED] personnel were knowledgeable of the procedures, but was not sure if [REDACTED] Embassy personnel knew of them.

277. [REDACTED] During her September 1997 trip to Peru, [REDACTED] met with the VI RAT Commander Colonel [REDACTED] and with some of the FAP pilots at Pucallpa. She said she wanted assurances that the FAP had the best possible practices in place to ensure against the loss of innocent life, and she was reassured that the Peruvians knew about the required ICAO procedures, including visual warnings. The FAP also told her that shooting down an airplane was the last resort.

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278. [REDACTED] told OIG that she did not believe that she interviewed [REDACTED] personnel regarding the incident during her trip because [REDACTED] already had clearly documented what had happened.⁷² [REDACTED] reiterated that she never saw the 17 August 1997 shootdown tape nor did she look at other shootdown tapes during her September 1997 visit.

279. [REDACTED] [REDACTED] had received a cable from the Embassy regarding the 17 August 1997 incident prior to the trip [REDACTED] made to Peru. That cable provided the substance of what would be incorporated into the Congressional Notification and was based largely upon the meeting [REDACTED] with Colonel [REDACTED] following the incident. [REDACTED] said she viewed that cable as satisfying the MOJ's requirement for a US Government review of the program if a deviation in the intercept procedures occurred.

280. [REDACTED] During her visit [REDACTED] laid out additional measures they had taken as a precaution against future accidents. These included keeping ABDP aircraft below the altitude used for commercial aircraft, not firing at any aircraft on the ground that was partially hidden, and letting any plane go if it had not been established that it was a narcotrafficker.

281. [REDACTED] *Report on the 17 August 1997 Shootdown.* [REDACTED] prepared a report following her trip [REDACTED] [REDACTED] said that, when she drafted the report, she sent it to [REDACTED] via e-mail for coordination, but she did not recall receiving any comments. She was "99.9 percent sure" that a copy of the report went to [REDACTED] LA Division. She did not think her report went to the

⁷² [REDACTED] In reviewing pertinent portions of this report in draft, [REDACTED] commented that during her September 1997 trip to Peru, she

... spent hours over a period of days discussing the incident and the ABDP in general with [REDACTED] Embassy officials, and the Peruvians. While I would not characterize this as an "interrogative interview" I spent hours informing myself of procedures and practices through briefings, as well as asking questions of a wide range of people, including [REDACTED] Embassy personnel. All were emphatic that they understood the required procedures and that these procedures were being followed.

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DDO, but she probably circulated it within the [redacted]. She did not know if [redacted] got a copy of her report. [redacted] did not believe the report was sent outside of CIA.

282. [redacted] said she had made some recommendations in her report and that she followed up on them with LA Division management. [redacted] acknowledged that she had the authority to implement some of the recommendations since she had program management authority.

283. [redacted] was particularly interested in the country team review cables for the October 1997 shootdowns. She recalled that the Embassy sent a cable for each of the shootdowns, although she is not sure how long after each shootdown. [redacted] also said that, as [redacted] she did not look at shootdown tapes for those shootdowns that took place after the 17 August 1997 incident. She also did not recall anyone at Headquarters reviewing the tapes of those shootdowns. [redacted] said she expected [redacted] to do a thorough job of documenting the reviews. When asked how she ensured that program requirements were being met, [redacted] said her trip to Peru served that function.

284. [redacted] did not recall seeing a copy of the 17 July 2000 shootdown videotape during her OCA assignment. Although this shootdown tape subsequently was obtained to show President Bush when he visited CIA in early 2001, the tape was not shown due to lack of time. The one tape she acknowledged watching on several occasions was the 20 April 2001 missionary shootdown tape.

285. [redacted] Immediately following the missionary shootdown, there were several meetings with senior Agency officials regarding the incident. [redacted] participated in these meetings because of her involvement with the counternarcotics program.

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286. [REDACTED] joined CIA in December 1995 and was assigned to [REDACTED] DO/MSP. On 1 August 1997, he moved to the [REDACTED] in Latin America Division to prepare for his upcoming assignment to Peru. [REDACTED] replaced [REDACTED] as the [REDACTED] Officer in July 1998 and served in that capacity until the summer of 2001. As [REDACTED] reported to [REDACTED] who was replaced in the summer of 1999 by [REDACTED] recalled that both [REDACTED] emphasized that he had to ensure that all intercept procedures were followed.

287. [REDACTED] Two shootdowns occurred during [REDACTED] tour [REDACTED] the 17 July 2000 event and the missionary shootdown of 20 April 2001. Additionally, during his tour, [REDACTED] signed two successive SOPs that did not include the requirement to perform visual communications. [REDACTED] with the Peruvian Air Force in preparing those documents.

288. [REDACTED] *Knowledge of Required Intercept Procedures.* [REDACTED] told OIG that he recalled that a Presidential Determination, which included ICAO procedures for the interception of civil aircraft, provided authorization for the ABDP. He said that, in early 1998, in preparation for his move [REDACTED] he spent a few days at the US Embassy in Lima and also visited Pucallpa. There was a three-ring binder at Pucallpa that contained documents pertaining to the ABDP, including ICAO procedures and the history of the ABDP. While in Pucallpa, [REDACTED] said, he observed day-to-day operations, training, and flight and aircraft safety matters. The [REDACTED] aircraft was still there, but the [REDACTED] was being transitioned into service, and the [REDACTED] pilots were training the [REDACTED] pilots. The procedures that the [REDACTED] pilots taught the [REDACTED] pilots were identical to the ones the [REDACTED] crews had been following; the only changes were aircraft specific. The [REDACTED] pilots told the [REDACTED] pilots that there was a requirement for visual communication with target aircraft in the event that radio communication failed.

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289. [REDACTED] said that there was a briefing book for incoming air crews and OICs that, as [REDACTED] Officer, he had updated. Although a copy of the PD was not in this book, [REDACTED] said he told the OICs to follow ICAO procedures, which were in the book. OICs had access to the FAP SOPs through the FAP OIC and [REDACTED] Intercept procedures were reviewed in both pre- and post-mission briefs, and OICs filed weekly reports, which were faxed to [REDACTED] He would put the reports into cable format without editing the content; any differences of opinions were noted in the cable. [REDACTED] said that everyone involved in the ABDP knew the procedures.

290. [REDACTED] Based on his experiences in the US Army and CIA, [REDACTED] said he knew that the ABDP would be terminated if the wrong plane were shot down. Every day there were both formal and informal discussions concerning the fact that, if the wrong plane were shot down, the ABDP would end.

291. [REDACTED] According to [REDACTED] the procedures for an interception in the ABDP called for the US aircraft to find and identify the target aircraft. The FAP then would try to verify whether or not the target aircraft had a valid flight plan. Next, the target aircraft would be contacted on the international emergency radio frequency and 126.9 MHz. If there was no response, a FAP fighter aircraft would try to communicate with the target aircraft using internationally recognized visual signs. If that failed, the FAP fighter would fire warning shots at the target. If that did not work, the FAP fighter would shoot to disable the target aircraft. Finally, if all else failed, the FAP fighter would attempt to shoot the target aircraft. These interception procedures were detailed in the ICAO manual, although the ICAO manual did not contemplate actually shooting down a civil aircraft. The commanding general of the FAP VI RAT had the ultimate authority to authorize the transition between phases of an interception.

292. [REDACTED] heard from the FAP that the A-37 fighter was too fast to fly beside a slower aircraft. Therefore, [REDACTED] said, the A-37

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fighter was instructed to fly around the suspect plane in order to make the pilot of the suspect plane aware of the fighter's presence. [REDACTED] recalled that the fighter pilots did not want to do visual signals beside an aircraft, so [REDACTED] said they were instructed to fly over and around the suspect plane and wag the fighter's wings. The fighter had to do some visuals to make sure the suspect plane saw the fighter because the US President said it had to be done.

293. [REDACTED] said his job responsibility, while on the Peru desk in [REDACTED] had been to ensure from [REDACTED] cables that shutdowns complied with the PD and MOJ. Shortly after his arrival at the Peru Desk, a shutdown occurred where intercept procedures may not have been followed. [REDACTED] did not remember details of the incident, but acknowledged that he had written a 22 August 1997 e-mail to [REDACTED] among others, listing the interdiction phases and specifically mentioning the visual signals required by the ICAO. He also wrote a 21 August 1997 cable to [REDACTED] Legal Counsel for LA Division, [REDACTED] helped [REDACTED] make sure he had the procedures in the cable "right under the law." [REDACTED] also recalled writing the background paper attached to the Congressional Notification for the 17 August 1997 shutdown. In the first paragraph of this paper, [REDACTED] used the phrase "subsequent warning" to indicate the conduct of visual signals and warning shots.

294. [REDACTED] In preparation for his assignment to Peru [REDACTED] said he had reviewed videotapes of previous interceptions at Headquarters because he wanted to know how they had occurred. He said that the intercepts on the videotapes absolutely followed established procedures.

295. [REDACTED] said that the PD required that, if procedures were not followed by the FAP, CIA had to report that and address the problem. The only problem [REDACTED] could recall was one instance in which a host nation rider (HNR) could not speak English.

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296. [REDACTED] *Actual Conduct of Procedures*. While in Peru [REDACTED] randomly reviewed [REDACTED] videotapes of previous shootdowns. In those tapes, the procedures were sometimes blurred. It was hard to tell from the videos if warning shots had been fired, although [REDACTED] could hear the HNR saying that warning and disabling shots and the ultimate shoot-down were authorized.

297. [REDACTED] According to [REDACTED] the FAP OIC always carried a briefcase with the flight plans for identifying target planes, but there was no way the information in the briefcase could be up to date. Identification was a major problem for the Peruvians. [REDACTED] said the procedure was best described as "doing the best we could."

298. [REDACTED] coordinated a change in the SOPs in 1999 following either a change in command at the VI RAT or a mid-air "touch" between the [REDACTED] and the FAP fighter. He read the SOPs, saw the ICAO procedures, and passed them to [REDACTED] telling him that they looked "okay." [REDACTED] translated at least one of the 1999 SOPs from Spanish into English. When shown the October 1999 SOPs, [REDACTED] recalled reviewing it because he had to ensure the procedures were being followed per the guidance he received for running the ABDP. He said that ICAO interception procedures are mentioned in the October 1999 SOPs, but not in those of March 1999. [REDACTED] did not compare either of the 1999 SOPs to the MOJ, but said the three phases in the SOPs were in keeping with the "spirit" of the MOJ.

299. [REDACTED] said he did not know why visual signals were not referred to in Phase I of the interception procedures in the March 1999 SOPs. ICAO procedures were the rule, however, and include wing-wagging and other visual signals if radio contact has not been achieved. [REDACTED] did not recall wing-wagging in any of the videotapes of [REDACTED] interceptions from 1995 to 1997, but stated that in all of the interceptions, the target aircraft conducted evasive maneuvers and flew at treetop level. It was difficult to do visual signals in the daytime and impossible to do them at night. [REDACTED] told OIG that, "We were

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floundering" with regard to visual signals. No one was conspiring to hide anything, but he did not know why the impracticality of conducting visual signals was not raised. Someone should have sent a "reality cable" that told Headquarters that visual signals were impossible to accomplish; Agency personnel in Peru should have indicated that the "academic" intercept procedures could not be done.

300. [redacted] *Country Team Review.* [redacted]

[redacted] country team review of the July 2000 shutdown. [redacted]

This multi-faceted review of interceptions was a standard requirement and was in place [redacted]. The review group made sure that all procedures had been followed during the interception. This was the way reviews were always done. The review group had to decide unanimously that the shutdowns complied with established procedures.

301. [redacted] *The Missionary Shutdown.* [redacted] was in Washington when this incident occurred. When he heard about it, he knew the ABDP was over. The scenario that occurred on 20 April 2001 had been particularly feared by those responsible for the ABDP. [redacted] felt that the Peruvians were at fault for the incident, particularly the HNR who did not identify the target and the FAP fighter pilots who provided no visual warnings to the target aircraft after receiving no radio response. Also, the FAP OIC was on the ground plotting the path of the target aircraft and it was obvious that the target aircraft was heading into Peru, unlike a drug trafficker, which would have been heading out of Peru. Finally, the commanding general of the VI RAT just approved the shutdown without requesting additional information.

302. [redacted] *Comments on Shutdown Videotapes.* As [redacted] viewed selected shutdown videotapes during an OIG interview, he first stated that he did not remember having watched the tapes specifically, but that he "would have seen it" or "it would be logical to

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assume" that he had seen it while working at the Peru desk. Before watching the third videotape, however, [REDACTED] stated that, the more he thought about it, the more he believed that the only shutdown videotape he watched while at [REDACTED] was that of 17 July 2000. As he viewed the videotapes in his OIG interview, [REDACTED] made the following observations regarding specific shutdowns:

- ◆ **4 August 1997:** Although he did not specifically recall watching this videotape at Headquarters, [REDACTED] believed that [REDACTED] her deputy, and [REDACTED] two immediate supervisors would have viewed it. He added that [REDACTED] might have watched the tape with them, as well. [REDACTED] recalled considerable discussion of shutdown procedures on the Peru Desk following the 17 August 1997 shutdown. [REDACTED] [REDACTED] was involved in these discussions.
- ◆ **6 October 1997:** Visual signals were not performed, but the target aircraft was "down at the trees."
- ◆ **12 October 1997:** [REDACTED] did not know why he did not notice that the procedures were not followed, and he did not know why the failures were not brought to his attention.
- ◆ **17 July 2000:** There was not much discussion of whether this was a "good" shutdown because all procedures were followed, i.e., radio warning, warning shots, then shutdown. When he watched the video in [REDACTED] considered the shot that disabled the plane to be the warning shot and he thought that was how he had briefed it up to Headquarters as well. When OIG asked if he saw visual signals performed on the videotape, [REDACTED] said he remembered hearing references to them. He later

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stated that visual signals were not possible in this shutdown and added that letting the target go was not a consideration because "everyone wanted to get the job done." He recalled that Headquarters had no problem with the videotape, adding that he received an Exceptional Performance Award for the shutdown.

303. [REDACTED] served as [REDACTED] [REDACTED] from summer 1997 to summer 1999. He supervised [REDACTED] counternarcotics and counterterrorism officers as well as the [REDACTED] officers deployed on a temporary duty basis to Pucallpa. [REDACTED] reported directly to [REDACTED]. [REDACTED] told OIG that, as [REDACTED] his role was to collect as much intelligence as possible; ensure that all his subordinates were gainfully employed, adhered to Agency policies and regulations, and had suitable growth opportunities; and ensure that these subordinates' accountings were in order.

304. [REDACTED] supervised several experienced program managers who were responsible for specific programs. Two of these managers, [REDACTED] shared responsibility for the ABDP. [REDACTED] was permanently based in Iuanjui, where he was responsible for [REDACTED] with the VI RAT. [REDACTED] [REDACTED] was responsible for [REDACTED] with FAP Headquarters and for the oversight of the OICs who served rotations at the base in Pucallpa. [REDACTED] briefed and debriefed the OICs. [REDACTED] said he used to discuss with them "lessons learned," how they were treated, and their living conditions.

305. [REDACTED] commented that the [REDACTED] program had to be monitored, that putting it on "cruise control" or "auto pilot" would lead to problems. He had to make the Peruvians think they would be held accountable if there were problems. [REDACTED] said he conveyed the message about accountability through communications, meetings, and social events. According to [REDACTED] any ABDP action the United

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States and the FAP agreed to do required a bureaucratic memorandum. He said that [REDACTED] would draft a document and he would review it; [REDACTED] also might review the document, depending on the substance. [REDACTED] also reviewed any memorandum of substance. [REDACTED] indicated that [REDACTED] ran a tight ship. All memoranda were maintained in [REDACTED] safe along with copies of the OIC and aircrew briefing books. [REDACTED] said that, if he needed to learn anything about the ABDP, he could review the documents in [REDACTED] safe.

306. [REDACTED] In terms of how the ABDP was linked to the procedures in the PD and the MOJ, [REDACTED] emphasized that he knew prior to his deployment that the ABDP "had to be done right," meaning according to the PD/MOJ. [REDACTED] said the ABDP was the only lethal program LA Division was conducting in 1997. The term "lethal" was used in general discussions and [REDACTED] noted that using such a term connoted certain responsibilities. [REDACTED] knew he had to monitor all of the [REDACTED] programs for which he was responsible to ensure that the rules were being followed.

307. [REDACTED] When asked who was responsible for ensuring that intercept procedures were in compliance with the law, [REDACTED] responded that the Agency's role was to provide intelligence information to Peru. He said the Agency administered the ABDP, but he emphasized that the use of lethal force was ultimately a Peruvian decision. [REDACTED] said, however, that his role as [REDACTED] was to ensure the Peruvians were doing what they were supposed to be doing. He noted that they had to be in compliance across the board, whether it concerned accountings, drug smuggling, or the use of equipment, and that he had to make sure they were in compliance.

308. [REDACTED] *Knowledge of Required Procedures* [REDACTED] recalled that, as he prepared for his deployment to Peru, he spent several weeks at the [REDACTED] desk in LA Division, [REDACTED] where he read the PD. He also recalled meeting with several ABDP officers, including [REDACTED] and [REDACTED]

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[REDACTED] the focal point at the LA/[REDACTED] desk, who was himself preparing for a tour in Peru. In addition, [REDACTED] received a thorough, two-hour briefing from the [REDACTED] [REDACTED] that included a discussion of the PD and MOJ. [REDACTED] also met with [REDACTED]. He described [REDACTED] as the most knowledgeable about the ABDP, and characterized [REDACTED] as the person who really "knew" the program.

309. [REDACTED] reviewed copies of the PD and MOJ in his OIG interview and confirmed that he had reviewed them before deploying [REDACTED]. He cited the reference to ICAO procedures as information that would have stood out to him. [REDACTED] recognized that ICAO procedures were the guidelines for engagement with narcotics trafficking aircraft. Based on his personal interface with US pilots, US OICs, and FAP pilots, [REDACTED] said he was certain everyone understood the obligation to follow ICAO procedures.

310. [REDACTED] described three phases of intercept procedures to OIG. The first entailed identifying the TOI by obtaining a tail number and a description. This information was provided to the FAP command center at Juanjui for identification purposes. Phase II was the attempt to make contact with the TOI, using two radio frequencies. If radio contact failed, the FAP fighter had to conduct visual signals to get the attention of the TOI.

311. [REDACTED] According to [REDACTED] the intercept procedures specifically included making visual contact with the target aircraft. He noted that there were many ways to conduct visual signals, but his recollection was that the FAP fighters dipped their wings for visual signaling. [REDACTED] emphasized that visual signals had to be conducted. The FAP fighter could not skip visual signals and request permission to proceed to Phase III if, for example, the TOI took evasive action by heading for the trees. He noted, however, that evasion equated to the TOI being aware of the FAP's presence. [REDACTED] emphasized repeatedly that the goal was to get the attention of the TOI.

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312. [REDACTED] If radio and visual communication efforts with the TOI failed, the intercept would proceed to Phase III, according to [REDACTED]. Only the VI RAT Commander or his deputy had the authority to order a shutdown. [REDACTED] said the goal was to get the TOI to follow the FAP back to a designated airfield, so during Phase Three the FAP still attempted to get the TOI to follow the FAP fighter. He emphasized the importance of getting the TOI's attention – through radio communications and visual signals – so the TOI could be escorted to a landing site.⁷³

313. [REDACTED] stated that intercept procedures were the same for day and night missions. He noted, however, that visibility was much improved for daytime endgames. According to [REDACTED] going through the three intercept phases was required, even if it was a night intercept mission.

314. [REDACTED] stated there were no alternative options concerning intercept procedures. The VI RAT Commander made the decisions, but visual signals such as wing waggling were not window dressing; visual signals were necessary to ensure a target aircraft was a narcotics trafficker. [REDACTED] went on to say that an endgame did not require a shutdown; a successful endgame could also be a forcedown.

315. [REDACTED] *Actual Conduct of Procedures.* [REDACTED] told OIG that an attempt was made to determine the registry of a TOI and that the FAP and United States shared this responsibility. He explained that the role of the US aircraft was to spot the targets. In practice, it also had to be evident to US personnel that they had a viable target aircraft, meaning a narcotics trafficker. [REDACTED] noted that much was predicated on DEA intelligence lead information. He said that "ideally" it should become apparent whether there was justification to

⁷³ [REDACTED] did not mention warning shots as a required procedure until reminded of them by an interviewer in his first OIG interview.

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use lethal force and noted that, for example, night flights east of the Andes Mountains in Peru were illegal; anyone up there at night was a "bad guy."

316. [REDACTED] stated that the FAP fighters tried to conduct visual signals. He "guessed" that the SOPs called for "dipping wings," but said he did not know if the FAP fighter could do that at dawn or at night. In his experience, all shootdowns occurred at night.⁷⁴ He believed it was a matter of the FAP fighter getting in front of the TOI during nighttime intercept missions. [REDACTED] recalled reading that this usually resulted in the TOI slowing down or dropping altitude. Nevertheless [REDACTED] said, the FAP fighter aircraft was supposed to get out ahead or above the TOI.

317. [REDACTED] With respect to dipping wings, [REDACTED] wondered how much assurance there could be that the TOI pilot saw the FAP fighter, if the TOI pilot, for instance, was looking away at that time. [REDACTED] told OIG that there was usually no response when the FAP tried to communicate with narcotics traffickers. He also stated that there was no need to conduct visual signals if, following radio communications, the TOI evaded. He said it was the VI RAT commander's decision to make.

318. [REDACTED] recalled that two or three shootdowns occurred over the period of his two-year tour [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The primary purpose of the shootdown reviews was to ensure that all intercept procedures were followed. He said, however, that the videotapes were not watched closely if there was no independent indication of a problem.

⁷⁴ [REDACTED] The shootdown of 6 October 1997 occurred at night; the shootdown of 12 October 1997 occurred in the morning.

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[REDACTED] said he relied on the aircrews to raise any problems and noted that the intercept procedures conducted were not always crystal clear on the videotapes.⁷⁵

319. [REDACTED] said he did not recall any occurrence in which intercept procedures were not followed in a shutdown other than 17 August 1997. He added that there were never any warning signs of issues or anything wrong in shutdowns during his tour [REDACTED] and that no one ever identified deviations in intercept procedures to him. According to [REDACTED] cable that reported all intercept procedures had been followed was the result of a determination reached by consensus.

320. [REDACTED] In January 1995 [REDACTED] was assigned to [REDACTED] MSP/[REDACTED] Later that year, he was named [REDACTED] and, in June 1996, he became [REDACTED]. From 1997 to June 1999, he served as [REDACTED]. In August 2001, [REDACTED] became the [REDACTED]. In March 1995, [REDACTED] went to Peru on a 75-day temporary duty assignment to reestablish the ADBP after it had been shut down for a period of time. [REDACTED] traveled to Pucallpa, where he served as the initial OIC. No aircraft were shot down during [REDACTED] time in Peru.

321. [REDACTED] told OIG that, during his tour in Peru, he met with [REDACTED] and FAP officials, including VI RAT Commander General [REDACTED] to discuss linkup and intercept procedures. When US tracker aircraft arrived at Pucallpa, US and FAP personnel

⁷⁵ [REDACTED] In reviewing this section of the report in draft for factual accuracy [REDACTED] added that [REDACTED] made clear [REDACTED] that the rules pertaining to the ADBP were to be followed with the precision consistent with the difficult and dangerous mission that [REDACTED] had been given with the PD and MOJ. [REDACTED] stated, however, that OIG imposed, after the fact, an arbitrary and severe set of rules for the conduct of the ADBP, and, had such rules been in place that when he supervised the program, it would not have been able to function. [REDACTED] statement captures the sense of a number of CIA officers in the field – that the program would not have been able to function under the presidentially-directed rules. None, however, had the authority to change the rules or to disregard them.

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discussed and diagrammed the procedures to be followed once the tracker and fighter were launched. The group covered all procedures from the moment a target was detected and identified, to verification of flight plan, to linkup. These procedures, which were developed in the first four or five days of [redacted] 75-day deployment, were then passed to [redacted]. In his discussions with the FAP [redacted] reviewed procedures in general and as mandated by the ICAO. [redacted] said everyone understood that ICAO procedures were mandatory. According to [redacted] the intercept procedures that were developed were based upon the PD, MOJ, ICAO requirements, and discussions with the FAP.

322. [redacted] As the OIC, [redacted] supervised all aspects of the ABDP, with the exception of flight safety issues, which rested with the US chief pilot and the FAP. It was [redacted] responsibility to communicate with the US crew. In the weekly reports that were sent to [redacted] [redacted] reported every mission and every target encountered. In turn, [redacted] notified Headquarters. [redacted] said he had no control over the final report submitted by [redacted] to Headquarters.

323. [redacted] *Responsibilities as* [redacted] [redacted] (1995-97) and [redacted] (1997-99). During these time periods, [redacted] told OIG that he was responsible for briefing all OICs prior to their deployment to Peru, explaining to them the required intercept procedures. No OIC was permitted to deploy without talking to [redacted]. He said that he had instructed the OICs to ensure that the tracker aircraft obtained a positive identification of a target by checking the target's tail number before proceeding with the intercept. According to [redacted] only the VI RAT Commander, or his deputy, could authorize a shutdown. He told OIG that OICs were not authorized to issue orders to the FAP. [redacted] told the OICs that, if they became uncomfortable with anything related to the progression of an intercept, they should break off the intercept and report the issue of concern up the chain of command. For example, if visual signals were not executed in a shutdown, they

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should report that, and, if warning shots were not fired, they should report that. According to [REDACTED] OICs were expected to read the ICAO manual and cables relating to the ABDP prior to departing Headquarters. They also were supposed to speak with Office of General Counsel attorneys regarding the ABDP. As [REDACTED] [REDACTED] read the weekly reports from Pucallpa and maintained contact with the OICs during their tours in Peru and debriefing them upon their return to Headquarters.

324. [REDACTED] *Knowledge of ABDP Requirements.* Prior to his 1995 deployment to Peru, [REDACTED] said he reviewed the ICAO manual to refresh his memory of the required procedures. He said that the PD and the MOJ referred to the ICAO requirements. In setting up the ABDP, [REDACTED] said he adhered to the PD and MOJ, which he thought he had seen in Headquarters before he went to Peru. [REDACTED] said the PD and MOJ had been developed after the ABDP was shut down in March 1994 because questions had been raised about the possible risk of loss of innocent life. The MOJ, according to [REDACTED] contained the nuts and bolts of the procedures for the ABDP. Although he did not have a lot of time to analyze the PD and MOJ prior to deploying to Peru, [REDACTED] did discuss the issue with [REDACTED] management. [REDACTED] said he read cable traffic concerning the PD and spoke with personnel who had served in the ABDP prior to the 1994 shutdown.

325. [REDACTED] According to [REDACTED] ABDP procedures were based on the PD and MOJ, the ICAO, the Federal Aviation Administration's Airman's Information Manual, discussions with the FAP, and Peruvian law, which allowed for the use of lethal force. The procedures required that the tail number of the target be checked. If the tail number or flight plan did not exonerate the target, the fighter would be launched. Upon rendezvous with the tracker aircraft and target, the fighter was to pull alongside the target, parallel to the cockpit, to make visual contact. The fighter attempted to contact the target by radio. If radio contact was unsuccessful, the fighter pilot used visual signals, such as wing waggling or hand gestures. If visual signals did not work, the fighter fired warning shots. If the

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fighter's ammunition was tracer ammunition, the target would see the firing at night. The amount of tracer ammunition available to the FAP was limited, however.

326. [REDACTED] told OIG that someone had determined that the stall speed of the FAP A-37 was too high to conduct visual signals with slow moving aircraft. That shortcoming did not, however, prevent the A-37 from approaching a slow moving target on an oblique angle and carrying out the visual communication maneuvers.

327. [REDACTED] was aware of the obligation to report non-compliance or irregularities concerning the procedures. He told OIG that common sense told him that violations of the required intercept procedures would result in the ABDP being shut down. [REDACTED] said that when he reviewed the training procedures in place at the time of the April 2001 shutdown as part of the Agency's investigation into the incident, the procedures were significantly different from those that he had employed. [REDACTED] added that he was not aware that the Standard Operating Procedures had been revised until after the missionary shutdown.

328. [REDACTED] *Actual Intercept Procedures Used in Peru.* [REDACTED] said all intercept procedures developed in early 1995, to include visual signals such as wing wagging and warning shots, were mandatory both for day and night intercepts, but *effective use* of procedures depended on many things. [REDACTED] noted that warning shots were not effective during the day or night due to the burn time of the tracer ammunition. He explained that the chemicals on the ammunition did not burn long enough after firing to enable a suspect aircraft to effectively observe the tracer. In addition, [REDACTED] noted that suspect aircraft would typically evade by flying at treetop level, and this would make it difficult, if not impossible, for the interceptor to accomplish wing wagging. [REDACTED] said it became a safety of flight issue at that point. According to [REDACTED] if the interceptor was unable to accomplish visual signals, either during the day or at night,

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because of a suspect aircraft's evasive maneuvers, for example, the interceptor would be required to break off the intercept before shutdown.⁷⁶

329. [REDACTED] As the OIC in Pucallpa, [REDACTED] received information from DEA; this usually was based on [REDACTED] would order tracker aircraft to be launched based upon that information. It was the responsibility of the tracker to get the tail number of the target, information that was then relayed to the FAP. Everyone acknowledged the importance of ensuring that a positive identification of a target was obtained before the intercept could proceed further. [REDACTED] said a fighter would not be launched until the tracker had acquired the target and it had been confirmed as a "bandit." The US crew, via the host nation rider, would guide the fighter to the target and then the tracker would drop back.

- ◆ **Radio Calls.** Once radio calls were made to the target, the FAP OIC would contact the VI RAT Commander for instructions if the target failed to comply with the order to land.
- ◆ **Visual Signals.** [REDACTED] said no US or FAP officer ever informed him that visual signals could not be executed during the day or night for any reason, including for reasons of flight safety. If someone had made such a statement, [REDACTED] would have asked why not. [REDACTED] would have expected the FAP to execute visual signals, day or night, and, if visual signals were not executed, to report that fact up the chain of

⁷⁶ [REDACTED] OIG interviewed 24 Peruvian pilots and aircrew that flew on shutdown missions and met with one of their commanding generals. OIG also interviewed most of the pilots and aircrews that flew the [REDACTED] tracker missions in the shutdowns. They told OIG that they were unaware of a requirement to break off an interception if visual signals could not be conducted. The videotapes of the shutdowns confirm that interceptions were not halted in situation when visual signals were not performed.

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command. [REDACTED] told OIG that, if visual signals could not be executed, either during the day or at night, the intercept should be terminated prior to shutdown.

- ◆ **Warning Shots.** [REDACTED] said warning shots were not effective due to the burn time of the ammunition. He explained that the chemicals in the ammunition would not burn long enough after firing to enable a target to effectively observe the shots.

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~~SECRET~~ [redacted][redacted] **Comments By US And Peruvian Aircrews**[redacted] General

[redacted] (Pilot): In 1995 it was "basically open season" on all small aircraft flying east of the Andes in Peru.

[redacted] Identification

[redacted] (Pilot): Shootdown of 14 July 1995: When asked why the target was fired upon before its registration number had been checked, [redacted] replied that, although the interceptor was required to get the tail number, it was not required to hold fire until it received an answer about the tail number's validity.

[redacted] (Pilot): All "illegal" flights fell within the scope of the shootdown law, not just the narcotics flights. It is not possible to be 100 percent certain that a given target is a narcotrafficker.

[redacted] (Pilot): The planes that were shot down were all guilty of something, but not necessarily of drug trafficking. Some of the targets could just have been guilty of flying at night.

[redacted] Crew: It was the experience of all three of these officers that the Peruvian identification procedure was not 100 percent accurate. A response could take anywhere from 5 to 40 minutes. As an example, a track was acquired for one flight and an attempt was made to get a visual identification on the suspect aircraft. Just about the time the crew had eyes on the target—which was two Peruvian helicopters—the trackers came back and reported that the suspect aircraft was a US Government air asset. This was clearly wrong. It was later learned the trackers had misidentified the helicopters and that the US air asset they mentioned was 40 to 50 miles from where they said it was.

[redacted] Visual Signals

[redacted] (Co-pilot): Shootdown of 17 July 2000: At the [redacted] debriefing, there was some discussion as to whether ICAO procedures were followed or should have been followed with respect to visual communication with the target. The point was made that following ICAO visual communication procedures might be fatal for FAP fighters at night or at low altitudes. Everyone was comfortable with this explanation and no argument was made that ICAO visual communication procedures should be used in the future.

[redacted] (Pilot): Shootdown of missionary plane on 20 April 2001: Following the intercept procedures was not a consideration in Peru [redacted] If the host countries did not want to follow ICAO procedures, they did not have to. ICAO procedures did not work because of the limited amount of time available as the target aircraft approached borders. The FAP was not likely to fly in front of the slower moving target plane as it would take too long to get back behind the plane.

[redacted] crew):
Shootdown of missionary plane on 20 April 2001: De facto intercept procedure was to move straight from radio warnings to warning shots. Phase I visual warnings were not part of the equation.

Peruvian Pilots: All two-dozen Peruvian pilots interviewed said the use of visual signals was left to the discretion of the fighter pilots. The fighter pilots said they did not attempt visual signals in six of the shootdowns; some pilots said visual signals were impossible.

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[redacted] Comments By US And Peruvian Aircrews (continued)

[redacted] Warning Shots

Peruvian pilot: Shootdown of 23 March 1997: Firing warning shots overpowers the night vision goggles (NVGs) – blinds you.

Peruvian pilot: Shootdown of 4 August 1997: For warning shots, I believe I fired from behind and to the left of target and only fired one burst of warning shots, because the tracers blinded me through the NVGs. The burst I fired lasted 1 to 2 seconds at 20 rounds fired per second. I was about 300 to 500 feet away from the target when I fired the warning shots.

Peruvian pilot: Shootdown of 6 October 1997: We did not fire that many warning shots because we did not want to blind ourselves.

[redacted] Time Compression

[redacted] (Pilot): Shootdown of 17 August 1995: The HNR rushed the phases and [redacted] did not think there was adequate time between the phases. He admitted that he knew at the time that the Peruvians had not followed the procedures in this shootdown. He said he raised this with the officer-in-charge.

[redacted] (Mission Support Officer): Shootdown of 4 August 1997: The target did not get a reasonable chance to respond to the warnings.

[redacted] (Co-pilot): Shootdown of 4 August 1997: The FAP moved from Phase II to Phase III too quickly.

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330. [redacted] was assigned to [redacted] where he served as [redacted] in 1992-94 and as [redacted] in 1994-97. He was assigned to CNC in 1997. [redacted] traveled to Peru on two occasions in 1995 in support of the ABDP. His first trip was a three-week temporary duty assignment beginning in February 1995 in which he accompanied [redacted] the OIC, to start the ABDP program. [redacted] returned to Peru during June 1995 as the OIC at Pucallpa and departed Peru on 4 August 1995.

331. [redacted] old OIG that, during his assignment in [redacted] at CIA Headquarters, he was responsible for supporting the ABDP. He told OIG that the hardest part of that job was to find OICs; the ABDP "ran itself" once the OICs were deployed. According to [redacted] did not have responsibility over ABDP operational activities; rather, its role was to provide support,

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maintenance, safety, and a "sanity check." [REDACTED] said an example of providing a sanity check was assessing whether all legal and regulatory requirements for the ABDP were being met, such as asking whether the US aircraft was being used properly and whether its use had the required approvals.

332. [REDACTED] There were three shootdowns while [REDACTED] was in Peru during June and July 1995. [REDACTED] could only recall one shootdown in detail, however. That aircraft was shot down less than 25 miles from the Colombian border. [REDACTED] did not recall how the aircraft had been identified as a drug aircraft. It did not try to evade and it flew straight north toward Colombia, then went into the trees. [REDACTED] said the suspect aircraft was shot down by the FAP, but he did not know how this occurred. [REDACTED] recalled that, after the shootdown, a debriefing was held with the US pilots, the HNR, and the FAP pilots during which they watched the videotape. [REDACTED] sent a report [REDACTED] based on the debriefing, crew logs, and the notes he took as the interception proceeded. His report was put on a computer disk and given to a US pilot [REDACTED] then sent a cable to Headquarters. [REDACTED] may have stated in his report that the shootdown went "in accordance with existing procedures." By this, he said, he did not mean in accordance with international procedures because there are no international procedures for shootdowns. No one asked him any questions about the shootdown.

333. [REDACTED] recalled that there were a number of shootdowns in Peru during the time he was assigned to Headquarters, and he read all the cable traffic about the shootdowns for [REDACTED]. He noted that the only problems with regard to the ABDP that were ever raised to him while he was at Headquarters were issues involving the safety of CIA aircraft and communications nets.

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334. [REDACTED] served two 45- to 60-day deployments to Pucallpa as the OIC in support of the ABDP. The first deployment took place during the summer and fall 1995 and the second in the spring 1996.

335. [REDACTED] There were two shootdowns during [REDACTED] time in Peru. One occurred while he was serving with [REDACTED] and another prior to his departing Peru in fall 1995. According to [REDACTED] both took place at night and, in both, the target aircraft flew as fast as possible, low at treetop level, and landed at clandestine airfields. Radio contact was attempted in both with negative results. [REDACTED] believed that the FAP interceptor attempted visual communication by turning on its landing lights, but he did not specifically recall that being done. Warning shots were fired. According to [REDACTED] all phases were followed in both shootdowns.

336. [REDACTED] said that he and the aircrews reviewed the videotapes of these shootdowns. He stated that, while he did not see any attempts at visual communications on the tapes, he did hear references to them. One copy of the videos was sent [REDACTED] and another to CIA Headquarters. No one at Headquarters ever challenged [REDACTED] over whether the required intercept phases had been followed. [REDACTED] said he was not aware of a requirement to report deviations in ABDP intercept procedures. He stated, however, that following shootdowns, "I reported everything that happened."

337. [REDACTED] In his OIG interview, [REDACTED] viewed portions of several shootdown videotapes and made the following observations:

- ◆ *14 July 1995 Shootdown:* [REDACTED] vaguely remembered being in Pucallpa listening to the [REDACTED] [REDACTED] during this shootdown. He said there was some confusion about whether the HNR had received authorization for the shootdown because [REDACTED] could not be heard [REDACTED] [REDACTED] speculated that the Peruvian

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authorization must have come over the VHF radio frequency. [REDACTED] said that the order given by the US crew to the FAP to "continue to shoot" civilians on the ground was out of bounds. He said that making another sweep on an aircraft down in the water was "not something we were in Peru to pursue." He characterized it as an errant, inappropriate comment made in the heat of the moment, such as US crews had made in the past. [REDACTED] emphasized more than once, however, that the Peruvians were the chain of command and that it was Peru's call on how to conduct the intercept mission. [REDACTED] said he did not recall receiving clear-cut instructions on strafing rules, so he did not know if the Peruvians were allowed to strafe aircraft on the ground. [REDACTED] told OIG that he had deferred to [REDACTED] on this shutdown because [REDACTED] was "running the operation," and [REDACTED] understanding and background were more extensive than [REDACTED]. Had [REDACTED] been the only OIC, he said, he would have reported this deviation. He assumed [REDACTED] saw this videotape and that it was sent to CIA Headquarters. [REDACTED] also assumed that Program Manager [REDACTED] would have been responsible for ensuring compliance. He reiterated that it was the OIC's duty to report the strafing, however.

- ◆ *17 August 1995 Shootdown:* [REDACTED] recalled this event as the shutdown in which the target aircraft crashed in Brazil and identified himself on the audio portion of the tape. [REDACTED] said the videotape clearly does not show what he remembered as having transpired. His impression and assumption at the time were that authorization for the shutdown had been received. However, upon reviewing the tape, [REDACTED] stated that it appeared he had been

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mistaken. Observing that 85 seconds elapsed from the time of the radio call to the time the HNR reported that the A-37 was firing on the target, [redacted] remarked that 85 seconds was a short period of time. When asked whether the A-37 had been able to establish visual contact, [redacted] responded that he could only include in his report [redacted] what the crews told him, namely that the mission was conducted according to procedures. He did not recall the US aircrew expressing any concerns regarding this shutdown or mentioning the compression of the intercept phases. At the time, he said, he was focused on the fact that the target had crashed in another country, one that did not participate in the ABDP.

[redacted] said his assumption about this shutdown was wrong and that the shutdown was not conducted as it should have been. [redacted] said that, after a shutdown, he had neither the time nor the opportunity to review the videotape frame-by-frame. In addition, he did not see the necessity to do so; someone at [redacted] would review both the videotape and [redacted] report. [redacted] was sure [redacted] would have taken a look at it if he was there. But he never received feedback [redacted] [redacted] regarding this shutdown or any other shutdown in which he participated.

- ◆ *4 August 1997 Shutdown:* [redacted] observed that 90 seconds elapsed from the time Phase I began to the time shots were fired. It did not appear to him that Phases I and II were completed in this shutdown. He said maybe radio contact was attempted but from his review of this tape it did not look like visual contact was established.

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338. [redacted] said he did not conduct a frame-by-frame analysis of the videotapes. The quality of the shutdown videotapes was not good and did not provide a full picture of the shutdown. Instead, he was trained to look at the highlights of the shutdown, not the intercept phases unless there was an indication of a problem. In addition [redacted] said he did not have the time to review the videotapes so, as OIC, he took his lead from what he heard [redacted] and what the pilots told him.

339. [redacted] told OIG that he had misgivings about how the ABDP was being run while he was in Peru. He said there are always trade offs between saluting the flag and personal beliefs, and he had saluted and carried on. He stated that there is a fine line between a person doing what he is told to do to the best of his ability and that person's personal beliefs and proclivities. But, he said, the ABDP was extolled as a great program by Headquarters, because it kept drug prices high and kept drugs from flowing north.

340. [redacted] said the shutdown videotapes were viewed often, but not with a "seasoned eye." Although he had no role in briefings prepared for Congress, [redacted] said he heard peripherally that the tapes were very popular as visual evidence of the war on drugs. [redacted] said the videotapes were disturbing and, if people had taken the time, it would appear there was an issue that needed to be raised earlier.

341. [redacted] a native Spanish speaker, served as an OIC in Peru three times.⁷⁷ As OIC, [redacted] said his job was to see that the ABDP was carried out in accordance with policy and to take care of the crew and equipment. He described his role as that of on-scene commander, responsible for all aspects of the ABDP.

⁷⁷ [redacted] Agency records indicate that [redacted] tours in Peru occurred in March to April 1995, October to November 1996, and July to August 1997. He also had been associated with the program before it was discontinued in 1994.

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[REDACTED] was in Peru at the time of the 4 and 17 August 1997 shootdowns; he reported to [REDACTED] Officer [REDACTED] [REDACTED]

342. [REDACTED] said he was familiar with the 1994 Presidential Determination and MOJ and probably had read them in Headquarters [REDACTED]. He characterized them as the legal authority for providing lethal assistance and training to the Government of Peru and for specifying the intercept procedures. If procedures were not followed, [REDACTED] said, he had an obligation to inform the [REDACTED] Officer, who would advise [REDACTED]. [REDACTED] indicated that he and other OICs understood the requirement to report deviations from the required intercept procedures. [REDACTED] said he also assumed [REDACTED] and Juanjui [REDACTED] officer [REDACTED] were aware of the requirement to report deviations. According to [REDACTED] "lived with [the ABDP] 24 hours a day."

343. [REDACTED] *Identification of Target Aircraft.* [REDACTED] said that any time there was a question about the status of a target of interest, the HNR on the US aircraft was required to call in the tail number and wait for a response from the ground. This was designed to eliminate the possibility that the target was not a narcotics trafficker. [REDACTED] emphasized that the FAP had to wait for a response from the FAP VI RAT before engaging the target.

344. [REDACTED] *Intercept Procedures.* Following the point at which the US aircraft vectored the FAP aircraft to the target, [REDACTED] said US personnel had no involvement in decisionmaking. The HNR became the forward air command and took over the operation. After approaching the target, the FAP attempted radio contact. If that failed, the FAP pilot attempted contact with the target by putting its landing gear down or using a "follow me" hand signal. Another means of visual contact was for the FAP aircraft to fly by the target.

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345. [REDACTED] explained that, if the target aircraft disregarded radio and visual communications, the FAP could fire warning shots after receiving authorization from the VI RAT commander. If the target did follow the FAP aircraft, visual signals were used to direct it to an airfield; if the target did not follow or attempted to evade, the VI RAT gave approval to shoot it down.

346. [REDACTED] noted that wing waggling and lowering the landing gear only mattered when an aircraft was going to follow the FAP and land. [REDACTED] did not recall ever seeing wing waggling or landing gear drop because he was never in Peru when a force down occurred.

347. [REDACTED] said he reviewed the videotapes after significant missions and shootdowns and prepared a report. As OIC, [REDACTED] heard the intercept phases in real-time, and the intercept phases appeared on the tape. He said the tapes show the visual communications and other attempts to make contact.

348. [REDACTED] In his first interview with OIG [REDACTED] described the procedures as being listed in three phases:

- ◆ Phase I was the identification of the target aircraft and subsequent attempts to gain communication through radio or visual contact.
- ◆ Phase II was firing warning shots across the bow of the target after authorization from the VI RAT.
- ◆ Phase III was the shoot down of the target aircraft after VI RAT authorization.

349. [REDACTED] In a subsequent interview, [REDACTED] told OIG that the intercept phases can, but do not always, show up on the videotape; it depends on the angle. [REDACTED] said he had seen visual signals such as wing rocking or waggling being executed on the tapes. He

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remarked, however, that whether visual signals are visible on the tapes depends on the camera angle and relative distance between the planes, noting that the planes move "pretty fast."

350. [REDACTED] stated that he and the aircrews understood that phases could not be skipped. Had a step in the intercept procedures been skipped [REDACTED] said there was a requirement to report it, regardless of its importance. Specifically, had a mission resulted in a shutdown and had an intercept phase been skipped, there was a requirement to report specifically to the AOO.

351. [REDACTED] *Radio Communication.* According to [REDACTED] the aircrews were required to contact the target aircraft by radio, to ask the target to identify itself, and to get it to follow instructions. [REDACTED] said his experience was that the targets did not usually respond. He said it was reasonable for the FAP to issue three radio warnings over a period of 3 or 4 minutes.

352. [REDACTED] *Visual Signals.* Failing a response to audio communications [REDACTED] said that visual communications with the target aircraft were required. He described visual signals as flying close across the bow, turning on landing lights at night, wing wagging, lowering landing gear to instruct the target to land, and hand signals through the canopy. [REDACTED] said that the FAP fighters flew much faster than the target aircraft and flying by the target and coming back around also constituted a visual signal. The requirement to conduct visual signals was not negated if a target began to evade following radio calls.

353. [REDACTED] *Warning Shots.* [REDACTED] first noted that warning shots were required, but he subsequently told OIG that he did not recall if warning shots were required if the target began to evade.

354. [REDACTED] According to [REDACTED] the minimum amount of time necessary to go through the intercept phases, prior to obtaining authorization for Phase III was five or six minutes. From his

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perspective, the elapsed time to complete the intercept phases also depended on the time it took for the VI RAT to respond back to the HNR on the US aircraft.

355. [REDACTED] In his first OIG interview [REDACTED] said he believed there was only one occasion when an intercept phase was skipped. It happened during his last trip to Peru, and he said he identified the deviation when reviewing the videotape. [REDACTED] gave his account of what happened in the 17 August 1997 shutdown, which he described as the FAP going from Phase I to Phase III in the matter of "a second."

356. [REDACTED] said the 17 August 1997 shutdown at first seemed like a normal shutdown, but that it did not appear the same when he reviewed the videotape. He said that, after reviewing the tape, he concluded that neither Phase I nor Phase II procedures had been followed. [REDACTED] said that, when he debriefed the US crew, they were unsure. The HNR stated he was absolutely sure the FAP had conducted both phases, however.

357. [REDACTED] notified [REDACTED] of the problem and subsequently wrote a report and sent the videotape to [REDACTED]. His report stated, unequivocally, that Phases I and II were not followed by the FAP. He said [REDACTED] came to Pucallpa to review the tape with him. [REDACTED] indicated she had doubts about his conclusion. [REDACTED] Spanish was not very good and [REDACTED] said he believed she could not understand what was said on the tape. [REDACTED] discussed whether [REDACTED] had heard what he thought he heard on the tape.

358. [REDACTED] said that [REDACTED] told him that [REDACTED] would rather not have problems. When [REDACTED] left Pucallpa, there was no agreement between them about what happened during the 17 August shutdown. According to [REDACTED] never

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told him what her report was going to say about the shutdown, and he never saw the report that [REDACTED] subsequently sent to Headquarters.

359. [REDACTED] reiterated that the report he prepared stated that Phases I and II had not been conducted before the plane was shot down. [REDACTED] emphasized that he just reported the facts and did not make recommendations.

360. [REDACTED] said he spoke to no one at [REDACTED] about this incident as he departed from his tour. Once he returned to Headquarters, however, [REDACTED] said he spoke to an [REDACTED] officer - [REDACTED] - about the 17 August shutdown. Everyone he spoke to in [REDACTED] told him it was all in a day's work - a regrettable mistake, but not a big incident. [REDACTED] said he was unaware that any Headquarters report was prepared about this shutdown. Nor did he recall discussing it [REDACTED]

361. [REDACTED] said he read the final copy of reports that he prepared and that had been sent to Headquarters after he returned from Peru. He said he found no substantive changes, maybe just softening of this writing or "wordsmithing" one time when the shutdown was not done according to procedures. In that shutdown, [REDACTED] said he probably was more proactive and direct in what he wrote. As an example [REDACTED] explained that, if he had written, "yes, this happened," it may have been changed to "yes, this might have happened." [REDACTED] knew the reports he prepared indicated that procedures were followed, but he explained he did not write that, because it was assumed. He did not remember being asked follow-up questions after he filed a report [REDACTED]

362. [REDACTED] In his second OIG interview [REDACTED] emphasized that it was not easy to reach the determination that the intercept procedures had not been followed in the 17 August 1997 shutdown. He said he had to replay the tape several times, and he spoke Spanish

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better than others. [REDACTED] said he believed he called [REDACTED] after determining there were deviations, but did not recall the timing or the detail of his call. Neither did [REDACTED] recall the point at which he prepared his report. According to [REDACTED] he called [REDACTED] before preparing his report to say that it looked as though the FAP aircraft had violated the intercept procedures.

363. [REDACTED] response was, "Oh, shit, write it up," which he was already doing. [REDACTED] came to Pucallpa that evening or the next day. [REDACTED] noted that no one wanted problems, and explained he did not have the impression at the time that [REDACTED] did not want him to report a problem. Rather, [REDACTED] wanted to find out everything so that there would not be a problem afterward. According to [REDACTED] may have said the [REDACTED] wanted him to get all the details and write them down. [REDACTED] said he gave his report to [REDACTED] that day, in person, but he could not recall the details of it. He reiterated that, upon reviewing the videotape [REDACTED] did not immediately see the problems and they watched the tape a few times. [REDACTED] noted again that [REDACTED] Spanish was not strong.

364. [REDACTED] Following the 17 August 1997 shutdown, [REDACTED] said his instructions were to continue the program as usual unless otherwise instructed. He did not recall a stand down in the program. [REDACTED] characterized the reaction from [REDACTED] as serious and said [REDACTED] understood there was a problem. [REDACTED] said no one from [REDACTED] challenged him concerning the fact that he reported a deviation in procedures. Nor was he aware that [REDACTED] had reviewed the 17 August videotape.

365. [REDACTED] The subject of problems in the 17 August shutdown did not come up again during the last few weeks of [REDACTED] tour in Pucallpa. [REDACTED] said he was not aware that [REDACTED] traveled to Peru regarding the incident. He reiterated that he spoke to neither of them, and said he did not know if the 17 August shutdown was a big deal at Headquarters.

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366. [REDACTED] said he received positive feedback from [REDACTED] and was told to "keep doing what you are doing." [REDACTED] said he left [REDACTED] shortly after his return to Headquarters. While he said he was probably considered "persona non grata" in the ABDP, no one directly advised him that that was the case. The impression [REDACTED] said he had from discussions with [REDACTED] was that he had done the right thing.

367. [REDACTED] *4 August 1997 Shootdown.* [REDACTED] told OIG that he believed this shootdown complied with the PD and MOJ requirements. He reviewed the videotape prior to sending it and his report to [REDACTED] said he told [REDACTED] that, according to the US aircrew and his report notes, he had no reason to believe intercept procedures were not followed.

368. [REDACTED] reviewed relevant portions of this videotape with OIG and reiterated that he saw no problem. He did note that the period from initiation of the intercept to shootdown seemed "really brief," but said he did not believe that constituted a deviation in procedures. He did not believe such a conclusion could be reached by simply watching the videotape as not everything can be seen on the tape. [REDACTED] said he did not recall either the failure to obtain this target's tail number or the refusal of the US aircrew to approach the target to obtain the tail number. He believed the tail number was always obtained, or else it was clear that there was no flight plan for the area in question.

369. [REDACTED] With respect to visual communications, [REDACTED] said he could not tell from the tracers where the fighter fired. He also said that most of the time the FAP fighters over flew the target. He suggested that talking to the US aircrew would resolve the question concerning visuals. One can see a lot more by looking out the cockpit windows, and [REDACTED] said he recalled discussing this shootdown with the US pilots.

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370. [REDACTED] said that, while it appeared from the videotape that Phases I and II were not properly executed, he did not draw that same conclusion after reviewing the mission both then and now. He believed it was possible that the FAP fighter executed the visual signals out of FLIR range. [REDACTED] said that, from what he saw on the videotape and based on what the US crew told him, he believed the intercept phases were implemented.

371. [REDACTED] said proximity to the Brazilian border should not have had an impact on the mission with respect to whether or not the intercept phases were completed. He suggested that perhaps some FAP pilots may have been influenced by the close proximity to the border, but he was not certain of this theory. In this instance, as the tape indicates, the target aircraft was six minutes to the border; [REDACTED] said that was close but not that close. According to [REDACTED] six minutes is enough time for the interceptor to maneuver and perform the phases.

372. [REDACTED] Upon reviewing the videotape a second time, [REDACTED] said it was possible that the tracers could have been fired from one mile back. This was possible because a lot happens that cannot be seen on the tape. As to the conclusions he reached regarding the 4 August shutdown, [REDACTED] said he relied on what the crews told him. If the crew had said the videotape reflected what happened and their testimony was that "no visuals were attempted," [REDACTED] said that would be a problem, but he did not recall that happening on 4 August 1997.

373. [REDACTED] served in [REDACTED] DO/MSP from mid-1997 through 2000. During this time, he served two temporary tours of duty deployments in Pucallpa as an OIC, overseeing the air operations of the ABDP. [REDACTED] OIC tours ran from 17 September through 6 November 1997 and from 21 January through 23 February 1999. There were two shutdowns during his first tour and none during his second.

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374. [REDACTED] told OIG that he was briefed on the ABDP [REDACTED] before deploying to Peru in 1997. He recalled that he was told that the Peruvian FAP could not shoot down a target unless it met the profile of a narco trafficker, was thoroughly identified, and was given an opportunity to surrender. [REDACTED] was instructed to scrutinize the interceptions to make sure the procedures were complete before turning the process over to the FAP. [REDACTED] told OIG that, when he arrived [REDACTED] in 1997, [REDACTED] also briefed him on the ABDP, including the procedures. He was given time to absorb the material and told to return the following day, at which time [REDACTED] made sure he understood the procedures.

375. [REDACTED] said it was his responsibility, after a shutdown, to debrief the US aircrews, the HNR, and the FAP OIC to determine if there had been any problems with the linkup, whether or not radio contact had been made with the target aircraft, whether or not procedures had been followed, and the reaction of the TOI to the warnings. Following the debriefings, [REDACTED] watched the videotape of the intercept alone, sometimes twice, before preparing his report. [REDACTED] then forwarded the tape and his report to [REDACTED] at [REDACTED] also noted that [REDACTED] usually came to Pucallpa the morning after a shutdown. OICs carried copies of tapes with them back to [REDACTED] Headquarters, and [REDACTED] said he remembered carrying back the tapes of the two October 1997 shutdowns. He said [REDACTED] used one of these tapes as training for future OICs.

376. [REDACTED] *Actual Intercept Procedures Used in Peru.* [REDACTED] described the intercept procedures used in Peru, stating that Phase I was identification of the target aircraft, followed by flight plan and tail number checks. The FAP waited for a response from the ground regarding the tail number "most of the time" before engaging the target aircraft. If the TOI was close to the border of Brazil or time did not permit, however, [REDACTED] said the FAP did not have to verify the tail number.

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377. [REDACTED] Next, the FAP fighter "shocked" the TOI by appearing out of nowhere. The TOI was contacted by radio and told to break off. If the TOI did not respond, the FAP made the decision to proceed to Phase II. In Phase II, the fighter attempted warning shots. The FAP made the decision to go to Phase III if the target failed to yield. Phase III was destruction of the aircraft.

378. [REDACTED] In his first interview, [REDACTED] told OIG that [REDACTED] had told him the warnings given to the TOI were to be done mainly via radio. [REDACTED] had said that, if radio contact failed to be established, the interception could proceed to the next phase. [REDACTED] said that [REDACTED] never told him that, if radio communications failed, the FAP interceptor should fly alongside the target aircraft. He understood this was optional. [REDACTED] reiterated that [REDACTED] did not tell him visual communication was a requirement if radio contact failed. Also, [REDACTED] believed that visual signals could not be conducted at night.

379. [REDACTED] said he was familiar with ICAO procedures for the interception of civil aircraft, but he did not remember if ICAO procedures were required for the ABDP. [REDACTED] said he did not believe ICAO procedures required visual communications between aircraft in the event radio contact could not be made. He stated that the FAP fighter used visual signals to communicate only if the TOI allowed the fighter to get close enough. [REDACTED] said the FAP would have to get very close to communicate at night. Thus, [REDACTED] believed that the aircrews were to use all options to contact the target aircraft, but that visual communication was not mandatory.

380. [REDACTED] In his second OIG interview [REDACTED] characterized the procedural requirements as being much more stringent. He now stated that visual signals were required, not optional. [REDACTED] further said that there were no situations in which procedures could be skipped. Even if the target aircraft took evasive action after radio calls, visual signals were still required because there was always a chance that the target would choose to land. He noted that the ABDP

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was a lethal program and one of the biggest things going at the time. [redacted] said it was imperative that the ABDP was conducted properly.

381. [redacted] stated that only narcotics traffickers were legitimate ABDP targets and that other types of illegal flights were not potential targets. He said he had been briefed on the profile of a narcotrafficker: a TOI flying at night without lights, or flying low in order to avoid radar, or coming from Brazil. If a TOI fit this profile, it was a legitimate target to be shot. If a TOI was randomly located without a tip, US personnel had to call in the target's tail number and wait for a response from the ground. If the tail number could not be obtained, they would not be able to go through with the shutdown. Instead, they were to gather information on the target with the hope of getting it another day. If an unidentified target picked up during a routine patrol began evading, however, that was evidence that it was a narcotics trafficker.

382. [redacted] *Review of Videotapes.* During his OIG interviews, [redacted] made the following comments before and after viewing videotapes of the two shutdowns that occurred while he was an OIC:

- ◆ **6 October 1997 Shutdown:** In his first interview with OIG, [redacted] recalled that this target definitely fit the narcotrafficker profile because it was flying low and was in Puerto Rico.⁷⁸ The [redacted] obtained the tail number, which matched the source information. [redacted] recalled that, in Phase I, the HNR contacted the target via radio and gave it a long time – about four to five minutes – to respond. In Phase II, the target was given "significant" warnings and told to turn and follow the FAP fighter. [redacted] noted that the FAP fighter was told to get close to the target and continue radio warnings, but that there was no response after three to five

⁷⁸ [redacted] is referring to a town in northern Peru.

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minutes. In Phase III, according to [REDACTED], the target was given another warning, but there was no attempt at visual communication. The FAP gave the order to fire on the target; two bursts were fired, and the target turned into a fireball. [REDACTED] said he and [REDACTED] watched the videotape of the interception. When the FAP fighter aircraft separated from the [REDACTED] the target began evading. [REDACTED] believed this interception went "by the book and followed all procedures."

- ◆ After viewing relevant portions of the videotape of this shutdown in his second OIG interview [REDACTED] identified several problems. He acknowledged that the target had never been identified and that the ABDP participants had relied heavily on the intelligence. He said that he had heard no request to initiate Phase I, and he remarked on the lack of dialogue between the phases. He said he believed the target heard the radio warning because it began moving erratically and changing its course. But he said he saw no indication of any attempt to conduct visual signals and noted that only a short period of time elapsed between initiation of the intercept steps and the shutdown. He said he had no answer to the question of whether or not warning shots had been fired. [REDACTED] noted there was no time to fire warning shots since the target was close to the border. [REDACTED] explained that, if an intercept occurred at night and the target was flying at a low level close to the border, visual signals did not have to be done. [REDACTED] said he was told that these types of flights were narcotics traffickers and that the FAP therefore did not have to do the warning procedures, although it still tried to do them. [REDACTED] told OIG, "We could deviate from visuals if the TOI was close to the border and might escape," since the "primary purpose was to not let the TOI escape." [REDACTED] said he was

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satisfied that the target aircraft on 6 October was a drug trafficker. He stated that neither [redacted] nor anyone else had challenged him. He added that possibly they should have challenged him.

- ◆ **12 October 1997 Shootdown:** In his first interview, [redacted] told OIG that this interception had followed the same format as the previous one and that it included all three phases. The TOI was trying to [redacted] and the United States and the FAP were going to have to break off the pursuit because they were getting close to the border. The TOI made a turn back into Peru and that is when the FAP fighter was ordered to fire. The TOI started to evade when the order to shoot was given, and the FAP fighter did not get close enough to communicate visually. [redacted] told OIG he did not recall warning shots being fired. He said this interception happened fast and that the target had given the FAP "a run for the money." Upon reviewing the videotape of this shootdown at Pucallpa, [redacted] said he had seen no surprises. He said he had told [redacted] during his debriefing [redacted] that procedures were followed in both interceptions and that she had asked no follow-up questions.

During his second OIG interview, [redacted] again watched the videotape. He repeated his previous comments that this target fit the profile of a drug flight. He said the Peruvian commander had given the TOI a long time to respond, and [redacted] believed the target might have been lost because it had such a big head start. [redacted] did say, however, that the US pilot's request that the FAP fighter be launched was possibly problematic because all orders were supposed to be Peruvian to Peruvian. He also observed that no tail number was obtained and repeated that there had been no attempt

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to conduct visual signals. [REDACTED] told OIG that he had never been challenged about the procedures conducted during this shutdown.

383. [REDACTED] served [REDACTED] in Peru from July 1999 until early August 2000. Prior to his deployment to Peru, he had been in language training for almost a year. The year before that, he had been stationed in [REDACTED] where he was not involved in the ABDP. [REDACTED] told OIG that he reviewed files at Headquarters before leaving for Peru. He read the PD and the MOJ and said those documents described how the ABDP was to be instituted. He also remembered meeting with the [REDACTED] Military and Special Programs and with several [REDACTED] officers. He told OIG that he did not view any ABDP videotapes before July 1999.

384. [REDACTED] had several telephone conversations with [REDACTED] and made an orientation trip to Peru before deploying to [REDACTED] in late July 1999; he then had three or four days of overlap with [REDACTED] told OIG that he and [REDACTED] did not discuss ABDP shutdown procedures at any time. According to [REDACTED] [REDACTED] who was the [REDACTED] Officer [REDACTED] during his tenure [REDACTED] represented the expertise and continuity in the ABDP. He had the impression that [REDACTED] knew his job, and he had no reason to doubt the latter's ability. He said he discussed ABDP procedures with [REDACTED] to confirm that they were being adhered to.

385. [REDACTED] stated that he was not involved in the day-to-day details of ABDP operations. He said he had met with the VI RAT Commander when he arrived in Peru, but did not recall their specific conversations. He said he did not recall having discussions with the OIC or pilots regarding whether the procedures for the ABDP were being followed. Nor did he recall ever hearing complaints with respect to safety issues or the interception rules of engagement.

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386. [REDACTED] told OIG that he met routinely with the OICs prior to their deployment to Pucallpa as well as when they were leaving, and he assumed that he confirmed the three steps of the interception with them during these discussions. [REDACTED] had no recollection of OICs raising problems regarding intercept procedures on their way out of Pucallpa.

387. [REDACTED] was shown a document he had signed [REDACTED]. He recalled signing the document, which was the October 1999 joint SOPs for use in the ABDP. [REDACTED] said he had come [REDACTED] on his way to the airport to leave for a vacation, and he had seen the document on his desk with a note requesting his immediate signature. [REDACTED] said he was irritated because he was supposed to be at the airport to catch his flight. He said he called [REDACTED] to his office to discuss the necessity of signing the document. He claimed that [REDACTED] told him the SOPs were nothing new, just a reiteration of the old SOPs that Peruvian officials wanted updated with the new [REDACTED] signature. [REDACTED] reviewed the first few pages, but did not read the entire document. He signed it based on [REDACTED] assertion that it was a reaffirmation of what had gone before. He said he had not read the previous SOPs because [REDACTED] never brought them to him.

388. [REDACTED] was not in Peru when the 17 July 2000 shutdown occurred. He said he learned about it when he returned [REDACTED] on 23 or 24 July or possibly in a phone call from his deputy. He was in the office for only a day as he was called back to Headquarters for a new assignment; he subsequently returned to Peru for a few days to pack out of the country. The deputy subsequently told him that there had been a Country Team review of the shutdown.

389. [REDACTED] told OIG that he did not review any tapes or information regarding previous shutdowns. He said he was on his way to a meeting at Headquarters when an unidentified LA Division [REDACTED] officer invited him to join other LA Division officers in viewing the videotape of the 17 July 2000

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shutdown. [REDACTED] watched the video for a few minutes and then continued to a meeting. He did not recall any details about the video and had no interest in it, because he was no longer [REDACTED].

390. [REDACTED] had a clear understanding of the required procedures for an ABDP intercept. He stated that contact was the most important thing. He also understood that, even if the target aircraft made an evasive maneuver, the sequence of required phases still had to be followed. He told OIG that he had never heard the FAP or any US official claim that evasive action taken by a target aircraft was sufficient basis for ignoring required visual communications. He reiterated that visual signals were necessary even after a target began evading.

391. [REDACTED] In response to a question concerning whether or not the PD required that deviations in the ABDP be reported [REDACTED] responded that deviations absolutely had to be reported since this was a National Security Council-mandated program.

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PART II: CIA'S ROLE IN INVESTIGATIONS OF THE CONDUCT OF THE AIR INTERDICTION PROGRAM, 2001-2005

392. [REDACTED] **Introduction.** Following the 20 April 2001 shutdown of the US missionary plane, investigations of the Airbridge Denial Program (ABDP) began within and outside CIA. Within CIA, DCI George Tenet established the Peru Task Force (PTF) and the Peru Senior Steering Group on 27 April 2001. Subsequently, in May 2001, Executive Director Buzzy Krongard tasked the [REDACTED] Latin America Division's [REDACTED] to conduct an accountability review of the program. Finally, in October 2002, the new General Counsel initiated a review of the program.

393. [REDACTED] Outside the Agency, the National Security Council (NSC) created an Interagency Review Group (IRG),⁷⁹ comprised of representatives from US and Peruvian Government agencies involved in the ABDP. The IRG issued a report in late July 2001. The Senate Select Committee on Intelligence (SSCI) also undertook an examination of the program and the missionary shutdown. It issued a report in October 2001.⁸⁰ Both groups asked that the Agency provide them with relevant materials and information developed during its internal reviews.

394. [REDACTED] CIA's internal reviews found that the ABDP had not operated in accordance with the legal requirements set out in the Presidential Determination and Memorandum of Justification. As early as mid-June 2001, the Peru Task Force had collected sufficient evidence to determine that the program had not been in compliance since the earliest shutdown of 1995. Subsequently, in early 2003, the attorney conducting the investigation for the General Counsel

⁷⁹ [REDACTED] US Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Rand Beers headed the IRG; the IRG also was referred to as the Interagency Review Commission (IRC).

⁸⁰ [REDACTED] A third study, conducted by retired Ambassador Morris D. Busby, focused on policy and the question of whether or not to restart the program.

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reached the same conclusion. However, neither the conclusions nor the information obtained by the PTF, the [redacted] Accountability Review, nor the General Counsel attorney was ever furnished to those outside the Agency – the IRG, the Congress, the NSC, or the Department of Justice.

CIA STATEMENTS IMMEDIATELY FOLLOWING THE MISSIONARY SHOOTDOWN

395 [redacted] Statements by senior CIA officers in the immediate aftermath of the missionary shootdown obscured and misrepresented the Agency's performance in running the ABDP. On 21 April 2001, LA Division [redacted] and [redacted] of the Crime and Narcotics Center (CNC) prepared a four-page memorandum addressing the missionary shootdown and the general conduct of the ABDP. The memorandum, which was coordinated with the Director of CNC, [redacted] stated that, "Clear rules on engagement were established at the onset of the program." It described these rules as requiring that visual signals be conducted consistent with the guidelines of the International Civil Aviation Organization (ICAO). The memorandum stated that:

If radio contact [with the target plane] is not possible, the [Peruvian Air Force] pilot *must use* a series of internationally recognized procedures to make visual contact with the suspect aircraft. . . .
[Emphasis added.]

The memorandum, by stating the rules without modification – that the Peruvian pilot *must use* internationally recognized procedures to make visual contact if radio contact was not possible, but not stating what happened, implied that the required visual signals had been routinely implemented in the ABDP. In fact, visual signals had not been conducted in any of the 15 shootdowns.

396. [redacted] This memorandum was presented to Vice President Richard Cheney on 21 April 2001. Two days later, the CIA's Chief of

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Public Affairs, William Harlow, received it. Harlow made slight modifications to the introduction of the memorandum and used the text on background with the press, attributable to US officials. Pertinent portions concerning the conduct of the ADBP – the existence of clear rules of engagement at the onset of the program and the requirement to use visual signals as part of the intercept procedures – did not change.

397. [REDACTED] Harlow attached the press background paper to an e-mail, sent on 23 April 2001, to DDCI John McLaughlin, DCI Chief of Staff John Moseman, Deputy Executive Director John Brennan, [REDACTED] and others. Harlow informed these senior managers that the information had been used with print and broadcast media that day.

398. [REDACTED] On 23 April 2001, the Public Affairs Office sent each Agency employee an e-mail entitled, "The Peruvian Air Bridge Denial Program and the April 20 Incident." The e-mail repeated the literally true but misleading information that clear rules of engagement had been established for the program and that intercept procedures consistent with ICAO guidelines were required. The statement that visual signals *must* be used remained unchanged. Director of CNC [REDACTED] sent an e-mail to all CNC employees on the same day, asserting that the press guidance issued by Public Affairs:

. . . accurately reflected the role our CIA contract officers played in trying to ensure that the Peruvians properly identified and signaled the airplane before any aggressive action was taken by the Peruvians – unfortunately and tragically, they did not succeed.

OIG found no evidence that [REDACTED] ever corrected the information provided to the Vice President, the media, senior Agency managers, the Agency population, and the public.

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399. [redacted] On 24 April 2001, [redacted] edited a draft statement prepared for DCI Tenet to present to the SSCI on the missionary shutdown and the conduct of the ABDP. A section in the draft provided a description of standard operating procedures for each phase of a shutdown, including the requirement that visual signals be performed. In her handwritten notes on the draft [redacted] recommended deleting the statement that visual signals were required. The written testimony that Tenet presented to the SSCI, dated 25 April 2001, did delete the reference to visual signals, indicating that [redacted] editing changes had been adopted. [redacted] both attended the SSCI briefing and did not offer any corrections to the record.

400. [redacted] On 30 April 2001, [redacted] sent a cable to [redacted] [redacted] entitled, "Preliminary Information on the 20 April Shutdown Incident in Peru." Following an introductory paragraph, the cable repeated most of the language used in the media briefings and notification to the Agency workforce. [redacted] changed the language concerning the use of visual signals, however. The original statement to the Vice President and media had said:

If radio contact [with the target plane] is not possible, the [Peruvian Air Force] pilot **must use** a series of internationally recognized procedures to make visual contact with the suspect aircraft. . . . [Emphasis added.]

[redacted] cable said:

If radio contact is not possible **and depending on the circumstances of the intercept**, the [Peruvian Air Force] pilot **should attempt to use** a series of internationally recognized procedures to make visual contact with the suspect aircraft. . . . [Emphasis added.]

[redacted] asked [redacted] to review the cable before release. She offered no correction to this language.

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401. [REDACTED] After reviewing the various versions of the language concerning the requirement to conduct visual signals, [REDACTED] [REDACTED] – who implemented the ABDP in Peru from 1995 to 1999 – told OIG that the statement in [REDACTED] cable to LA Division most accurately reflected the reality on the ground. He said [REDACTED] was accurate in stating that the interceptor *should attempt* visual signals depending on the circumstances of the intercept. [REDACTED] said that [REDACTED] editing of DCI Tenet's written testimony was inaccurate and did not reflect his understanding of the situation.

402. [REDACTED] In sum, in the immediate aftermath of the missionary shootdown, the language of Agency statements addressing visual signals obscured both the requirement that such signals be used and the fact that they never had been used, thus misleading recipients of the information. The original language – provided to the Vice President, senior Agency managers, employees, and the press – stated that visual signals were required if radio contact was not possible. This language implied that visual signals had actually been performed when, in fact, they had not been performed. [REDACTED] removed the reference to the requirement for visual signals from DCI Tenet's written testimony to the SSCI. This action precluded the logical follow-on question – whether or not visual signals in fact had been performed. [REDACTED] modified the language with respect to visual signals when he cabled LA Division personnel that the Peruvian pilot "should attempt" to use internationally recognized procedures to make visual contact. His formulation came closer to the reality on the ground – and also closer to an acknowledgement that the program had been, from the beginning, in violation of the requirement to conduct visual signals.

INTERNAL CIA EXAMINATIONS OF CONDUCT OF AIR INTERDICTION PROGRAM

PERU TASK FORCE AND PERU SENIOR STEERING GROUP

403 [REDACTED] Seven days after the missionary plane shootdown, DCI Tenet created two groups to review the shootdown

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and the broader airbridge denial program: an investigatory Peru Task Force (PTF) and a board of senior Agency managers called the Peru Senior Steering Group (PSSG) to provide oversight. He charged both groups with multiple tasks, including:

Determining the facts of the [missionary] shutdown itself and the underpinnings of the broader so-called airbridge denial program. This includes ensuring the completeness and accuracy of the documents already produced by various Agency components.

Making recommendations to me, based on the results of the fact-finding effort, regarding any elements of the April incident or airbridge denial program that need further review.

Gathering any material that needs to be provided to the NSC-led Interagency Working Group (IWG)⁸¹ on Peru.

Providing daily updates to me, the DDCI, and the PSSG on all relevant issues, including any new information or facts that come to light, actions the task force is taking or anticipates taking, interactions with the IWG, and developments in Peru to include dialog with the Peruvians.

404. [redacted] The PSSG was composed of the Agency's senior leadership: Assistant DCI for Military Support Lieutenant General John Campbell, Executive Director Krongard, Deputy Executive Director John Brennan, DDO James Pavitt, Deputy Director for Intelligence Jamie Miscik, General Counsel Robert McNamara, Acting Director of Congressional Affairs [redacted] and Director of Public Affairs Harlow. Tenet directed the PSSG officers to:

... provide guidance and support to the Peru Task Force as well as to ensure that the Agency's corporate interests are addressed in the actions we take internally, within the US Government, and within the context of US-Peruvian relations.

⁸¹ [redacted] The "Interagency Working Group" referred to in the DCI's memorandum is the same as the "Interagency Review Group," the external investigation mentioned above and discussed in detail later in this Report.

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405. [REDACTED] Tenet appointed [REDACTED] of LA Division [REDACTED] and [REDACTED] of CNC [REDACTED] to lead the PTF. CNC's [REDACTED] replaced [REDACTED] on the PTF in early June 2001. LA Division Legal Adviser [REDACTED] was designated to "support all legal questions resulting from the daily meetings and efforts of the Peru Task Force."

406. [REDACTED] Although Tenet had named [REDACTED] to lead the PTF, LA Division [REDACTED] and CNC [REDACTED] were deeply involved in the PTF's efforts. [REDACTED] who had had oversight responsibility for ABDP operations, either prepared or reviewed much of the substantive information used in the PTF's reporting on the conduct of the ABDP. They reviewed and provided input to PTF daily updates, draft memoranda, and responses to internal and external questions. They were included in the group e-mail address established for PTF members, ensuring that they received every e-mail message sent within the group.

407. [REDACTED] told OIG that the period he served as PTF chief was awkward because, within LA Division, he was deputy to [REDACTED] the "father" of the ABDP. [REDACTED] confirmed to OIG that, while she had not been a formal member of the PTF, she had close contact with it in handling questions and briefings. She also said that she had received daily information regarding its activities, which allowed her to comment on certain matters when she felt it was appropriate.

408. [REDACTED] **Peru Task Force Findings.** The PTF laid out its findings in a series of draft memoranda intended for the DCI and the PSSG. These drafts, as they evolved during the week of 7 to 14 May 2001, show changes in language that increasingly obscured the group's initial conclusion that the ABDP had not followed required

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procedures. The changing language also increasingly minimized the responsibility of Agency officers for the failure of intercept procedures in the missionary shutdown.

409. [redacted] *Adherence to Intercept Procedures.* The PTF's initial draft of 7 May 2001 concluded that Peru's intercept procedures had to be modified to bring them into compliance with international standards. The 7 May 2001 draft stated that:

A review of documentation concerning [Peruvian Air Force] FAP intercept procedures reveals a variance between international standards and those subscribed to by the FAP. Specifically, FAP written procedures do not specify internationally recognized visual warning signals to the suspect aircraft, prior to use of lethal force. **All host nation intercept Standard Operating Procedures must be modified to bring them into compliance with international standards.** [Emphasis added.]

After coordination among the participants listed on the PTF group e-mail address list, including [redacted] this finding was modified the next day. On 8 May, the PTF draft report concluded that:

There appear to be variances between the current jointly developed ADP intercept standard operating procedures (SOP's) [sic] and the International Civil Aviation Organization (ICAO) guidelines cited in the 1994 Presidential Determination that enabled the ADP. **Over time, the original ADP intercept procedures were simplified, and certain steps omitted, at the operating level.** [Emphasis added.]

After further coordination among the same participants, in the 9 May draft, the Task Force softened its language concerning the gap between ABDP and internationally recognized procedures and dropped the attribution of the change to "the operating level." The 9 May draft concluded that, **"Over time, the original ADP intercept procedures were abbreviated."** [Emphasis added.] The "final" 14 May draft PTF report retained the 9 May conclusion that procedures became "abbreviated" over time.

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410. [redacted] *Agency Oversight of Compliance with Procedures.* The PTF initially concluded that the Agency had no formal means to ensure that required procedures adhered to the legal requirements and were briefed to all new participants. The draft of 7 May said:

Ensuring ADP Legal and Policy Continuity: CIA has no formally established means for indoctrinating CIA personnel new to the ADP to ensure that any change in procedures continues to meet the legal and policy thresholds established by the 1994 Presidential Determination. Likewise, there is no accepted standard for documentation of such changes, or for Headquarters review.

This finding disappeared from the 14 May version of the PTF draft report.

411. [redacted] Additionally, the conclusion in the 7 May version of the PTF draft that there was not a sufficient "Program Review" of the ABDP in place was modified to characterize the lack of oversight and review of the program's implementation as an Intelligence Community-wide responsibility, as opposed to an Agency obligation. Overall, the 14 May draft was weaker in its conclusions concerning the Agency's performance in the ABDP than the original version. The Task Force had softened or removed language that dealt with adherence to required procedures, training, program review, and oversight.

412. [redacted] *Non-Issuance of a Final PTF Report.* The PTF never published a final report of its investigation.⁸² The 14 May 2001 draft was given to the PSSG and also was included as an annex in the Agency's Accountability Review of August 2001. OIG found no later versions, and PTF members told OIG that they believed there were no later versions. According to several PTF members, Legal Adviser [redacted] had advised the PTF to keep all documents in draft form.

⁸² [redacted] The rationale for not issuing a final or formal report was that the DCI had not explicitly tasked the PTF to provide a written report of its investigation, and PTF Chairman [redacted] told OIG that he had never been asked to provide a final report.

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One recalled that [REDACTED] rationale was that the PTF should not create any final documents that might influence other investigations. DCI Chief of Staff Moseman recalled that the Agency had decided to keep PTF work products in draft because of concerns about possible civil litigation. Agency officers told outside investigatory groups, such as the IRG and the SSCI, that there was no final report from internal CIA investigations. This enabled the Agency to successfully deny these groups access to the PTF's findings.

413 [REDACTED] After completing its 14 May "draft" report, the PTF continued to collect and document findings concerning ABDP procedures. Although it continued to identify additional and significant problems in the operation of the ABDP dating back to 1995, the Task Force never supplemented its "draft" of 14 May. For example, [REDACTED] told OIG that the PTF determined that intercept procedures followed in the ABDP had not been as consistent as [REDACTED] had claimed in her review of the program in September 1997. He noted that the PTF never located documentation to support [REDACTED] statement that intercept procedures were "more stringent" than those required by the Presidential Determination and MOJ. In fact, the PTF had access to the SOPs of February 1997, which omitted the requirement that visual signals be implemented and which demonstrated that [REDACTED] conclusions were inaccurate.

414 [REDACTED] told OIG that he has since concluded that the ABDP clearly suffered from more than the erosion "over time" of operating procedures, as the PTF reported. He said that some actions taken in the ABDP directly contradicted the PD and MOJ requirements. [REDACTED] claimed that he personally discussed these problems with DCI Chief of Staff Moseman and Deputy Executive Director Brennan. He said he also had discussed the PTF findings and inconsistencies with [REDACTED] DO [REDACTED] [REDACTED] who produced the Accountability Review.

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415. [REDACTED] *Use Of Visual Signals And Standard Operating Procedures.* The PTF had been tasked to determine the underpinnings of the ABDP and to ensure the completeness and accuracy of ABDP documents produced by various Agency components for external reviews. The Task Force did not, however, report its findings that required procedures, such as visual signals, had not been performed since the start of the program. It also found, but did not report, that both [REDACTED] in its reports to Headquarters, and Headquarters, in its reports to Congress and the NSC, had stated that all procedures had been conducted in compliance with presidential requirements while knowing this to be inaccurate. The PTF also failed to include in its draft report the evidence it collected that [REDACTED] memorandum of 1997 was inaccurate and misleading.

416. [REDACTED] Instead of addressing the broader program and its prolonged failure to adhere to required procedures, the PTF focused in its "draft" report on a less incriminating issue – changes to the written Standard Operating Procedures (SOPs). The PTF stated that, although the legal requirements in the PD and MOJ continued to govern the program, the US and Peruvian air crews relied on written SOPs for specific guidance with respect to ABDP intercepts. It then noted that the written SOPs in effect on 20 April 2001 were dated October 1999 and had been signed by [REDACTED]. [REDACTED] It said that, while the preface to the SOPs referred to the ICAO procedures mandated by the MOJ, the detailed intercept instructions for the pilots did not include the ICAO requirement to conduct visual signals.⁸³

417. [REDACTED] The PTF acquired, but did not pass on in written form, other relevant information concerning the fact that visual signals had not been performed in shootdowns from the beginning of the program. On 10 May 2001, PTF member [REDACTED] met

⁸³ [REDACTED] The PTF failed to note that neither an earlier version of the 1999 SOPs, signed by [REDACTED] in March 1999, nor the 1997 SOPs contained the requirement to perform visual signals as part of the intercept procedures.

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with members of the [REDACTED] tracker aircraft from 1998 to 2001. According to [REDACTED] memorandum of the meeting, these personnel reported that the Peruvian crews never attempted visual warning signals. They claimed that the only visual signals they knew of were warning shots, but that they had never seen them used. [REDACTED] told OIG that the US crews reported that warning shots had not been routinely fired during intercepts, although they had heard Peruvian pilots claim over the radio that they had fired warning shots.

418. [REDACTED] On 14 May 2001, [REDACTED] sent an e-mail to the PTF and appended the memorandum describing his meeting with the [REDACTED] crews. This information was not included in the PTF "draft" report sent to the PSSG and later to DCI Tenet, however.

419. [REDACTED] On 30 May 2001, [REDACTED] met with members of [REDACTED] tracker aircraft from 1995 to 1997. [REDACTED] memorandum for the record states that, "Only one [REDACTED] pilot could recall a Peruvian interceptor using ICAO visual signals to warn a target aircraft." The [REDACTED] crews reported, as had the [REDACTED] crews, that they had never seen the FAP fire warning shots during an intercept, but they had heard the fighter pilots state on the radio that they had done so.

420. [REDACTED] On behalf of the PTF, [REDACTED] questioned CIA officers who had run the program in Peru to determine why the actual procedures used differed from PD and MOJ requirements. He raised the issue with [REDACTED] and [REDACTED]. Their responses were contradictory [REDACTED] who was directly involved in the program in Peru from 1995 to 1998, wrote that visual signals were mandatory:

In 96-October 1998 the A-37 [FAP] aircraft were directed to make visual signals, including waggling their wings and lowering their landing gear. This was never/never left to the discretion of the pilots, nor the HNR.

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[redacted] sent [redacted] a follow-up request:

Have read your comments . . . and need some clarification. We have the Feb 1997 jointly signed SOP which doesn't provide for visual warning signals being utilized by the intercepting aircraft. . . . Can you please clarify, as it appears we might have a disconnect between the written SOP's and what you indicate was actually being done in country.

[redacted] responded:

I confirm that in-country visual recognition signals were emphasized while I was there, both as an officer-in-charge in Pucallpa [redacted] (This basically covers the period of 1993 - Oct 1998.) I thought that this was still in the SOP, but haven't seen it in a few years. Each time we met with the FAP for discussions of the SOPs, we discussed the need for visual signals. Visual signals were quite difficult at night, but at night the interceptor aircraft turned on all their lights to ensure that the target knew they were there. At night, visual recognition signals were often moot due to safety, this is why the interceptor always lit up. Training that [redacted] and I took part in also included visual signals. This ICAO requirement was also reiterated after the 1997 shutdown. The night/day visual requirements may be where the disconnect is.

421. [redacted] told OIG that he could not reconcile the information from [redacted] that visual signals were always required with the statements of the US aircrews that they had never seen them done and with the fact that the February 1997 SOPs did not require them. When questioned about this contradiction [redacted] told OIG that her statement in the e-mail to [redacted] was true because she had emphasized the requirements of the rules.

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422. [redacted] also contacted [redacted] who had served as [redacted] Officer [redacted] from 1998 through the 2001 missionary shutdown. He asked [redacted]

[W]hen did the procedures change as far as providing visual signals to a target by the intercepting aircraft, vice attempting contact exclusively by radio as provided in the 1999 SOP?

[redacted] presented this question to [redacted] in writing three times, but [redacted] did not respond. [redacted] finally responded to [redacted] fourth request of 8 May 2001 by focusing only on the 17 July 2000 shutdown:

Due to the low altitude and evasive maneuvers of the suspect aircraft, explicit visual signals such as is the intent of ICAO was simply not possible in that it would endanger the safety of all aircraft.

423. [redacted] The statement by [redacted] contradicted information provided in three [redacted] cables reporting on this shutdown. The first cable, on 17 July 2000, reported that, "[C]rews implemented the three phases of the shutdown procedure." A second cable on 20 July 2000 stated, "The country team confirmed that all the established procedures were correctly followed." The final cable, prepared by [redacted] on 21 July 2000, reported that the FAP pilots had "confirmed making visual contact with a passenger in the narco aircraft prior to Phase 3 shutdown action."

424. [redacted] told OIG that none of these statements in the cables meant that visual signals had been conducted. Rather, the references to "three phases" meant that there had been identification, warning, and shutdown. At that time, according to [redacted] all CIA personnel involved in the program understood that visual signals were not done. [redacted] noted that there was no inquiry from Headquarters regarding the lack of visual signals in [redacted] reporting of the event.

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425. [REDACTED] also contacted [REDACTED] who had served in the program in Peru from 1995 to 1999. [REDACTED] responded via cable on 30 May 2001, stating that:

There was an informal understanding between the FAP command groups that the pilots of [Tucano-27] and A-37 [aircraft] would comply with VIRAT interception instructions of completion of visual signals unless the required maneuver would affect the safety of their [aircraft] or the other [aircraft] engaged in the interception procedure. At this point, the [FAP pilot] would immediately report his inability to perform visual signals to the VI RAT Command.

[REDACTED] added that:

In the early years the visual signals were not an issue because most of the interceptions were performed at night and on the majority of interceptions the suspect platforms would take harsh evasive action and non-compliance with VI RAT instructions.⁸⁴

Under these circumstances, [REDACTED] said, the FAP was not required to perform visual signals.

426. [REDACTED] told OIG that he had learned from overhearing FAP pilots talk among themselves that FAP Commanders had told their pilots not to risk their lives or aircraft just to follow orders to conduct visual signals. According to [REDACTED] [REDACTED] and the OICs in Pucallpa were aware that Peruvian commanders had told the pilots not to do visual signals if doing so was too dangerous.

427. [REDACTED] OIG found no evidence that the PTF reported or forwarded to senior Agency officers the information it had received from the US aircrews [REDACTED] on the actual

⁸⁴ [REDACTED] As previously noted, 11 of the 15 shutdown interceptions occurred during the day.

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conduct of interceptions. As detailed in Part I of this report, however, Agency records indicate that these same officers had reported that all required procedures were followed in the shootdowns for which they had reporting responsibility – with the exception of the 17 August 1997 shootdown. In some instances, these officers had highlighted the fact that visual signals were conducted.

428. [redacted] Thus, by the end of May 2001, the PTF had acquired clear and convincing information that procedures required by the PD and MOJ had not been followed in the ABDP from the beginning of the program and that Agency officers in Peru had consistently misrepresented that fact in their reports to Headquarters. The PTF did not amend its "draft" findings of 14 May 2001 to include this conclusion, however. Nor did it provide its findings to the outside groups (e.g., the IRG and the SSCI) that had tasked the Agency to provide them with all relevant information.

429. [redacted] **DCI's Knowledge of PTF Findings.** On 25 May 2001, in anticipation of the release of the Interagency Review Group's (IRG) report of its investigation into the ABDP (issued in late July 2001), an Executive Assistant to DCI Tenet sent to the PTF more than a dozen substantive questions related to the operation of the program. The questions covered adherence to ICAO procedures, procedures actually conducted during intercepts, and the SOPs. The Executive Assistant stated that Tenet wanted to "nail down **all** the facts regarding the training manual(s) and standard operating procedures." [Emphasis in original.] She sent the list of questions to senior PTF members, as well as to [redacted] Moseman, and Brennan.

430. [redacted] On 30 May, Senior Deputy General Counsel John Rizzo reacted to the DCI's questions with a recommendation:

These are all appropriate and important questions for the DCI to pose, but as we discussed we need to be careful about what is committed to paper at this juncture when it is uncertain how things

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will evolve in terms of potential litigation or outside legal scrutiny. Thus, I recommend that these questions be addressed via ORAL briefings of senior Agency management vice some written product that may be subject to legal discovery down the road. [Emphasis in original.]

The Agency's concern about the civil litigation growing out of the missionary shutdown also was reflected in PTF Deputy Chief [redacted] handwritten notes from a 31 May 2001 PTF meeting. Under a note referring to one of the attorneys for the two families of those on the missionary plane who had been killed or injured, [redacted] had written, "knows about task force/SSCI" and "all discoverable if not in draft."

431. [redacted] On 15 June 2001, the PTF produced a document titled, "DCI's Questions Regarding the Peru Airbridge Denial Program." Apparently in deference to Rizzo's advice, it again stamped the document, "DRAFT." Among the items of information provided to Tenet was the "key point" concerning visual signals, taken from the procedures mandated by the MOJ:

[I]f the FAP is unable to contact a suspect aircraft on the radio, the FAP interceptor pilot "must use a series of internationally recognized procedures [that is, ICAO guidelines] to make visual contact with the suspect aircraft and to direct the aircraft to follow the intercepting aircraft to a secure airfield for inspection."

The document explained that the SOPs dated October 1999:

... requires only *attempted* radio contact before moving to the second phase of intercept - i.e., warning shots. . . [Emphasis in original.]

The PTF noted that it had:

... determined that the three phases of interception in the October 1999 SOP were not consistent with the 1994 MOJ.

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The PTF attributed this "dichotomy" between the October 1999 SOPs and the MOJ to "a schism between [Headquarters] and Embassy oversight of the program." The PTF said that, "Washington-level reviews did not focus on the details of procedures and training" because the main focus at Headquarters had been the strategic impact of the program. On the other hand, it said:

... the Embassy's Country Team and program participants focused increasingly on flight safety and apparently did not compare the revisions of SOPs to the language of the original MoJ.

The PTF explained that the change in SOPs was due to a change in focus that inadvertently allowed the SOPs to be inaccurate.

432. [REDACTED] The document the PTF provided to Tenet also stated that:

... the substance of the three phases of intercept has been consistent in Peruvian Air Force SOPs and training since at least 1997 and probably since 1994.

The Task Force then cited, without comment, the finding of [REDACTED] September 1997 program review that the intercept procedures in effect were both sufficient and consistently followed.

433. [REDACTED] The PTF, in its 15 June 2001 document, provided misleading information to Tenet. It implied that required procedures had been conducted until 1999 and treated the SOPs of October 1999 as the anomaly. In fact, the SOPs of February 1997 also had contained no reference to the requirement to conduct visual signals. The PTF and subsequent inquiries represented the 1999 SOPs as the first inconsistency with the requirements of the MOJ and indicated that this had been caused by an increased emphasis on the safety of flight after the mid-air "touch" and near collision of a Peruvian fighter and an American tracker plane in February 1999. In fact, the

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1997 SOPs also contained the deviation from the required intercept procedures of the MOJ, and program participants—both US and Peruvian—told OIG that visual signals were optional from the beginning.

434. [REDACTED] The PTF provided Tenet with some of the information that [REDACTED] had acquired from the US aircrews, but misrepresented what the aircrews said. While indicating that the air interdiction procedures in practice were different from those mandated by the MOJ, the PTF obscured the fact that visual warnings had never been done by implying that radio contact had sufficiently alerted the target aircraft and that visual signals had never been necessary:

The [REDACTED] aircrews have stated the issue of visual warnings by the interceptor aircraft was very rarely called for during interceptions. In their recollections, the US aircrews said when interceptors would warn target aircraft on the radio the target aircraft would either immediately respond on the radio or quickly begin evasive maneuvers.

435. [REDACTED] The PTF directed the DCI to another key part of the MOJ—the reporting requirement:

The MoJ requires official United States government personnel in jointly manned facilities and platforms to "regularly monitor compliance with agreed procedures and immediately report irregularities through their chain of command."

The PTF did not take the next step of telling the DCI that these reporting requirements had never been met; that Agency officers had failed consistently to report irregularities; and that the Agency had misrepresented the state of compliance in its reporting internally and to Congress and the NSC.

436. [REDACTED] **PTF Review of Shootdown Videotapes.** The Peru Task Force collected and examined all available videotapes of

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shootdowns and forcedowns. A detailed report of the videotape examination stated that the PTF reviewers found no videotape that showed all of the required intercept procedures being performed. The PTF's review found violations of required procedures in multiple shutdown videotapes. PTF Chief [REDACTED] told OIG that the results of the video review were discussed by the full PTF. OIG found no evidence that this information was shared outside the Agency with either the IRG or the SSCI, despite the tasking from these groups for all relevant information.

437 [REDACTED] *Search for a "Good" Videotape.* In late May 2001, the IRG asked the CIA for an intercept videotape that showed compliance with the intercept procedures. The PTF identified the 6 and 12 October 1997 shootdowns as likely candidates and asked [REDACTED] to review them to see if they showed that procedures had been "followed to a T." [REDACTED] responded on 30 May 2001 that one of the two was a night intercept, "that does not define well the first and second phases and would not be a good example of what an end game is supposed to look like." Apparently the other October shutdown did not prove suitable either, because, on 19 June, the Task Force expressed hope that the videotape of the 16 May 1995 shutdown might reflect the affirmative statements in [REDACTED] reporting. The reviewers responded, however, that they were not able to see that the A-37 had given any visual warnings during that shutdown.

438. [REDACTED] Ultimately, the PTF was not able to identify any videotape that showed all procedures being conducted as required by the PD and the MOJ, according to records of the PTF and statements of its members, including PTF Chief [REDACTED] OIG found no evidence that the PTF communicated this determination to the IRG or to anyone else outside the Agency, however. A PTF member recalled that, at the time, Legal Advisor [REDACTED] instructed the PTF to be careful about making any judgments because the

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missionary shutdown matter could become a legal issue. Thus, the Task Force never published the fact that it had failed to identify a shutdown that adhered to all required procedures.⁸⁵

439. [REDACTED] **PTF's Comprehensive Videotape Review.** In early June 2001, after failing to find a "good" example of a shutdown for the IRG (showing the procedures were followed), the PTF commissioned a thorough review of the shutdown videotapes it had collected from offices at Headquarters and overseas locations. E-mail between PTF members indicates that the purpose of this review was to:

... insure that each tape was in fact a legitimate tape, accurately labeled, and that the Standard Operating Procedures for Surveillance and Control of Air Space was followed.

440. [REDACTED] An officer from the Directorate of Intelligence (DI), assisted by a DO operations officer serving on the PTF, reviewed all of the videos collected by the Task Force. Their notes stated that they saw no visual signals on any videotape. Moreover, they observed that US personnel in some of the incidents had given improper orders to the Peruvians. For example, the DI reviewer noted in e-mail that, on the 21 July 1995 video, [REDACTED] told the host nation rider to conduct Phases I and II as "warning shots, then shoot." Apparently, he said, the FAP followed these orders because the video did not show the Peruvian A-37 fighter attempting to use visual signals.

441. [REDACTED] *The 14 July 1995 Strafing Videotape.* Commenting on the 14 July 1995 video, the DI reviewer noted that [REDACTED] ordered the FAP to "continue to shoot" and "shoot again" at the target after it had crashed in a river; the HNR relayed

⁸⁵ [REDACTED] In reviewing this Report in draft, the Director of the NCS, Michael Sulick, commented that, "Even if no one explicitly told the IRG that the Agency was unable to produce a videotape that demonstrated complete compliance, the fact that one could not be produced in response to the request should have put the IRG on notice that none existed."

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those orders to the A-37. The video showed the A-37 as it came out of a dive and climbed rapidly, from which the reviewer concluded that it "appears that the A-37 strafed the target while in the water." The PTF member's handwritten notes also reflect his observations that, "A-37 apparently strafing downed aircraft. Order passed by American crew."⁸⁶

442. [redacted] The video reviewers stated, and PTF records confirm, that they brought their assessment of the 14 July 1995 video to the attention of the entire PTF because of concern about the instruction to strafe people trying to flee the plane. A subgroup of Task Force members then viewed the tape and agreed with the reviewers' comments. Contradicting the reviewers' conclusions that the fighter had been ordered to strafe the target aircraft after it crashed, Legal Adviser [redacted] recommended that the PTF state that:

Endgame video dated 7/14/1995 contains an audio track reference by [redacted] flight crew members to possible strafing or shooting activity by the A-37 pilot after the successfully engaged target plane had crash landed in a river. Review by Peru Task Force members was inconclusive in determining if these are out-of-context comments. No strafing activity against any ground target was captured on the videotape.

443. [redacted] Three days later, the PTF member responsible for drafting and circulating the daily updates wrote to [redacted] and others that the Task Force had agreed to review the 14 July videotape one more time and would, "hold off on that entry to the daily update until we can come up with language all are comfortable with."

444. [redacted] told OIG that approximately nine permanent PTF members engaged in a "very robust discussion" of the July 1995 tape that focused on whether it showed the strafing of a

⁸⁶ [redacted] The PD and MOJ did not authorize strafing of civilians fleeing a downed plane, nor were US personnel allowed to issue orders to the FAP. Strafing in this context is a violation of US and Peruvian laws.

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downed aircraft. According to [redacted] the members of the group wanted to know if they had an obligation to report what they observed on the videotape as a potential crime. [redacted] said he told them that that was a policy decision. He said that his advice had been that, if the PTF concluded there was strafing, it had to be referred as a potential criminal matter; if the group decided there was insufficient evidence of strafing, there was no reporting obligation.

445. [redacted] Ultimately, the 28 June 2001 PTF daily update contained this entry on the strafing incident:

Peru Task Force and LA/LGL reviewed an endgame video dated 14 July 1995 that contains audio track references by [redacted] flight crew members to strafing or shooting activity against the target aircraft by the A-37 pilot, after the successfully engaged target plane had conducted an emergency landing in a river. No strafing activity was visible on the videotape.

The Agency did not refer the strafing incident to the Department of Justice for review as a potential criminal matter.

446. [redacted] *The Report of Shootdown Videotapes.* In a 2 July 2001 e-mail to the DO PTF member, the DI video reviewer summarized his review of the shootdown videos:

Compliance of phase 1, 2, and 3 under the Standard Operating Procedure was carried out by the [Host Nation Rider] but typically in a rather hurried manner that **almost always failed to utilize signals as described by the International Civil Aviation Organization** (i.e. move wings or flash navigating lights). Even though the phases were communicated and approved accordingly, the A-37 neglected to take extra steps in identifying or communicating with the target of interest (TOI). [Emphasis added.]

Having prior intelligence on a TOI's flight or the TOI taking evasive maneuvers also would explain a quick run through the phases. In several instances such as in the 4 August and 6 October

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1997 shootdowns, proximity to the Brazilian border appeared to be a determining factor in acting quickly through each phase.

Only in the 14 July 1995 shootdown did the TOI apparently turn on his navigation lights but did not communicate via radio with the A-37 pilot. In no other instances did a TOI signal with navigation lights or wing movement.

Once the A-37 pilot was given authority to proceed with phase 1 and 2, it was not possible to hear his radio contact often times due to the way the recording was done. In some of these instances the [Host Nation Rider] did confirm Phase 1 and/or 2 were complete.

Typically warning shots fired during Phase 2 were not visible due to coloring of FLIR recording, however in most instances the [Host Nation Rider] can be heard talking to the US pilot or to the ground Command Post confirming that shots were fired.

Communications between the [Host Nation Rider] and the pilots of US aircraft was never hindered due to poor language skills, even though the [Host Nation Riders] had the burden of communicating with their US pilots in English.⁸⁷

447. [redacted] In addition to the report the DI officer prepared, information from interviews and records reveals that PTF members documented the procedural deviations in detail for each shootdown tape reviewed. In fact, [redacted] said the PTF concluded that the tapes showed a tremendous inconsistency in the way procedures were conducted.⁸⁸

⁸⁷ [redacted] The CIA's primary public explanation for the missionary shootdown was poor communication between the US crew and the FAP HNR due to the language barrier.

⁸⁸ [redacted] As discussed later in this Report, shortly after the PTF video reviewers completed their report and provided it to the PTF, the SSCI staff--which was conducting its own investigation into the missionary shootdown--requested to see shootdown videotapes. The PTF did not give the SSCI staff any of the information from its own review or any guidance about which tapes to review. Instead, the PTF suggested that the SSCI staff choose which videotapes they wanted to see.

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448. [REDACTED] **Reporting the PTF's Findings.** By July 2001, the PTF had reported in memoranda produced by the Task Force new findings in four areas:

- ◆ The PTF's review of videotapes revealed that what happened during every shutdown beginning in May 1995 differed from [REDACTED] reporting cables, which had claimed that all intercepts complied with required procedures. The videotapes also contradicted the statement in [REDACTED] September 1997 program review that procedures followed in the program were "more stringent" than the PD/MOJ required.
- ◆ The PTF learned, from interviews of US and Peruvian aircrews, that the requirement to visually warn suspect aircraft had not been conducted in shutdowns from 1995 through 2001.
- ◆ The PTF had determined that neither the February 1997 nor the two sets of 1999 SOPs instructed aircrews to conduct the required ICAO visual signals as part of intercept procedures.
- ◆ The PTF had received written statements from [REDACTED] program officer [REDACTED] stating that everyone understood that required visual signals could be omitted if the maneuver would affect the safety of the aircraft, and from [REDACTED] who said that ICAO visual signals were not attempted in the 17 July 2000 shutdown, even though cable reporting stated they had been conducted.

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OIG found no evidence that the PTF formally reported these findings to senior Agency managers or outside review groups.⁸⁹ DCI Tenet had specifically instructed the PTF to ensure "the completeness and accuracy of the documents already produced by various Agency components." In spite of this instruction and its own findings, the PTF never addressed the consistently inaccurate reporting in cables [REDACTED] and in Congressional Notifications to Congress. Nor did the PTF take any action to correct false statements made by the Agency in the wake of the missionary shutdown to Congress, the NSC, and others that claimed the program had been run in full compliance with Presidentially-mandated procedures.

449. [REDACTED] *Comments.* PTF Chief [REDACTED] told OIG that he briefed DCI Chief of Staff Moseman and PSSG member and Deputy Executive Director Brennan on 30 July 2001. He said he told them that the videotapes showed that intercept procedures used in the ABDP had not been in full compliance with the "regulations." [REDACTED] said he told Moseman and Brennan that it was questionable whether the procedures conducted in the field fully complied with the legal requirements of the program.

450. [REDACTED] said he did not recall if the PTF informed the ongoing SSCI investigation or IRG of its findings. He said, however, that he was fairly confident that he personally, or the PTF as a body, had discussed concerns about the videotapes with [REDACTED] the DO's [REDACTED] who had been tasked to conduct an accountability review of the ABDP. [REDACTED] was formally assigned as the sole CIA member on the IRG and was responsible for conveying pertinent Agency information to the IRG review. [REDACTED] said he expected that [REDACTED] would have informed

⁸⁹ [REDACTED] In reviewing this report in draft, OGC commented that DoJ was aware, in June 2001, that the PTF had developed information that visual contact procedures may have been deleted in the 1997 and 1999 SOPs. The Acting General Counsel commented that this fact showed that information was shared. In actuality, what the PTF had determined was broader--that no shutdown from 1995 onward fully complied with the intercept procedures required to be followed before it could be shot. OIG found no evidence that this conclusion was conveyed by the Agency to the outside investigations.

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DDO James Pavitt of the PTF's findings that intercept procedures were not followed in some, and perhaps most, of the ABDP shutdowns.

451. [REDACTED] DCI Chief of Staff John Moseman told OIG that he was aware that Agency officers were not authorized to change the procedures specified in the MOJ. Moseman said he had no recollection of any discussions about a PTF review of shutdown videotapes. Nor did he recall that [REDACTED] had raised the fact that the PTF could not locate any shutdown videotape that showed compliance with intercept procedures. Moseman said he would have expected [REDACTED] to inform him of such a finding. Moseman said he and [REDACTED] had talked frequently while the PTF was functioning.

452. [REDACTED] Moseman recalled that [REDACTED] "bottom line" was that there had been deviations from the rules governing the ABDP. Moseman said this had surprised him because he had thought the ABDP was a well-run program. He indicated, however, that he was not sure he had the impression the program had never been run in compliance with the MOJ. In any event, Moseman did not remember taking any action based on [REDACTED] concerns.

453. [REDACTED] Moseman assured OIG that no guidance had been given to [REDACTED] not to provide senior Agency managers the details of what he found to be wrong with the ABDP. Moseman emphasized that Tenet was interested in knowing the facts. Moseman recalled that [REDACTED] was not happy with what he was finding and did not pull any punches in reporting that there were problems with the ABDP.

454. [REDACTED] Deputy Executive Director John Brennan told OIG that he did not recall the specific findings of the PTF nor did he remember hearing about a review of shutdown videotapes. Had there been such a review, Brennan said he would have expected the PTF to report its findings to someone in the chain of command, but not necessarily to him. He said the individuals who should have

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been informed included Tenet and Krongard. Brennan said he did not take away from the PTF review the conclusion that the Peruvians had not complied with the MOJ. Rather, Brennan's impression was that the ABDP was in compliance with the MOJ, but that oversight of the program had not been as good as it could have been. Brennan said that Krongard made adjustments to the [REDACTED] Review process to deal with oversight issues.

455. [REDACTED] DDO Pavitt told OIG that he did not recall that the PTF had been unable to find a videotape that showed all intercept procedures being followed. Nor did he recall being advised of the findings of the PTF, although he was a member of the PSSG. Pavitt said that, if the PTF had notified the State Department and the NSC that procedures had not been followed, he should have been notified too. He said such findings also should have been passed to the IRG and the SSCI. Pavitt said he was not aware of how the PTF findings reached Congress.⁹⁰

CIA'S INTERNAL ACCOUNTABILITY REVIEW

456. [REDACTED] In a 21 May 2001 memorandum, Executive Director Krongard directed [REDACTED] who was serving as the DO's [REDACTED] to "conduct a complete and comprehensive program review" of the ABDP and prepare a written report of his findings and recommendations.⁹¹ [REDACTED] told OIG he served as the "de facto interface" between the PTF and the IRG, often having daily contact with the PTF. He served as the sole Agency representative to the IRG.

457. [REDACTED] prepared a report for Executive Director Krongard dated 10 August 2001, titled, "The Peru Shoot-down: An

⁹⁰ [REDACTED] In fact, the PTF findings did not reach Congress.

⁹¹ [REDACTED] told OIG that his responsibilities as [REDACTED] included providing oversight to the [REDACTED] review process in the Agency. Specifically, he served on the [REDACTED] and was Executive Secretary to the [REDACTED] chaired by the Executive Director.

~~SECRET~~ [REDACTED]

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Internal Program Review." Agency records confirm that it was sent to Tenet, Krongard, and Pavitt.⁹² [redacted] told OIG that either Pavitt or his deputy also had instructed him to provide a copy to the Office of General Counsel (OGC). In its key findings, which focused on an evaluation of procedures at the time of the shutdown of the missionary plane, the report stated that a "safety of flight" focus in the aftermath of the February 1999 mid-air touch between a Peruvian and an American aircraft had resulted in an abbreviation of operational procedures delineated in the PD and MOJ. It went on to say that the training curriculum reflected these abbreviated procedures. The report also cited language deficiencies, technical communications problems, and inadequate Peruvian command and control as contributing to the environment on 20 April 2001. The [redacted] report was more specific than the 14 May PTF report had been in describing the omitted visual signals, but it still attributed the omission to a "safety of flight" concern that had emerged in early 1999.⁹³ [redacted] reported that:

The focus on flight safety following the February 1999 midair "touch" led to an abbreviated form of the procedures mandated by the 1994 Memorandum; the abbreviated procedures were inconsistent with the ICAO's recommended aircraft alignment positions during intercepts.

SOPs dated from March and October 1999 did not include the ICAO requirement for visual signals.

The training did not include ICAO procedures.

⁹² [redacted] The 10 August 2001 report included a number of appendices, one of which was marked "Tab C" and identified as the PTF's 14 May 2001 "draft" report. The Agency was unable to locate and provide OIG with a formal record copy of [redacted] report that included all appendices.

⁹³ [redacted] In February 1999, a Peruvian fighter and a US tracker aircraft almost collided; in fact, the aircraft touched in the air. There were no injuries or damage. After the crash of the missionary plane [redacted] and others attributed the abbreviated intercept procedures to safety concerns raised by this near miss. They knew, however, that the abbreviated procedures had been present since the start of the program and had been reflected in the 1997 SOPs, two years before the near collision.

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458. [REDACTED] PTF Chief [REDACTED] told OIG that he and other members of the PTF had informed [REDACTED] of their concerns stemming from the PTF videotape review. PTF Deputy Chief [REDACTED] also recalled that he discussed the PTF review and the inconsistencies between the SOPs and the legal requirements with [REDACTED]. Despite having had access to the ongoing work of the PTF and being advised of its findings – including the fact that there were deviations from the required procedures in shootdowns dating back to 1995 and the fact that the 1997 SOPs also failed to include the ICAO requirement for visual signals – [REDACTED] made no note of these issues in his report to Tenet, Krongard, and Pavitt. Instead, as in the PTF response to the DCI's questions, [REDACTED] report identified 1999 as the beginning of the procedural omissions.

459. [REDACTED] told OIG that the written SOPs dated 1999 formed the basis for his determination that the procedures had slowly eroded. He said he had accepted without question the conclusion of [REDACTED] September 1997 report that the program had complied with required intercept procedures. He said he did not obtain SOPs dated earlier than 1999. [REDACTED] could not explain to OIG why his own conclusions had not been affected by his knowledge of the PTF's findings.

460. [REDACTED] report discussed specific problems in the missionary shootdown. It reported that Phase II warning shots on 20 April 2001 were deficient because they were done from behind and to the right of the target. Specifically [REDACTED] reported that, "From such a position, there is little likelihood that warning shots – even with tracers – could be seen by [missionary plane's] pilot, particularly given that the shootdown occurred during daylight hours." [REDACTED] also reported to Tenet that:

Inadequate Peruvian Command and Control led to the false and/or premature sense of urgency on 20 April and the increasing presumption of guilt by the FAP.

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There is no indication that senior program managers at Headquarters [redacted] were guided by - or focused on - Presidential Determination 95-9 and its Memorandum of Justification after a 1997 program review. Nor was there interagency focus on the Memorandum of Justification.

461. [redacted] In the recommendation section of his report, [redacted] emphasized that the 1994 PD and MOJ provided explicit policy and operational guidelines for the ABDP; he noted that, "the procedures listed are rigorous and comprehensive." While he did not raise the PTF's documented findings that deviations had occurred in earlier shutdowns [redacted] recommended that, "There must be a formal written agreement that explicitly accepts these [MOJ procedural] requirements."

462. [redacted] old OIG that he recalled PTF Chief [redacted] telling him that there was no videotape that showed all the intercept procedures being conducted. [redacted] explained that he did not include this information in his report because he had been examining "program accountability," not personal accountability. [redacted] said that, if none of the tapes reviewed by the PTF showed procedures being followed [redacted] cables reported that all procedures had been followed, "then there's a disconnect," and "a line of inquiry" upon which follow-up should have been done.

463. [redacted] *Agency Response to the Internal Accountability Review*. Tenet, Krongard, Pavitt, and the General Counsel's office received [redacted] August 2001 report. Tenet and Krongard responded by focusing on overall management of covert action programs and on oversight accountability. In a 15 August 2001 memorandum to Tenet, Krongard proposed the following "next steps:"

[redacted]

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~~SECRET~~ [redacted]

That you concur with the attached tasking regarding a comprehensive, immediate review of the Agency's management and oversight of Covert Action (CA) Programs.

That you ask the General Counsel to consult with the Department of Justice regarding potential litigation before moving ahead with an internal accountability review board.

464. [redacted] Krongard told Tenet that the Agency needed to overhaul its internal management of covert action programs. He attached to this memorandum both [redacted] internal review and the proposed tasking to DDO Pavitt, suggesting a number of specific actions concerning covert action oversight. Tenet concurred with Krongard's recommendations on 22 August 2001 and asked the General Counsel to:

... consult with the Department of Justice regarding potential litigation on the Peru shoot-down to determine the advisability of moving forward with an internal accountability review board.

OIG has found no evidence concerning such a consultation with DoJ. On 31 August 2001, however, OGC attorney [redacted] documented the results of a 28 August 2001 meeting with Tenet that stated, in part:

The DCI determined not to go forward with an AAB (Agency Accountability Board, per new reg[ulation]) [redacted]

465. [redacted] Senior Agency officials -- Pavitt, Moseman, [redacted] and Counsel to the DDC [redacted] -- told OIG that they had no recollection of any particular action taken by Tenet or Krongard to address the fact that the Agency's internal reviews had determined that the ABDP had not been conducted in adherence to presidential requirements throughout the entire period of its operation. Pavitt recalled only that [redacted] found that the ABDP had not been run as carefully as possible and that intercept procedures had not been followed in most shootdowns. Moseman told OIG that he would not

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have recommended an accountability board be convened for those involved, when there was an ongoing criminal investigation, noting that he had not thought that failure to follow the procedures had been intentional.

CIA REPORTING TO CONGRESS AND THE NSC

466. [REDACTED] CIA is required by law to keep the Congress and the NSC currently and fully informed of significant activities it undertakes. In the case of the ABDP, the MOJ included a specific requirement to report irregularities to those institutions through the Agency's chain of command. Part I of this report details the reporting the Agency provided to the Congressional Intelligence Committees and the NSC regarding specific shootdowns. The Agency also reported on the management and oversight of the program through regularly scheduled reviews of intelligence activities, including Congressional quarterly reviews of covert action programs and the NSC's annual covert action review.

467. [REDACTED] Between 1995 and 2001, the Agency consistently told Congress and the NSC that the ABDP was operating within the laws and policies governing it.⁹⁴ In particular, the Agency reported that its internal program reviews ensured compliance with relevant legal and policy guidelines. For example, in November 1998, following an internal program review, CIA reported to the NSC that the air interdiction program "operates under strict procedures to ensure protection against loss of innocent life as stated in PD 95-9."

468. [REDACTED] In the week following the missionary shootdown, the HPSCI and the SSCI asked DCI Tenet to brief them on the events that led to the mistaken shootdown, as well as on the overall conduct of the ABDP. Agency records show that [REDACTED] and [REDACTED] [REDACTED] directly supported Tenet in these briefings, and that, in

⁹⁴ [REDACTED] The lone exception was its reporting of violations in the 17 August 1997 shootdown.

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~~SECRET~~ [REDACTED]

addition, they personally briefed the Intelligence Committees more than ten times between 24 April and 1 August 2001. [REDACTED] and [REDACTED] managed the information provided to the Committees and served as the primary briefers, presenting comprehensive reviews, analysis, and conclusions regarding what transpired in the 20 April missionary shutdown. In these communications, they repeatedly claimed that, between 1995 and 2001, the program had operated according to the requirements laid out in the PD and the MOJ.

469. [REDACTED] Agency and Congressional records indicate that, in almost a dozen Congressional briefings and hearings in 2001, [REDACTED] and [REDACTED] emphasized that the missionary shutdown had been an aberration and that the speed with which the intercept phases were conducted had been unexpected. These claims remained unchanged even after June 2001, when the PTF internal review had documented the fact that procedures conducted in shutdowns dating back to 1995 had deviated from the requirements and that the phases of previous intercepts had been conducted in even shorter periods of time than in the missionary shutdown.

470. [REDACTED] **DCI's 24 April 2001 SSCI Testimony.** DCI Tenet appeared before the SSCI on 24 April 2001 to testify about the conduct of the air interdiction program and the missionary shutdown. [REDACTED]

[REDACTED] Tenet submitted a written statement for the record and made an oral presentation.⁹⁵ [REDACTED] had reviewed the draft written statement and several changes to its substance were made in her handwriting. There were two key deletions, including:

- ◆ The statement that visual signaling was a required procedure during Phase I of the intercept, according to the standard operating procedures.

⁹⁵ [REDACTED] According to a member of the Peru Task Force, the PTF probably provided information to the DCI's speechwriter who drafted the statement.

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- ◆ The statement that the videotape of the missionary shutdown confirmed that the required procedural step of hailing the aircraft with international recognition (visual) signals had not been done.

The deletions eliminated any reference to visual signals as a required part of the intercept procedures. All of the proposed changes in [REDACTED] handwriting were incorporated into Tenet's formal testimony. As a consequence, Tenet provided misleading testimony to Congress. He did not provide a full, factual, and accurate accounting with regard to either the intercept procedures required by the MOJ or the procedures omitted in the missionary shutdown and in previous shutdowns. Neither [REDACTED] corrected Tenet's statement when he presented this testimony orally before the SSCI on 24 April 2001 or at any other time.

471. [REDACTED] told OIG that she did not recall why she had recommended the changes to the DCI's testimony. She explained that she might have been confused about which phase of the requirements included ICAO procedures for visual communications. She maintained that she had not deleted visual signals from the DCI's statement in order to imply that visual warnings were not required.⁹⁶ In reviewing pertinent portions of this report in draft for factual accuracy, [REDACTED] provided additional information. She described herself as the notetaker at a coordination meeting held in Tenet's office on 24 April 2001 when the changes were made to the DCI's written statement. [REDACTED] said that Moseman, Rizzo, [REDACTED] and others were present. [REDACTED] denied that the changes in the DCI's statement were made by her; rather, the changes were in her handwriting because she was the notetaker. [REDACTED] said that the draft DCI statement set forth the procedures as outlined in the MOJ accompanying the PD and contained the same language as used in

⁹⁶ [REDACTED] During her OIG interview, after acknowledging that she had edited Tenet's draft testimony and saying that she did not recall why she had done so, [REDACTED] stopped the interview on the advice of counsel.

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the three previous days in preparing materials for press release, responses to Congressional oversight committee questions, and other inquiries. [REDACTED] said that at the coordination meeting in Tenet's office, there was discussion that the information provided by the aircrew on the 20 April 2001 shutdown differed from the procedures in the MOJ and PD. [REDACTED] stated that one of the participants recommended that, in light of the differences between the procedures outlined in the MOJ and the crew's statements, the language in the testimony should reflect exactly what the crew said they understood the procedures to be on the day of the shutdown.

472. [REDACTED] *Visual Signals*. The issue of the requirement to conduct visual signals surfaced during the SSCI hearing on 24 April, when [REDACTED] engaged in an exchange with Senator Fred Thompson who was trying to pinpoint the exact procedural failings in the missionary shutdown. After discussing the possibility that no warning shots were fired, Senator Thompson observed that, even if they had been fired:

... that still doesn't alleviate your concern, and that would mean that the failure, if you're strictly looking at the procedure, the failure would have been in failing to visually try to contact the plane.

[REDACTED] responded, "At the very least, sir."

473. [REDACTED] Later in the hearing, SSCI Chairman Richard Shelby engaged [REDACTED] in a meticulous accounting of the exact events of the missionary plane shutdown. Immediately after [REDACTED] description of the attempted radio calls, the Chairman asked, "Then what happened? Did he ever try to fly around him or warn him?" [REDACTED] answered that the fighter plane had not done so. Thus, although none of the CIA officers testifying at this hearing listed visual signals among the required procedures, at least two Senators understood that visual signals should have been performed.

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474. [REDACTED] Mid-way through the hearing, Chairman Shelby asked whether, other than the missionary shutdown, the Peruvians had ever failed to perform the intercept procedures agreed to by the Peruvian and US Governments. [REDACTED] responded that the 17 August 1997 shutdown was, "the only incident in which they failed to follow phases one, two and three." This response was clearly misleading, as [REDACTED] knew that visual signals had not been performed throughout the life of the program.

475. [REDACTED] *Missionary Shutdown as an Aberration.* During the 24 April 2001 SSCI hearing, [REDACTED] portrayed the missionary shutdown as a deviation from the usual conduct of an interception. In particular, he focused on how quickly Peruvian personnel had moved through the phases of the intercept. He stated that, "even having seen hundreds of intercept tapes and seeing [the 20 April 2001 videotape] four times," he was still surprised that the shutdown "could have occurred so fast." This testimony also was misleading. The elapsed time between Phases I and III of the missionary shutdown was more than 10 minutes. The elapsed time between Phases I and III in each of the five shutdowns that occurred while [REDACTED] was less than six minutes.

476. [REDACTED] told the SSCI that no more than three minutes elapsed between the HNR's report of the target's tail number and the order to shoot the plane down. He said that he did not believe that proper identification of the tail number could be done in only three minutes. [REDACTED] also testified that the missionary shutdown happened so fast he was not sure if warning shots had been fired, and that the short period of time between Phases II and III suggested that warning shots would have had to happen very rapidly. He added that he could not discern whether the shots he saw on the videotape were warning shots or actual shooting at the plane.

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477. [REDACTED] In fact, records from previous shootdowns and documented PTF findings confirm that, once the phases in an interdiction began, the elapsed time between the start of the first phase and the authorization to shoot down a target aircraft ranged from less than 60 seconds to about six minutes. As discussed in Part I of this report, the videotapes of the shootdowns on 4 August and 6 October 1997, when [REDACTED] show that less than two minutes elapsed between the FAP sighting the target to begin the procedures and the authorization to shoot the target down.

478. [REDACTED] **DCI's 25 April 2001 Testimony to HPSCI.** Tenet testified before the HPSCI on 25 April 2001, as he had the previous day to the SSCI, concerning the shootdown of the US missionaries and the overall conduct of the air interdiction program. OIG was denied access to HPSCI records and was unable to review the formal transcript of this hearing.⁹⁷ Agency records indicate, however, that [REDACTED] accompanied Tenet and that Tenet submitted the same written statement he had given the SSCI the previous day.

479. [REDACTED] Legal Counsel to the DDO [REDACTED] told OIG that he reviewed the written statement submitted by the DCI to the SSCI and HPSCI on 24 and 25 April 2001. After being shown a copy of this testimony during his OIG interview [REDACTED] agreed that there was a variance between the testimony and the procedures set forth in the MOJ. [REDACTED] said he had not picked up on this fact when he reviewed the testimony in 2001. [REDACTED] added that, if he had reviewed the testimony with a view toward the MOJ,

⁹⁷ [REDACTED] In a letter to the Inspector General of 28 April 2004, the Chairman of the HPSCI, Porter Goss, denied OIG access to the Committee's documents concerning the ABDP. Goss stated that the Committee had been informed fully about the conduct of the program and that any possible inconsistencies were inconsequential. He further said that he was certain the Committee had received honest testimony and had not been "aggrieved." Therefore, he said, the HPSCI would not provide OIG access to the documents.

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he would have corrected the omission of a reference to visual signals. [REDACTED] asserted that anyone who was aware that the testimony was inaccurate had a responsibility to so advise the DCI.

480 [REDACTED] SSCI Briefing, 10 May 2001. On 10 May 2001, [REDACTED] showed SSCI members and staff the videotape of the missionary plane shutdown and briefed them on the transcript of the incident and the Agency's analysis of it. [REDACTED] also attended the briefing. In explaining the shutdown, [REDACTED] highlighted particular elements, such as communications problems. She noted:

There are a number of concerns expressed by US personnel about whether or not the Peruvians had properly identified the aircraft and were moving too fast through the phases.

At no time did [REDACTED] explain that the phases in this shutdown actually had been executed more slowly than in previous shutdowns.

481 [REDACTED] stated that the target aircraft was:

... on a path and flying at an altitude and taking no evasive action that makes it very clear there was not a lot of reason to expect or conclude that this was a narcotics trafficking airplane, other than the fact that no flight plan had been located for it.

Again, neither [REDACTED] told the SSCI that targets in earlier shutdowns had been shot down without being identified, without being described in intelligence, and without an attempt being made to identify their flight plans.

482. [REDACTED] HPSCI Briefing, 26 July 2001. With press coverage surrounding the issuance of the IRG's report on the ABDP in late July 2001, the HPSCI asked that CIA again brief the Committee on the conduct of the ABDP. In preparation, on 21 July 2001, [REDACTED] e-mailed to PTF members a draft statement he planned to present to

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the HPSCI on 26 July 2001. Again, [redacted] failed to describe any of the deviations from the procedures that occurred [redacted] [redacted] or that the PTF, by this time, had uncovered and documented. Instead, he focused on the fact that CIA had "continuously" supported reviews by the SSCI, the IRG, the NSC, and DoJ, including "retrieving and reviewing official and unofficial Agency correspondence dealing with the ABDP."⁹⁸ [redacted] did not indicate that the support CIA had provided to these external groups did not include providing the findings of the PTF. In fact, [redacted] Legal Adviser, [redacted] advised him not mention the PTF review.

483. [redacted] On 23 July 2001, [redacted] appended a revised version of [redacted] proposed testimony to an e-mail he sent to the officer who was coordinating [redacted] briefing. [redacted] advised the officer that:

The comments below came from various element[s] of OGC.

[redacted] has seen this revised document and generally has no issue, other than his continued (and correct) assertion that **there should be no reference to the internal CIA task force [the PTF].** [Emphasis added.]

[redacted] proposed statement to HPSCI was revised as follows to eliminate any reference to the PTF internal review:

... CIA participated in an interagency review of the incident [the Beers IRG]. We find nothing inconsistent in the conclusions drawn by the interagency commission [Beers] with our own understanding of the facts surrounding the tragic shutdown on 20 April and the overall ABDP.

484. [redacted] also prepared a statement on the interdiction program for DDO Pavitt to present to the HPSCI on 25 July 2001. Again, in the final version of this statement, [redacted]

⁹⁸ [redacted] In reviewing this report in draft, the Acting General Counsel commented that this statement "arguably put Congress on notice of the fact of such a review."

~~SECRET~~ [redacted]

~~SECRET~~ [REDACTED]

failed to include information regarding the repeated violations of procedures that had occurred during the program. Instead, [REDACTED] made the following point: "was there ever an intention to undermine the program or not fully comply with the stated requirements – no." [REDACTED] added that there could have been better and more aggressive training and oversight, but he said:

... In my view none of these factors, while all important, would have avoided the tragedy that occurred that day, in the absence of the Peruvians following long established, well known procedures.

485. [REDACTED] Following the HPSCI briefing, [REDACTED] reported to senior Agency management. In a 27 July 2001 e-mail to Executive Director Krongard, Chief of Staff Moseman, DDO Pavitt, General Counsel McNamara, Senior Deputy General Counsel Rizzo, [REDACTED] [REDACTED] characterized feedback from the hearing as positive and stated, in part:

Rand Beers' presentation was balanced. Really, nothing new was presented that had not been brought to the committee's attention in the past through our various briefings of members and staffers. As for program deficiencies: language problems, communication architecture, the USG role in the decision making process, chain of command and lack of complete adherence to ICAO procedures were highlighted as areas where improvements were needed. It appeared that the general sense of the committee was that while the Peruvians acted in haste and incorrectly, there are several systemic problems in which we share a level of responsibility. Again, nothing particularly new in that as our earlier briefings to the members and staffers had already highlighted areas where there were potential deficiencies.

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EXTERNAL EXAMINATIONS OF CONDUCT OF AIRBRIDGE DENIAL PROGRAM

THE INTERAGENCY REVIEW GROUP

486. [REDACTED] In his 21 May 2001 memorandum to DDO Pavitt, Executive Director Krongard had tasked [REDACTED] to serve as the Agency member to the NSC-directed IRG, which was headed by Assistant Secretary of State Rand Beers. Beers told OIG that he would have expected to be notified if the Agency had done an internal review or if it had reviewed videotapes of shootdowns and been unable to identify any examples of shootdowns in which intercept procedures were followed. Beers said that, during his investigation, he had dealt with both [REDACTED] and Senior Deputy General Counsel John Rizzo. He said that he had never been told about the Agency's internal review of the ABDP, however. Beers also said that after the IRG asked the Agency for an example of a videotape of a shootdown showing compliance with the procedures, he was not aware of the PTF's unsuccessful effort to identify such a shootdown videotape.

487. [REDACTED] Beers told OIG that the 1994 MOJ governing the ABDP was not open to interpretation. Noting that there was no exception "built-in" to the visual contact requirement in the MOJ, Beers said there was a requirement to report if no visual procedures were done. Beers said a judgment would have had to be made as to how high up the chain of command to report the problem, taking into consideration the seriousness of the deviation. At a minimum, Beers said, he expected the Agency ultimately would have reported deviations to an official not directly involved in the program. He emphasized that he had never been notified of any problems with the shootdowns, either on a contemporaneous basis or as a result of the PTF review.

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488. [REDACTED] The report released by the IRG in late July 2001 followed the basic story line as established by CIA and reflected in the PTF "draft" report and the [REDACTED] internal accountability review provided to the Executive Director. It indicated that, by the late 1990s, references to the full range of required procedures had become less detailed and explicit. It noted that the use of this abbreviated set of procedures was the result of an increased focus on safety resulting from the near collision of a Peruvian and a US plane in February 1999. The IRG reached its conclusions without access to all relevant information from CIA – such as the PTF videotape review; PTF interviews with ABDP participants; and the PTF's findings that the required intercept procedures and the reporting requirements had not been met. [REDACTED] as the Agency's sole representative to the IRG, failed to provide the group with any of this relevant information.

THE SSCI INVESTIGATION

489. [REDACTED] The SSCI also conducted an investigation into the conduct of the ABDP. The Committee sent requests to CIA for documents and information and heard testimony from CIA officials regarding the conduct of the program. Committee staff members visited Headquarters to review records of the program's operation as well as material provided by the Peru Task Force. Staff members interviewed ABDP participants, including [REDACTED] [REDACTED] and selected members of the US aircrews; they also traveled to Peru to conduct interviews and gather information.⁹⁹

490. [REDACTED] On 26 April 2001, DCI Chief of Staff John Moseman and an officer from Congressional Affairs discussed the fact that the SSCI team had been tasked to complete an "historical review" of the

⁹⁹ [REDACTED] This Report focuses only on the representations CIA made to the SSCI investigation team. The SSCI team collected information from a number of sources, including the Departments of State and Defense, US Customs Service, DEA, Office of National Drug Control Policy, Peruvian Government and Air Force personnel, and the Association of Baptists for World Evangelism.

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ABDP. In support of that investigation, Moseman recommended that the SSCI team come to Headquarters to discuss the terms of reference with [REDACTED] and other personnel deemed appropriate by [REDACTED]. In response to requests for information, the Agency made two notebook binders of materials available to the staff members. The binders, compiled by the PTF, did not contain all relevant material, however. Specifically, the records did not include the PTF's documented findings regarding violations in procedures that had occurred throughout the entire period the program had operated.

491. [REDACTED] Three SSCI staff members responsible for conducting the investigation separately told OIG in April 2004 that they had been unaware that the DCI had established a group identified as the Peru Task Force. Recalling approximately 12 trips to Agency Headquarters to review ABDP records, including some shutdown videotapes, each staff member told OIG that he had not been advised of the results of the Agency's review of shutdown tapes. Nor were the SSCI staff members made aware of the fact that the Agency could not identify a single shutdown tape that showed full compliance with the intercept procedures.

492. [REDACTED] In July 2001, shortly after the PTF's videotape review was completed, SSCI staff members asked to view some shutdown videos. PTF Chief [REDACTED] told OIG that he did not recall if the PTF provided SSCI the conclusions of its videotape review. [REDACTED] said the SSCI staff members did not ask for the PTF's analysis, and he did not recall meeting with them to discuss the Task Force's findings. Agency records confirm that the PTF, by this time, had documented the results of its videotape review, which had found procedural deviations in previous shutdowns.

493. [REDACTED] In late July 2001, the SSCI sent a draft of its report to CIA for review. On 2 August 2001, the CIA Office of Congressional Affairs (OCA) sent a fax to the SSCI outlining CIA's comments. Specifically, the Agency asked that the SSCI replace its conclusion

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that ICAO procedures had been "abandoned" with the assessment that implementation of ICAO intercept procedures had "eroded." CIA also objected to the inclusion [redacted] aircrews in the SSCI conclusion that there was an "operational mindset" in the interdiction program that a target plane was a narcotics trafficker unless proven otherwise.

494. [redacted] On 9 August 2001, the SSCI sent its final draft report to CIA for classification review only. On 14 August 2001, [redacted] each sent e-mails to OCA, again objecting to the language in the draft. [redacted] took issue with the word "abandoned" in reference to the ICAO procedures, because only part of the procedures had been abandoned – the visual signals. [redacted] argued that other parts of the ICAO procedures – identification, radio contact, and so on – remained. In contrast, [redacted] objected that:

ICAO procedures were never abandoned, certainly there has been some erosion over time and on that score I might add that the erosion was not intentional. The word abandoned suggests a conscious act, which was never the case.

OCA notified the SSCI of CIA's objection to the word "abandoned." The SSCI ultimately conceded the point, and the change is reflected in its final report issued in October 2001.¹⁰⁰

495. [redacted] DCI Chief of Staff Moseman told OIG that he assumed CIA had provided the SSCI investigation team and the IRG with all relevant information, to include the results of the PTF findings and the [redacted] internal accountability review. He said he did not know if this had occurred, however, and stated that [redacted] had been the Agency's focal point for these outside groups. With respect to whether the Agency should have volunteered this information to the

¹⁰⁰ [redacted] The unclassified SSCI Report, *A Review of United States Assistance to Peruvian Counter-Drug Air Interdiction Efforts and the Shootdown of a Civilian Aircraft on April 20, 2001*, can be found online at <http://intelligence.senate.gov/107149.pdf>. The report concluded that there was erosion over time of the use of ICAO procedures. The committee said it could not determine why the procedures changed.

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SSCI or the IRG or waited for specific requests, Moseman said it would have constituted a problem had the Agency withheld the information. He stated that it was difficult for him to say if Agency personnel should have just turned over the findings without waiting for a request, although turning over the findings appeared to be the right thing to do. Moseman emphasized, however, that the SSCI and Beers commission were conducting their own reviews and had access to the same material as the PTF. He added that he assumed the SSCI and the IRG had come to the same conclusions as the PTF.

496. [REDACTED] Deputy Executive Director John Brennan told OIG that he would have expected the PTF to report its findings to someone in the chain of command. He also said that there should have been a notification informing Congress and the NSC. Brennan claimed that he did not recall being informed that the Peruvian Air Force considered any of the intercept procedures to be discretionary or optional under certain circumstances. Had the Peruvian Air Force, in fact, considered an intercept procedure optional or discretionary, Brennan said the PTF should have captured that information. Brennan asserted that the PTF findings should have been reported to as high a level as necessary to ensure that corrective action was taken. These findings also should have been reported to the SSCI if the findings rose to the level of being considered a significant intelligence activity.

CIA REPORTING TO THE NATIONAL SECURITY COUNCIL

497. [REDACTED] Agency records reflect several instances in the aftermath of the missionary shutdown when Agency officials were asked to inform the NSC about the conduct of the air interdiction program in Peru. At no time did CIA officials provide full or complete information on the operations of the program to the NSC.

498. [REDACTED] **Vice Presidential Briefing, 21 April 2001.** On 21 April 2001, [REDACTED] and the Deputy Director of CNC, [REDACTED] prepared a four-page memorandum for Deputy

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National Security Adviser Steven Hadley, concerning the missionary shutdown and the ABDP. The memorandum stated that, "Clear rules on engagement were established at the onset of the program." It described the phases of an interception as requiring visual signals consistent with ICAO procedures. The memorandum was circulated to [REDACTED] John Moseman, and others in advance of its delivery to Hadley. OIG found no record that [REDACTED] or Moseman suggested any changes to the memorandum.

499. [REDACTED] Agency records indicate that Hadley provided this memorandum to the Vice President on 21 April 2001. Tenet, DDCI John McLaughlin, Krongard, Pavitt, and others were informed that the Vice President had been briefed and that the key points of the memorandum had been emphasized.

500. [REDACTED] **Discussion with National Security Advisor, 23 May 2001.** Tenet, McLaughlin, and Moseman met with National Security Advisor Condoleezza Rice on 23 May 2001 to discuss a number of issues, including the ABDP. According to a memorandum for the record written by Moseman the next day:

Peru Incident: Dr. Rice asked about the modifications of training procedures, which may have contributed to the shooting down of the missionary airplane in Peru. [Moseman] noted that training issues (including revision of manuals that may have eliminated details of the steps involved in air interceptions) are under review at CIA.

501. [REDACTED] **Questions from National Security Advisor, 30 July 2001.** As noted above, [REDACTED] said he discussed the PTF's videotape review findings with Moseman and Brennan in a brief meeting on 30 July 2001. About 15 minutes after the meeting started, Moseman sent an e-mail to Brennan, McLaughlin, and [REDACTED] regarding National Security Advisor Rice's reaction to the IRG report

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that had just been issued. Moseman related that the NSC Senior Director for Intelligence Programs had contacted him and reported that:

Dr. Rice was "angry" after being briefed by Rand Beers on the Peruvian shoot down incident. **She is asking who gave the approval for CIA to "change the procedures" that were so clearly required by the Presidential decision when the program was initiated.** She is also asking about the oversight of the program, both at Headquarters and in the field. Dr. Rice also asked if the CIA IG or General Counsel were examining these issues.¹⁰¹ [Emphasis added.]

502. [redacted] In the same e-mail, Moseman said he had responded that Tenet had commissioned an internal review of the program, its management and oversight. He included information that he conveyed to the NSC Intelligence Programs Director, stating, in part:

I also reminded [the NSC Senior Director for Intelligence Programs] that the issues relating to procedures, and training (and what actually happened during endgames) are complicated (and noted the most recent training focused on safety between us and the Peruvians after a near collision in 1999).

Moseman further noted that Deputy National Security Adviser Hadley would be briefing the President on the IRG report the following day and that Moseman would provide Hadley a copy of the DCI tasking memorandum and an estimate that the DCI's internal review would likely be completed at the end of the following week. In fact, the PTF's report, kept in draft status on the advice of OGC, had been completed on 14 May. OIG found no evidence that Moseman or any other Agency officer subsequently informed Hadley of the PTF's findings concerning failures in the conduct of the program.

¹⁰¹ [redacted] CIA OIG began its examination of the ABDP in late December 2001 at the request of the Department of Justice.

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503. [REDACTED] OIG also found no evidence that senior Agency officers specifically answered Rice's question about who had authorized CIA to change the intercept procedures. PTF Chief [REDACTED] told OIG that he had briefed Moseman and Brennan on the findings of the Task Force, and [REDACTED] was well aware of those findings. According to [REDACTED] these individuals were aware that training had changed; that SOPs signed by two successive [REDACTED] did not include all the required procedures; and that the conduct of the program had violated presidential requirements. Moseman told OIG that, upon receipt of the 30 July 2001 query from Rice, he did not ask anyone in the Agency to explain who had changed the procedures.

504. [REDACTED] Agency records reveal that, by at least 1 August 2001, Brennan, [REDACTED] and members of both the PSSG and the PTF had reviewed the Agency's proposed responses to questions regarding the IRG report. These records indicate that the Agency's responses were to be passed to press offices at the NSC and Department of State. One of the questions was almost identical to that which National Security Advisor Rice had asked on 30 July regarding who changed the procedures and who authorized the changes.

505. [REDACTED] Agency records show that the initial response to the questions concerning the IRG report was drafted and then revised following concerns raised by Brennan in an e-mail he sent on 1 August 2001 to a PTF member; he copied Krongard, Pavitt, ADDO [REDACTED] and numerous other senior officers on the e-mail. The question and Brennan's revised response state:

Q: Is it true that operating and training procedures were changed from those approved by the President? Who changed them and with what authorization? Why wasn't Washington informed? Did the U.S. Ambassador know?

Over time, references to the full range of procedures, there was a gradual erosion of the procedures which formed the basis for the

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Presidential decision to approve the airbridge denial program for Peru in 1994, *became less detailed and explicit in implementing documents agreed to by representatives of both countries.* Operating and training procedures used an abbreviated set of procedures and had an increased ~~became~~ focused on safety of flight between Peruvian interceptors and U.S. tracking aircraft after a mid-air collision in 1999. There were no implementing procedures to ensure routine interagency or bilateral review of the program, unless a problem was identified. This is one of the areas we are investigating as we take a broad look at the overall air interdiction program.¹⁰²

At the time of this response, senior Agency officers were aware that the procedures had not been fully implemented since 1995 and that the NSC had not been informed.

506. [REDACTED] **Question from National Security Advisor, March 2002.** In March 2002, National Security Advisor Rice again asked about the Agency's findings concerning the conduct of the Peru program.¹⁰³ According to an 11 March 2002 e-mail written by OGC's Chief of Litigation, [REDACTED]

NSA Rice asked the DDCI if he could advise her exactly what it was that was changed in the security procedures for the shutdown program that has raised the issue of malfeasance.

[REDACTED] wrote that he did not recall the specifics of this issue and asked his associates to pull the relevant language from the Beers and SSCI reports. [REDACTED] added:

I don't think, in light of the DoJ inquiry, we want to create new information or new analysis, but if there is already an "official" view from Beers and/or SSCI, we need to provide it to . . . the DDCI.

¹⁰² [REDACTED] Brennan's editing marked deletions by striking through the word. He made additions to the draft text using italics.

¹⁰³ [REDACTED] At the time of Rice's query, the Department of Justice was finalizing a civil settlement with the families of the missionaries who were shot. These negotiations resulted in a US Government payment of \$8 million to the families. This topic is discussed further in the next section of this Report.

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[REDACTED] sent a copy of this 11 March e-mail to PTF Legal Adviser [REDACTED] and other OGC attorneys.

507. [REDACTED] Ten days later, [REDACTED] described his discussion with NSC Legal Counsel John Bellinger in an e-mail message to Senior Deputy General Counsel John Rizzo:

Mr. Bellinger pressed me on whether and when the CIA would conduct its own internal review into why the shutdown procedures changed from when the President approved the program. I told him that CIA could not conduct any review until the DoJ criminal inquiry was completed. Mr. Bellinger stated that National Security Adviser Rice had asked him this question. It became clear that Mr. Bellinger did not really know what in the procedures is alleged to have "changed." So, I faxed him a copy of the public SSCI report.

As previously discussed, Rizzo was knowledgeable of the results of both the PTF review and the [REDACTED] accountability review, each of which documented the fact that the procedures had changed and that conduct of the ABDP had not complied with presidential requirements.

ROLE OF THE OFFICE OF GENERAL COUNSEL IN CIA'S EXAMINATIONS OF THE AIR INTERDICTION PROGRAM

508. [REDACTED] Attorneys in CIA's Office of General Counsel (OGC) supported the internal and external investigations into the conduct of the ABDP and led efforts to limit potential civil and criminal action against the Agency and its officers. In advising CIA's internal investigations, OGC became knowledgeable of the findings of the Peru Task Force and the requests from the outside investigatory agencies for pertinent information.

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[redacted] Events following the
 Missionary Shootdown, May 2001 - March 2002

May 2001	The US Government received notification that the survivors of the missionary shootdown, and the Association of Baptists for World Evangelism that owned the missionary plane, intended to sue for civil damages.
May 2001	DoJ's Criminal Division initiated a preliminary review of the procedures employed in the ABDP as a result of questions arising from the 20 April 2001 shootdown of the missionary aircraft; DoJ's purpose was to determine whether a criminal investigation was warranted.
June 2001	Two DoJ attorneys from the Criminal Division came to CIA Headquarters to review documents made available by OGC. OGC provided the same information that the PTF had compiled for the DCI and the SSCI investigation team. OIG reviewed this briefing material, comprised of two binders of documents that were assembled for the DCI to prepare him for his 24-25 April 2001 testimony to the SSCI and HPSCI. None of the information evaluated the conduct of the ABDP; it would not have been possible to complete such an evaluation within four days of the missionary shootdown.
August 2001	DoJ asked the FBI to conduct a preliminary criminal inquiry of the ABDP procedures used in Peru.
November 2001	A DoJ Criminal Division attorney and an FBI agent visited OGC; they were presented with material previously shared with DoJ in June 2001. This information did not contain any reference to the results of the Agency's review that found that the program had never fully complied with the required Presidential procedures from 1995 onward.
December 2001	DoJ requested that CIA/OIG join with the FBI in conducting this investigation.
March 2002	Congress passed an \$8 million private relief bill to pay for the settlement with the victims of the shootdown. OIG found no evidence that OGC informed DoJ of the Agency's findings concerning the non-compliance with the ABDP procedures.

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509. [REDACTED] **OGC Participation in Peru Task Force, May to August 2001.** Latin America (LA) Division Legal Adviser [REDACTED] involvement with the Peru Task Force (PTF) is discussed in an earlier section of this report, "Peru Task Force and Senior Steering Group." As noted there, [REDACTED] advised the PTF to keep all documents in draft form in order to avoid creating formal documentation that might influence other investigations or have an impact on civil litigation. He instructed the PTF to be careful about making judgments because the matter could become a legal issue. [REDACTED] also took the lead in reversing the PTF videotape review team's tentative conclusion that US officers had instructed the Peruvian fighter pilot to strafe a target aircraft after it crashed in July 1995. By modifying the language regarding this incident, [REDACTED] enabled the Agency to avoid making a criminal referral to DoJ concerning the actions of [REDACTED] aircrew in that shutdown.

510. [REDACTED] Counsel to the DDO [REDACTED] who supervised [REDACTED] told OIG that he met with [REDACTED] every week so that [REDACTED] could share the PTF's findings with him. [REDACTED] told OIG that he remembered someone, probably [REDACTED] telling him that the review of shutdown videotapes had revealed violations of required Presidential procedures. [REDACTED] also recalled that [REDACTED] told him that unspecified senior Agency managers had been briefed on the results of the PTF's videotape review.

511. [REDACTED] said that, although he did not recall specifically, he could have discussed with [REDACTED] the fact that visual procedures had not been implemented. He said he had discussed with [REDACTED] such systemic failures in the program as how the Standard Operating Procedures (SOPs) had gotten "a little off track" in the 1998-99 timeframe because they omitted the visual signal phase.¹⁰⁴ [REDACTED] told OIG that the PTF had conducted a

¹⁰⁴ [REDACTED] As noted in previous sections, the SOPs had dropped the requirement for visual signals as part of the intercept procedures at least as early as 1997.

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thorough investigation of the air interdiction program and that he had relied on [REDACTED] and other PTF members to uncover any deliberate actions that would have warranted a criminal referral. He emphasized that, at no point, did [REDACTED] ever say that the PTF had discovered any potential criminal conduct or deliberate intent to mislead.

512. [REDACTED] PTF Chief [REDACTED] told OIG that the Peru Task Force deferred to [REDACTED] to determine how best to report the deviations in intercept procedures it had discovered. [REDACTED] said [REDACTED] had the legal responsibility to report deviations, but that he did not know if [REDACTED] had done so. In regard to the videotape of the 14 July 1995 shutdown in which instructions to strafe civilians fleeing the crashed plane are heard [REDACTED] recalled that [REDACTED] had discussed this tape with other OGC officers, including [REDACTED]. According to [REDACTED] "someone in OGC" (he did not know who) told [REDACTED] to delete from the PTF's findings the comment regarding the apparent strafing on the videotape.

513. [REDACTED] Senior Deputy General Counsel John Rizzo also participated in the effort to ensure that information documented by the PTF did not become part of the official record. As discussed earlier in this report, in responding to DCI Tenet's request for "all the facts" regarding aspects of the ABDP, Rizzo advised in an e-mail of 30 May 2001 that it was important to be careful about committing the

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answers to paper because of possible legal scrutiny from outside the Agency. Rizzo recommended that senior Agency management be orally briefed to avoid producing written documents.¹⁰⁵

514. [REDACTED] **OGC Representations to DoJ Concerning Civil Settlement, May 2001 to March 2002.** The survivors of the missionary shutdown – James Bowers, his son Cory, and pilot Kevin Donaldson – joined with the Association of Baptists for World Evangelism, which owned the missionary plane, in retaining a law firm. In early May 2001, the law firm notified the US Government of the survivors' intent to sue for civil damages arising from the accident. The firm indicated its willingness to negotiate a settlement and, on 8 June 2001, submitted the first proposal for compensation.

515. [REDACTED] During the summer of 2001 [REDACTED] and [REDACTED] then serving as Deputy Chief of OGC's Litigation Division,¹⁰⁶ reviewed and edited language being used by Agency officers in their statements about the shutdown. Their stated goal was to avoid language that might prove incriminating in future litigation. [REDACTED] also attended several meetings with attorneys from DoJ's Tort Branch, OGC's point of contact regarding a civil settlement with the victims of the missionary shutdown. OIG found no evidence that OGC ever informed DoJ of the findings of the PTF – that the PD/MoJ procedures had never been fully implemented since 1995.

¹⁰⁵ [REDACTED] As the Acting General Counsel, John Rizzo commented, in reviewing this report in draft, that OGC's instruction to keep documents relating to the Agency's internal reviews of the ABDP in draft form was not designed to obfuscate but to mitigate the Agency's and the government's potential civil liability. He stated that marking documents in draft "does not prevent access to relevant documents or information by our [Congressional] overseers or to DoJ in performing their criminal investigative responsibilities [because] . . . Congress [has the authority] to obtain those documents through [the] judicial process." OIG notes that the information OGC advised to keep in draft form discussed the findings by the Agency internal reviews after the missionary shutdown that the presidentially-required intercept procedures had never been fully implemented since 1995. This information was pertinent to both potential civil and criminal liability and to Congressional and Executive Branch investigations that were ongoing at the time.

¹⁰⁶ [REDACTED] had served as Legal Adviser to CNC from 1998 to early 2001 and was knowledgeable of the ABDP and its operations.

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516. [REDACTED] In a January 2002 e-mail to Rizzo and others, an OGC attorney reported the results of a meeting he attended with three DoJ officials, the Chief of the Civil Torts Division, a Deputy Associate Attorney General, and an Office of Legal Counsel attorney. According to the OGC attorney's e-mail, the Chief of Civil Torts was presented with,

. . . a couple of hypotheticals that shook his earlier view (which he attributed to a degree to initial GC representations) that available defenses were air-tight and that litigation risk was extremely low. . . [The hypotheticals stemmed from scenarios] examined by various investigating bodies (Beers, Busby, SSCI) . . . [and] under those alleged fact patterns (that any competent plaintiff's attorney would raise), the prospect of USG liability appeared far greater.

OIG again found no evidence that OGC officers informed DoJ of the Agency's findings concerning the non-compliance with the ADBP procedures. In March 2002, Congress passed an \$8 million private relief bill to pay for the settlement between the US and Peruvian Governments and the victims of the shutdown.

517. [REDACTED] **OGC Efforts Regarding Potential Criminal Charges Against Agency Officers, 2002 to 2004.** OGC led the Agency efforts to head off a DoJ criminal investigation and possible indictments of Agency officers as well as to help defend those officers. Senior Agency managers, particularly Deputy Director for Central Intelligence (DDCI) John McLaughlin, General Counsel Scott Muller, and Senior Deputy General Counsel John Rizzo made direct representations to DoJ, the NSC, and Congress. At the behest of Muller, OGC prepared a legal defense of Agency officers. OGC attorneys also assisted Agency officers in obtaining defense counsel and hosted Agency meetings of defense lawyers to prepare the defense case.¹⁰⁷

¹⁰⁷ [REDACTED] In May 2001, DoJ initiated a preliminary review of the procedures employed in the Peruvian air interdiction program. In August 2001, DoJ asked the FBI to conduct a preliminary criminal inquiry. In December 2001, DoJ asked CIA OIG to join the investigation.

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518. [REDACTED] In an e-mail to DDO James Pavitt in early July 2002, Rizzo noted that:

For the past year, we have tried at various levels at DoJ (led by the DDCI continually raising it in meetings with Deputy AG [Attorney General] Thompson) to focus on the corrosive implications a long, drawn-out investigation has on the morale of the entire DO. . . . Furthermore, the DDCI raised this early on with Condi Rice, who asked Bellinger to follow up¹⁰⁸. . . . Finally, within the past couple of weeks a written notification was sent to the intelligence committees laying out exactly, in a straightforward way, what DoJ has done and is doing. We hope it will prompt one or both of the committees to summon DoJ for an explanation.

Rizzo went on to note that the DDCI had "pushed the envelope" with DoJ Deputy Attorney General Larry Thompson. He said that Thompson was dealing with a career staff that was "muttering" about "outside pressure" on the investigation from CIA. Nonetheless, in the fall of 2002, McLaughlin resumed his representations to the Deputy Attorney General that continued through at least the fall of 2004.

519. [REDACTED] In representations to DoJ, Rizzo expressed concern to the Assistant Attorney General for the Criminal Division about the length of time that DoJ's investigation was taking; the fact that three of the officers involved were in very senior positions; and the negative impact the DoJ investigation was having on morale in the Directorate of Operations.

520. [REDACTED] **OGC's Internal Review of Conduct of Air Interdiction Program, October 2002 to November 2003.** After becoming CIA General Counsel in October 2002, Scott Muller immediately requested a briefing from his staff on the status of the criminal investigation into the conduct of the ABDP. He made it clear that he doubted a criminal investigation was warranted; questioned whether DoJ had objectively considered all relevant

¹⁰⁸ [REDACTED] John Bellinger served as Legal Adviser to the NSC.

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information and surrounding factors; and indicated that he was going to have an OGC attorney conduct an assessment of the case.

521. [REDACTED] OGC attorney [REDACTED] conducted the assessment for Muller. [REDACTED] told OIG that Muller asked for a "comprehensive review" of the Peru program from its inception through the missionary shutdown. [REDACTED] estimated that he spent 50 to 100 hours, or more, over four to six weeks reviewing the Peru air interdiction program, examining cables and other written reporting, and watching the videotapes. [REDACTED] said he had spoken with LA Legal Adviser [REDACTED] in order to ensure that he conducted a comprehensive review. However, [REDACTED] told OIG that he was not provided with the findings of the PTF or the Agency's Internal Accountability Review nor was he familiar with their conclusions.

522. [REDACTED] E-mail correspondence between Muller and [REDACTED] as well as [REDACTED] statements to OIG, indicate that Muller understood that visual signals had not been performed as required and that this was a key issue with respect to potential criminal charges against Agency officers. In seeking to establish a rationale for this deviation, Muller focused on the centrality of evasion as a possible defense theory. Muller's theory was that suspect aircraft were usually evading and that, if they were evading, there was no longer a requirement to perform visual signals. [REDACTED] did not agree with Muller's theory. He maintained that many suspect aircraft had not been evading and that the MOJ did not provide for evasion as an exception to the requirement to conduct visual signals.

523. [REDACTED] In early February 2003, Muller postulated that the planes that had been shot down had taken evasive action and that CIA personnel in the field believed the rules no longer required the

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use of visual signals when that occurred.¹⁰⁹ [redacted] countered, arguing that visual signals had not been done regardless of whether or not the target was evading. He said the Peruvians had been trained not to do visual signals, even when the target was flying straight and was not evading. Muller responded that:

It is not a question of whether the tapes of the shootdowns support the cables. It is not a question of what procedures they followed when planes were evading. It is a question of what procedures they were following when planes were not shot down and were not evading.

524. [redacted] responded that there were several "fatal flaws" in Muller's theory that the planes that had been shot down had taken evasive action. [redacted] wrote that the requirement to conduct visual signals had been dropped from the training and practice of the air interdiction program before 1999. He added that:

The shootdowns for 4 August 1997 and 6 October 1997 . . . are preceded *not* by visual signals from the target, *nor* by radio communication between the target and the tracker/interceptor, *nor* by conclusive evasion. [Emphasis in original.]

Moreover, [redacted] argued that the discussion of evasion was getting off point, as authorization for the program in the PD and MOJ did not say anything about evasion. [redacted] later explained to OIG that, if the earlier shootdowns that he had reviewed involved "evasion," then the missionary shootdown in 2001 also involved "evasion" and thus could not be called a mistake.

525. [redacted] also challenged Muller's theory that CIA personnel in the field had "reasonably" interpreted the MOJ to permit abbreviated steps when the target was "evading." [redacted] pointed

¹⁰⁹ [redacted] recalled that Muller proposed that a plane heading for the Brazil border or changing altitude was "evading." [redacted] told OIG he believed there could be other reasons for a plane to fly toward the border or change altitude and contended that whether a plane was evading and how to respond was not for a person in the field to decide.

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out that the missionary shutdown "had indications of 'evasion' similar to the 4 August 1997 and 6 October 1997 events." He added:

Evasion is a fuzzy concept. And on 20 April 2001 we learned what happens when the Peruvian Air Force does not guess correctly about evasion, when the target does not demonstrate by visual signals and/or radio communication that it is aware of the interceptor.

526. [REDACTED] reviewed the procedures for conducting a shutdown as specified in the MOJ. He described "fairly far differences" between the required procedures and what CIA cables described and the tapes showed. [REDACTED] told OIG he reported the results of his analysis to Muller and showed him one of the shutdown videotapes. In this shutdown, there was a problem with the speed with which the phases proceeded. If the pilot of the target plane was not already on the radio, there was no way he could have received the radio call warning of interception before he was shot down, because the shutdown proceeded so quickly. What the shutdown tape showed did not meet the requirements of the MOJ. [REDACTED] pointed out to Muller the speed of events and the lack of time to respond. [REDACTED] told OIG that, while Muller did not agree with him outright, he did express concern that his proposed defense — that

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CIA officers had relied on a reasonable interpretation of the MOJ – would not work. Muller also thought some people, specifically [REDACTED] needed to be concerned."¹¹⁰

527. [REDACTED] found that deviations in the conduct of the program were written into the 1999 Standard Operating Procedures. He also noted that handwritten comments in the April 2001 briefing DCI Tenet provided to the SSCI might have led to "problems" with the accuracy of his statements to Congress.¹¹¹ [REDACTED] told Muller that he concluded there were grounds for possible criminal prosecution of ABDP managers for making false statements in reports from the field to Headquarters and to Congress.¹¹² [REDACTED] told Muller that the most exposed individuals were officers who knew the MOJ's rules, knew of the reality on the ground, and had made affirmative statements about the program's compliance. In particular, [REDACTED] identified [REDACTED] and [REDACTED]

528. [REDACTED] provided Muller his assessment of the responsibility of CIA personnel in the field:

¹¹⁰ [REDACTED] In commenting on this Report in draft, Acting General Counsel Rizzo stated that, "Former General Counsel Muller, and OGC attorneys operating at his direction, pursued a legally permissible course of action in interpreting the facts as they relate to the criminal statutes at issue in the Justice Department's review of this matter. By analyzing a possible defense theory, Muller was playing devil's advocate by identifying for the Justice Department the potential weaknesses in its criminal case. This is a traditional and permissible legal role for Agency counsel to take. . . . The theory developed by Muller and other OGC attorneys has a basis in fact. That theory relies upon the [REDACTED] cables that describe the target aircraft as taking evasive action. . . . The theory is further premised on the practical consideration that when a target aircraft takes evasive action, it is a strong indicator that the pilot of the aircraft has identified the presence of a pursuing aircraft. In such cases, even though ICAO procedures are silent on this point, evasive action arguably eliminates the requirement for the use of signals by the pursuing aircraft to alert the pilot of the target aircraft. This undoubtedly is an argument that would have been advanced by defense counsel should this matter have resulted in criminal charges against Agency officers, and we believe that the Justice Department was entitled to the benefit of that argument as it considered whether to proceed criminally. . . ."

¹¹¹ [REDACTED] confirmed to OIG that these edits were in her handwriting.

¹¹² [REDACTED] In spring 2003, at the conclusion of his review of the ABDP [REDACTED] went on leave-without-pay status; following his return in fall 2003, he was not involved in OGC activities concerning the ABDP.

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Many officers are already protected [from criminal prosecution] because DoJ cannot prove that they knew the Program's practice differed from the Memorandum of Justification. This protection does not apply to those field officers who have admitted to having read and understood the Memorandum of Justification before or at a time when they knew the Program was being run without the fallback of visual signals. Further, this protection probably does not apply to [redacted] . . . because they had significant experience with the Program in the field.

529. [redacted] **OGC Preparation of a Defense Strategy, April to October 2003.** In April 2003, OGC prepared a document titled, "Peru Airbridge Denial Program, Department of Justice Investigation," that included two pages of possible defense theories. In spite of knowledge of the PTF findings and the conclusions [redacted] had presented to Muller, OGC advanced the arguments used by Muller in conversations with DoJ and in his e-mail exchanges with [redacted]. It was reasonable for CIA officers to believe they were complying with required procedures when visual signals were not given to suspects who had taken evasive action. OGC based this theory on assertions that, "Virtually every shutdown from 1995 to April 2001 involved a case where the suspect took evasive action upon the arrival of the interceptor." The assertion was inconsistent with the PTF findings, the PTF's review of shutdown videotapes, and [redacted] conclusions. In fact, most shutdowns had not involved evasion.

530. [redacted] In early October 2003, OGC circulated to senior Agency officials – including Tenet, McLaughlin, Krongard, and Pavitt – a background briefing book, entitled *Peru Airbridge Denial Program, 1995-2001: Department of Justice Investigation*, dated 30 September 2003. It included the same two-page section, "Possible Defense Theory," discussed above. The briefing book was produced and circulated to senior Agency management in advance of a meeting arranged by Muller and the Assistant Attorney General of DoJ's Criminal Division with senior Agency managers to discuss the status of the criminal investigation into the conduct of the ABDP.

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531. [REDACTED] On 3 November 2003, the Assistant Attorney General of DoJ's Criminal Division and other DoJ attorneys met with DCI Tenet, McLaughlin, Muller, DCI Chief of Staff Moseman, the Inspector General, and several others to discuss the findings of the criminal investigation. In that discussion, DoJ and OIG briefed senior Agency officials on the findings of their investigation. They told these senior managers that:

- ◆ CIA personnel knew from 1995 onward that not all the intercept procedures required by the Presidential Determination had been conducted.
- ◆ After every shutdown but one, CIA personnel reported that all required procedures had been conducted.
- ◆ CIA personnel may have made false statements, representations, and material omissions to Congress during the duration of the program and after the April 2001 missionary shutdown.

The Agency managers who attended the meeting listened to the discussion and asked several questions. They did not inform DoJ or OIG, however, that other Agency investigations of the ABDP including the PTF review, the [REDACTED] accountability review, and [REDACTED] review for OGC had reached conclusions similar to those of DoJ and OIG.

532. [REDACTED] **OGC's Support to the Criminal Defense.** By early 2003, Agency officers, concerned that they might become subjects of a criminal investigation, consulted with OGC about obtaining private counsel. OGC attorneys, including General Counsel Muller and Senior Deputy Rizzo, served as intermediaries, contacting outside lawyers. Rizzo discussed the issue of US Government reimbursement of legal fees on behalf of the Agency

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employees with some defense counsels. One defense attorney has stated that Rizzo asked his firm to represent two Agency employees and instructed him to provide payment invoices to OGC so the Agency could pay them.¹¹³ The actions of Muller and Rizzo in early 2003 contrasted from written notification OGC attorney [REDACTED] had provided to Agency employees in June 2002. At that time [REDACTED] told certain Agency officers that DoJ wanted to interview them and that the employee had a right to consult a lawyer, but OGC could not represent the employee or advise the employee whether to consult a lawyer.

533. [REDACTED] One OGC attorney also helped defense lawyers collect and review classified Agency documents in Agency offices. LA Division Legal Adviser [REDACTED] tasked several offices in the DO and several overseas stations on behalf of defense lawyers to provide documents covering a broad array of issues, including cables, SOPs, training documents, briefings of Congress, and documents related to the external inquiries undertaken following the missionary shutdown. OGC attorneys facilitated defense counsel access to Agency spaces and personnel.¹¹⁴

534. [REDACTED] OGC attorneys undertook this support to defense counsels without the knowledge of DoJ, which was conducting an ongoing criminal investigation. When DoJ became aware that defense lawyers had been given access to Agency information, these lawyers had been present in CIA offices for 187 hours. OGC attorneys had located a non-Agency witness for defense counsel to interview without DoJ knowledge, leading one senior OGC attorney to comment on the unprecedented nature of such

¹¹³ [REDACTED] Agency regulation provides that any CIA employee "who, as a result of activities carried out within the scope of his or her employment," may be indemnified under Section 8 of the CIA Act for the costs of legal representation by private counsel if, in the sole unreviewable discretion of the General Counsel, he determines that the person "appears to have been acting in good faith and within the scope of his or her employment."

¹¹⁴ [REDACTED] Agency regulation states that for OIG-related business, OIG, in conjunction with the Office of Security, will provide the specific authorization for access and will be responsible for overseeing the activities and movements of the defense counsels.

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support to defense counsel during an ongoing DoJ criminal investigation. General Counsel Muller hosted at least one meeting of four defense lawyers at CIA. Following that meeting, one of the defense counsels sent a six-page letter to Muller in October 2003 on behalf of all four defense counsels asking for 32 specific categories of Agency documents.

535. [REDACTED] In October 2003, General Counsel Muller told OIG that subjects of the investigation had met with counsel on numerous occasions, but that OGC personnel had not sponsored those meetings. He said that [REDACTED] had sponsored lawyers who were using LA Division spaces to review documents, watch shutdown videos, and compare notes. Muller, however, noted that [REDACTED] Rizzo, and others had each approved giving private counsel access to ABDP documents.

536. [REDACTED] **OGC's Representations to DoJ for Criminal Declination.** Following the 3 November 2003 briefing of senior Agency managers, OGC continued urging DoJ not to criminally prosecute Agency officers involved in the air interdiction program. OGC promised/argued that the Agency would/could employ an adequate administrative remedy. This discourse culminated in a letter from DDCI McLaughlin to the Assistant Attorney General for the Criminal Division on 18 October 2004. In this letter, McLaughlin promised that CIA would ensure vigorous administrative accountability. McLaughlin stated that:

... regardless of what decision the Justice Department may reach in a given case, there will be serious consequences for any CIA employee determined to have lied or made knowingly misleading statements, whether those statements were to Congress, DoJ, the NSC or Office of Inspector General (OIG) investigators, or by an employee to his or her superiors. If the facts demonstrate such intentional deception, this Agency will take significant disciplinary action to reinforce our "zero tolerance" policy for such conduct by Agency personnel.

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McLaughlin offered the following assurance with respect to the Peru investigation:

Regardless of what action DoJ ultimately decides to take with respect to its investigation, CIA's Executive Director will be directed at the appropriate time to convene an accountability board composed of experienced individuals from within or outside the Agency, but which will in any case include people not serving in the Directorate of Operations.

On 3 February 2005, DoJ declined prosecution in favor of administrative action by CIA.

CONCLUSIONS

537. [REDACTED] On 20 April 2001, a small floatplane owned by the Association of Baptists for World Evangelism was transporting an American family of four from Brazil to their home base of operations in Iquitos, Peru. The plane, following the Amazon River in its westward journey in daylight, was tracked by [REDACTED] aircraft as a suspected narcotrafficker and was fired on by the Peruvian Air Force. The mother and infant were killed; the American pilot was seriously wounded. Within hours, CIA officers began to characterize the shutdown as a one-time mistake in an otherwise well run program. In fact, this was not the case.

538. [REDACTED] Violations of procedures required under the Airbridge Denial Program (ABDP) to intercept and shoot down drug trafficking aircraft occurred in all 15 shutdowns in which CIA participated, beginning in May 1995. CIA officers knew of and condoned the violations, fostering an environment of negligence and disregard for these procedures. The required intercept procedures, specified in Presidential Determination (PD) 95-9 and its accompanying Memorandum of Justification (MOJ) of December 1994, were not mere technical details. They were integral to the

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program — designed to ensure that an aircraft that was intercepted "was reasonably suspect of being involved in narcotrafficking" and to protect against the loss of innocent life. To achieve these objectives, efforts to identify a suspect plane and, using a specific series of internationally recognized procedures, give the plane an opportunity to land were required before it could be shot down.

539. [REDACTED] CIA officers involved in the program violated requirements related to reporting on the shootdowns in all cases except one. Their statements inaccurately claimed that each shootdown complied with the requirements of the PD and MOJ. These statements originated on the ground in Peru, were endorsed [REDACTED] [REDACTED] and were then passed by responsible Headquarters components to Congress and the NSC. The statements were contradicted by clear evidence contained in some of the reporting cables and in the videotapes of the shootdowns. CIA officers charged with legal and policy oversight of the program ignored the evidence. Their failure to report violations averted the possibility of a policy review that might have led to a change in course and prevented the shootdown of April 2001.

540. [REDACTED] Key Agency participants in the ABDP — by their own account — understood the requirements of PD 95-9 and the MOJ and knew that they were required to monitor the program and report any deviation from required procedure. They also understood that, if they reported violations of intercept procedures, the MOJ required the US Government to "reevaluate whether Peru has appropriate procedures to protect against the innocent loss of life." A number of officers told OIG they believed such a reevaluation might have ended the program. This perception fostered a climate in which reporting any failure to comply with required procedures may have been viewed as a threat to the program itself.

541. [REDACTED] The routine disregard of the required intercept procedures in the ABDP led to the rapid shooting down of target aircraft without adequate safeguards to protect against the loss

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of innocent life. Key Peruvian and American participants in the program told OIG that, in many cases, performing the required procedures would have taken time and might have resulted in the escape of the target aircraft. In addition, because the required procedures to establish contact with a target aircraft were difficult to conduct, it was easier to shoot the aircraft down than to force it down. The result was that, in many cases, suspect aircraft were shot down within two to three minutes of being sighted by the Peruvian fighter – without being properly identified, without being given the required warnings to land, and without being given time to respond to such warnings as were given to land.

542. [REDACTED] Unauthorized modifications to the Presidentially-mandated intercept procedures were implemented from the resumption of the program in 1995. Agency officers and the US and Peruvian pilots all explained that there were practical limitations to conducting all the intercept procedures. Peruvian pilots were interviewed, for example, and none said he had ever conducted visual signals to warn a target aircraft that it had been intercepted. This resulted in a *de facto* modification of the intercept procedures from the start of the program in which visual signaling was discretionary. In fact, visual signals were not even conducted in the 11 shootdowns that occurred in daylight. No one involved in making this change had the authority to do so.

543. [REDACTED] The violations of required intercept procedures that occurred in the shootdown of the missionary plane had occurred in many previous shootdowns. They included:

- ◆ Failure to identify the suspect aircraft as reasonably suspect of being a narcotics trafficker by identifying its tail number or determining if a flight plan existed. This failing occurred in nine shootdowns.
- ◆ Failure to conduct visual signals, such as fly-bys, wing waggling or lowering landing gear, to ensure that the

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suspect aircraft knew it had been targeted and could follow instructions to land. This occurred in all 15 shootdowns.

- ◆ Failure to fire warning shots to ensure that the suspect aircraft knew it had been targeted and could follow instructions to land. This occurred in nine shootdowns.
- ◆ Failure of the Peruvian chain of command in executing the stages of an interception and shootdown process before authorizations were provided. This occurred in 14 shootdowns.
- ◆ Lack of reasonable amount of time to perform required procedures and for target aircraft to respond. This occurred in 10 shootdowns.

544. [REDACTED] Some violations that had occurred in previous shootdowns did not occur in the missionary shootdown. For example, on at least four occasions, authorization to shoot down the target aircraft was given before all intercept phases had been completed. Improper interference on the part of the US crew had occurred at least five times, for example. This usually involved US personnel encouraging the Peruvians to accelerate the intercept phases. In one instance, the US crew encouraged the Peruvians to fire on those who were fleeing a plane that had already been shot down, an action that potentially violated US and Peruvian law. In interviews with OIG, Agency officers acknowledged that one or more of the required procedures were not followed in shootdowns in which they were directly involved.

545. [REDACTED] Inaccurate reporting on the ADBP originated on the ground in Peru with Agency officers stationed at the Pucallpa and Juanjui Air Bases [REDACTED] These officers drafted, reviewed, and released cables they knew – based on their direct involvement and review of the tapes – contained inaccurate information. Agency officers in Latin America Division and the

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Crime and Narcotics Center, responsible for managing the program, failed to provide adequate oversight. The cables and videotapes contained information that contradicted claims of compliance and revealed numerous and repeated violations of the Presidentially-mandated required intercept procedures. After failing to conduct appropriate reviews, these officers forwarded inaccurate information to senior management of the Agency and then on to Congress and the NSC, stating that the program operated in strict adherence to the laws and regulations governing it.

546. [REDACTED] The 17 August 1997 shutdown, which [REDACTED] acknowledged was "bad," and the resulting investigation into its violations of procedure and overall conduct of the program could have been a positive watershed event for the program and those involved in it. Instead, the lessons it provided were ignored. The participants first sought to downplay the extent of the violations in that shutdown, then denied the extent of chronic non-compliance in the program, and finally reverted to the previous practice of overlooking violations.

547. [REDACTED] Violations of procedure in the 17 August 1997 shutdown were noted by the officer-in-charge (OIC) at Pucallpa, [REDACTED] who properly alerted [REDACTED]. When Program Manager [REDACTED] reviewed the videotape, she questioned the OIC's account. In an e-mail to [REDACTED] [REDACTED] indicated [REDACTED] officers who reviewed the incident had reported that there might *not* have been any violation. The OIC did not back down from his assessment, however, and [REDACTED] reported the violations. Headquarters then also reported the violations in its Congressional Notification.

548. [REDACTED] Following the 17 August 1997 incident, Headquarters sent a team to Peru to review the program. The OIC at Juanjui, [REDACTED] told OIG that the co-leader of the team, [REDACTED] was told by [REDACTED] that the required visual signals

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were not always being performed. Nonetheless, [REDACTED] issued a report erroneously stating that the conduct of the intercept procedures "more than exceeded" the Presidential requirements. Furthermore, the requirement to perform visual signals as a part of the interception procedures, as specified in the MOJ, was omitted from the SOPs, which had been adopted in February 1997. In spite of this omission [REDACTED] gave the ABDP a clean bill of health in her report, stating that the procedures in place in Peru were even more stringent than those outlined in the Presidential Determination. She also reported incorrectly that the 17 August 1997 shutdown was a "unique exception to normal operations and is the sole deviation known to have occurred in the history of the program."

549. [REDACTED] Subsequent shutdowns, two as early as October 1997, involved many of the same violations of procedure as those of 17 August 1997 and previous shutdowns. Program participants maintained that they scrutinized subsequent shutdowns with particular care because of the problems with the 17 August 1997 event. In reality, these reviews either were not undertaken or were woefully inadequate, as they continued to report incorrectly, or falsely, that all required procedures had been fulfilled, when in fact they had not been. The Agency forwarded this inaccurate reporting to Congress.

550. [REDACTED] During the ABDP, Standard Operating Procedures (SOPs) were issued yearly. In 1999, two successive [REDACTED] [REDACTED] signed the SOPs. As with the 1997 SOPs, the 1999 SOPs did not contain the Presidentially-mandated requirement to conduct visual signals as part of required intercept procedures. This marked the start of a continuing omission of a key procedure required by the MOJ. In signing these SOPs, [REDACTED] documented their recognition of the fact that Peruvian pilots were not required to perform visual signals.

551. [REDACTED] There was effectively no legal oversight of the ABDP during the years it was in operation. The Congressional grant of immunity from criminal prosecution to CIA employees for their

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role in downing civilian aircraft through this lethal program was predicated on the compliance of those activities with the procedures established by the Presidential Determination and Memorandum of Justification to protect against the loss of innocent life. Those authorities unambiguously placed on the Agency and its officers involved with the program a requirement to monitor actions taken in its implementation and to report any deviations from approved procedures. CIA line management failed to ensure that this was done. For their part, the Office of General Counsel and the several attorneys who served in the operating divisions that ran the program were passive, believing to the present time that it was never their role or obligation to undertake any affirmative action to monitor, ensure, or document compliance.¹¹⁵

552. [redacted] CIA did not fulfill its legal obligation to keep Congress and the NSC fully informed of significant activities concerning the ABDP. Between 1995 and 2001, the Agency incorrectly reported that the program complied with the laws and policies governing it. In the aftermath of the missionary shootdown, CIA conducted several internal examinations into the circumstances of the shootdown and the broader conduct of the ABDP that

¹¹⁵ [redacted] In reviewing this report in draft, the Acting General Counsel stated that,

... the mere fact that some of the incoming cables [concerning shootdowns] reported an elapsed time of only a few minutes for the implementation of intercept procedures is insufficient to trigger the requirements for further legal review. OGC attorneys are not pilots, nor air traffic controllers; they are not trained to evaluate whether or not intercept procedures can or should be completed in a certain amount of time, particularly when that information is coupled with an affirmative statement of procedural compliance.

In the view of the OIG, it is not accurate, however, to state that, because OGC attorneys lacked training as pilots or air traffic controllers, they therefore bore no responsibility when reading cables that reported all intercept procedures were conducted in 90 seconds to a few minutes. By their own statements, each OGC legal advisor in LA Division knew the intercept procedures. They knew a potential target plane had to be identified as reasonably suspect of being engaged in narcotics trafficking, after which radio calls, visual warning signals such as flying in front of the target, and warning shots all had to be executed before requesting and receiving permission to shoot the target. Common sense, not specialized training, dictates the procedures cannot physically be carried out in 90 seconds to a few minutes.

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documented sustained and significant violations of required intercept procedures dating back to the first shootdown. Yet the Agency denied Congress, the NSC, and the Department of Justice access to these findings. Seeking to avoid both criminal charges against Agency officers and civil liability, OGC advised Agency managers to avoid written products lest they be subject to legal scrutiny.

553. [REDACTED] Statements by senior CIA officers in the immediate aftermath of the missionary shootdown misrepresented the Agency's performance in running the Peru air interdiction program and advanced the fiction that the missionary shootdown had been an aberration in an otherwise well run program. Within days of the shootdown, the Agency told the Vice President, the Agency population, and the public that clear rules of engagement had been established at the beginning of the program requiring the Peruvian Air Force to use a series of internationally recognized procedures known to all pilots to make contact with a suspect aircraft and instruct it to land. These detailed statements implied that the required procedures had been implemented when, in fact, they had never been fully implemented.

554. [REDACTED] Latin America Division [REDACTED] and Crime and Narcotics Center [REDACTED] were responsible for the content and accuracy of the Agency's statements in the immediate aftermath of the missionary tragedy. Each officer knew the information the Agency presented was incomplete and misleading, obscuring the actual conduct of the program. Their efforts to suppress incriminating information led to manipulation of DCI Tenet's testimony to the SSCI on 24 April 2001. In editing Tenet's draft testimony, [REDACTED] deleted references to the requirement that visual signals be conducted. As a result, Tenet gave incomplete and misleading testimony to Congress.

555. [REDACTED] supported the DCI's briefings to Congressional Intelligence Committees and briefed the Committees themselves more than 10 times between 24 April and 1 August 2001.

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They claimed that the missionary shutdown had been an aberration and that the rapidity with which the phases of that interception had been conducted was unusual. These claims remained unchanged even after the Agency's internal review group, the Peru Task Force (PTF), had collected clear evidence, dating back to 1995, that the program had deviated from requirements of the PD and MOJ and the phases of most previous shutdowns had been conducted in shorter periods of time than in the missionary shutdown.

556. [REDACTED] The central roles played by [REDACTED] in the preparation of Congressional testimony and in the daily operation of the PTF represented a conflict of interest. Their long and direct involvement in the management, supervision, implementation, and oversight of the ABDP and their potential accountability should have precluded them from any role other than that of providing input to post-shutdown investigations. Instead, they were deeply involved in the preparations of Congressional briefings and the PTF deliberations and findings, thereby compromising that group's objectivity and credibility. This involvement resulted in external briefings and products that focused on selective and relatively benign issues, such as inadequate training and language capability, and diluted the gravity and weight of the evidence of persistent and systemic violations. Senior Agency management was aware of the participation of [REDACTED] and sanctioned this conflict of interest.

557. [REDACTED] The PTF's "draft" report of 14 May 2001 alluded in only a general way to the serious and longstanding problems the group had identified in the conduct of the ABDP. The Task Force masked its findings, stating that intercept procedures had become "abbreviated" in the late 1990s due to changes in equipment and an increased focus on safety. In reality, the group had learned from the testimony of US pilots and statements [REDACTED] officers [REDACTED] that visual signaling always had been considered optional and that many other required steps were

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often omitted. The PTF's review of the 1997 SOPs further confirmed that the written requirement to conduct visual signals had been dropped earlier than the "draft" implied.

558. [REDACTED] Within a month of the missionary shutdown, the PTF had accumulated substantial evidence and documented its findings that procedures required by the MOJ had never been fully followed and that Agency officers in Peru had falsely claimed otherwise in their reports to Headquarters. The PTF did not formally report its findings, however, on advice from OGC. The PTF also did not formally report that it had failed – in the NSC-directed IRG tasking – to identify any shutdown videotape that showed all procedures being followed.

559. [REDACTED] The PTF failed to fulfill two of the primary taskings articulated by the DCI: to ensure the "completeness and accuracy of the documents already produced by various Agency components" and to provide relevant material to external groups investigating the shutdown. The PTF never reported that many of [REDACTED] ABDP reporting cables and the Agency's resulting notifications to Congress were inaccurate. Nor did the PTF fully inform or provide its findings to the external review groups, specifically the NSC-directed IRG, the SSCI investigation, or DoJ, which was conducting a criminal investigation and civil settlement negotiations with the Baptist missionaries.

560. [REDACTED] OGC's advice not to release a "final" PTF report was intended to insulate the Agency and its officers from any finding of accountability or liability for their conduct of the program. By telling outside investigatory groups, such as the IRG and the SSCI, that there was no final report from the internal CIA investigation, the Agency successfully denied them access to the PTF's findings. The tactic also concealed the Agency's findings from the victims of the shutdown who were engaged in civil settlement negotiations.

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561. [REDACTED] The Accountability Review conducted by [REDACTED] failed to report the incriminating information he learned about the conduct of the ABDP. Despite having knowledge of the PTF's findings and the results of the videotape review, [REDACTED] failed to report to the DCI and other senior managers in August 2001 that required procedures had been omitted from the beginning of the program and that [REDACTED] repeatedly had provided inaccurate reporting. Rather, [REDACTED] report echoed the PTF theme that procedures had become abbreviated in the late 1990s as the Peruvians focused on flight safety. [REDACTED] also passed on without verification [REDACTED] inaccurate conclusion of September 1997 – that the program was operating in full compliance with required procedures. Finally, [REDACTED] bears specific responsibility – as the Agency's sole representative to the IRG – for failing to inform the IRG of the PTF's findings and the documented results of its review of the videotapes.

562. [REDACTED] In late 2002, at the request of newly arrived General Counsel Scott Muller, OGC attorney [REDACTED] conducted another review of the ABDP. [REDACTED] reported to the General Counsel that there were significant discrepancies between the procedures required by the PD and MOJ and the procedures actually followed in the ABDP. [REDACTED] had not been informed of the findings of the Agency internal reviews, but he reached similar conclusions. He told OIG that he had shown Muller a videotape that demonstrated the shutdown had not met the requirements of the MOJ. [REDACTED] said he informed Muller in early 2003 that there were grounds for possible criminal prosecution of ABDP managers for making false statements in reports from the field to Headquarters and to Congress. Those most exposed, he said, were officers who knew the MOJ's requirements, knew the reality on the ground, and had made affirmative statements about compliance with the procedures.

563. [REDACTED] In April 2003, OGC prepared a defense of the Agency's performance in conducting the ABDP that was designed to protect Agency officers from criminal prosecution. This defense theory directly contradicted the documented findings of the PTF and OGC's

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own review. It relied on inaccurate assertions: first, that in virtually every shutdown from 1995 to April 2001, the target plane had taken evasive action, and second, that visual signals could be skipped if the target plane took evasive action. In fact, most of the shutdowns had not involved evasion on the part of the target aircraft, and the MOJ did not stipulate that visual signals could be skipped in the event a target did take evasive action.

564. [REDACTED] OGC attorneys briefed the defense theory to the DCI and DDCI in fall 2003. They also contacted defense counsels to enlist them to represent Agency employees. Senior OGC attorneys hosted meetings of defense lawyers at CIA, tasked Agency components and overseas locations for documents to provide to defense counsel, facilitated defense counsel access to Agency spaces and personnel, located a non-Agency witness for defense counsel to interview, and according to one defense counsel, instructed him to submit his billing invoices for his Agency-employed clients directly to OGC. OGC's provision of this kind and level of support was a marked departure from normal OGC practice and was undertaken without the knowledge of the Department of Justice, which was conducting an ongoing criminal investigation. In undertaking these actions, OGC attorneys confused their mission of ensuring that Agency operations are conducted in consonance with US law with one of advocacy – seeking to limit civil and criminal action against individual Agency officers.

565. [REDACTED] Senior Agency managers withheld information from the NSC, failing to respond to direct questions about the conduct of the program from National Security Adviser Condoleeza Rice. On several occasions, Rice asked who had given approval for CIA to "change the procedures" that were clearly required in the program. OIG found no evidence that any Agency officer ever responded to her request for information, despite the fact that certain senior Agency managers were aware of the Agency's own findings that the ABDP had not fully complied with Presidential requirements.

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566. [REDACTED] Several OGC lawyers were aware of the conclusions reached by the PTF. These lawyers also were aware of ongoing settlement negotiations with attorneys representing the victims of the missionary shutdown. The US Government paid \$8 million to the victims, working from an incorrect understanding, based on CIA's assertions, that the missionary shutdown had been an aberration in a program that otherwise had complied with Presidentially-mandated procedures.

567. [REDACTED] A number of Agency officers failed to appropriately monitor ABDP activities and provide accurate reporting. These individuals included [REDACTED] officers-in-charge and personnel [REDACTED] and Headquarters personnel in LA Division, CNC, and [REDACTED] Special Activities Division, including the attorneys assigned to the DDO and these divisions.¹¹⁶ These officers did little to proactively ensure the integrity of the program. Following the missionary shutdown, a number of Agency managers and attorneys misled senior US Government officials, including the Vice President and National Security Advisor, the Congress, and other government investigatory entities about the chronic violations of required procedures in the ABDP and the failure to report those violations.

568. [REDACTED] In addressing issues of accountability, OIG has focused on those officers who understood the requirements of the

¹¹⁶ [REDACTED] In reviewing this report in draft, OGC commented that the best measure of the effectiveness of OGC's legal guidance was the fact that Agency personnel understood the program requirements as set forth in the PD and MOJ. "OGC, then, fulfilled its mission of ensuring that National Clandestine Service officers knew their legal obligations," stated the Acting General Counsel. OIG's investigation, however, did not establish that Agency personnel were aware of the PD and MOJ requirements because they were briefed by OGC attorneys. Rather, outgoing officers-in-charge were informed of the PD/MOJ by Special Activities Division program managers in Headquarters. [REDACTED] maintained a "read folder" with the PD/MOJ for officers in the field implementing the program. Legal advisers to the program described their role as reactive, as explained more fully in the text box, *The Role of the Legal Adviser*, following paragraph 85.

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Presidential Determination and Memorandum of Justification; knew the requirement to report deviations through their chain of command; knew the ABDP had not complied with the requirements of the PD and MOJ; failed in their oversight responsibilities; were involved in multiple incidents of false reporting; and/or provided misleading information or suppressed knowledge of available evidence.

- ◆ [REDACTED] of the Counternarcotics Linear Program, [REDACTED] and [REDACTED] LA Division, was involved in one way or another with every shutdown except one. As one of the original architects of the ABDP, [REDACTED] knew that the PD and MOJ allowed no deviation from prescribed procedures. He was centrally involved in the program while serving [REDACTED] he reviewed the tapes of the shutdowns and released the cables reporting on the shutdowns to Headquarters. [REDACTED] knew the Peruvian pilots considered visual signals to be optional from the start. Eight shutdowns occurred while [REDACTED] was [REDACTED] Linear, and he was in the chain of review for all of them. There were violations of required procedures in each of these shutdowns and inaccurate reporting to Congress. [REDACTED] failed in his responsibility to provide adequate oversight to the program.

[REDACTED] from 1996-99, [REDACTED] told OIG that [REDACTED] was responsible for ensuring that required intercept procedures were followed and was responsible for the accuracy of [REDACTED] reporting. [REDACTED] oversaw five shutdowns as [REDACTED] including that of 17 August 1997. [REDACTED] provided false reporting on four of them. After the shutdown of 17 August 1997 that violated a number of intercept procedures, [REDACTED] instituted corrective procedures to ensure compliance. Yet, the violations that had occurred on 17 August 1997 were inexplicably repeated two months later in October 1997 and were not reported.

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[redacted] subsequent signing of SOPs in 1999 that failed to include visual signals as a requirement was fundamentally inconsistent with the clear provisions of the PD and MOJ.

After the shutdown of the missionary plane, as [redacted] Latin America Division, [redacted] provided misleading information to the Peru Task Force, Congressional committees, CIA employees, and the public. He was fully aware that the ABDP had not complied with the requirements of the PD and MOJ, but he withheld that information from Congress and the NSC.

- ◆ [redacted] serving in various positions in CNC and Latin America Division, failed repeatedly in her responsibility to ensure the ABDP was conducted in accordance with its presidentially-directed requirements. As [redacted] [redacted] of LA Division in 1995-96, she reviewed ABDP cables from [redacted] and assisted in preparation of notifications to senior Agency managers and Congress. As [redacted] LA Division's [redacted] from 1996-98, [redacted] was responsible for Headquarters oversight of the ABDP. Her investigation and report of the 17 August 1997 shutdown and the overall conduct and compliance of the program were particularly flawed. Having learned first hand in Peru that required procedures were not being performed, she nonetheless labeled the August 1997 shutdown an anomaly in a well-run program. In spite of being keenly aware of the violations in the August shutdown, she failed to monitor the next two shutdowns in October 1997 adequately and played a critical role in passing false information to Congress and the NSC.

After serving as [redacted] of Congressional Affairs in 1998-2000, [redacted] of CNC, provided misleading information to the Peru Task Force and Congressional Committees in the wake of the missionary shutdown. She

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was aware that the ABDP had not complied with the requirements of the PD and MOJ, and she concealed that information from Congress and the NSC. She participated in the editing of the DCI's draft testimony to the Congressional oversight committees, removing the reference to visual signals as a required procedure. This resulted in the DCI's providing incomplete and misleading testimony to Congress.

- ◆ [REDACTED] was involved with the ABDP from 1995 through 1998, including serving as [REDACTED] Program Manager [REDACTED]. Nine shootdowns occurred during her tours in Peru. After each of these shootdowns, she reviewed the incidents with US and Peruvian officers and reviewed the tapes. She reported false information after all of these shootdowns except the 17 August 1997 incident. She knew first-hand what had occurred during that shootdown, and she failed to provide adequate oversight to the shootdowns that followed in October 1997. [REDACTED] first told OIG that only the 17 August 1997 shootdown had involved violations of required procedure. When shown videotapes of other shootdowns, however, she stated that several showed obvious violations of intercept procedures, including failure to identify the target and failure to implement all the required intercept phases. [REDACTED] continued to make false statements in the aftermath of the missionary shootdown when she told the Peru Task Force in e-mail that visual signals had always been performed in the ABDP.
- ◆ [REDACTED] served as [REDACTED] officer to the Peruvian Air Force at Juanjui from 1995 to 1999; he understood his responsibility was to make sure the ABDP operated according to required procedures. He was at Juanjui for numerous shootdowns, including those of 1997. He knew that visual signals were not being performed, and failed to

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report this through his chain of command. [REDACTED] told OIG in 2002 that he had watched videotapes of all the shootdowns while he was in Peru between 1995 and 1999, and none stood out for not having followed procedures. When he viewed shutdown videotapes with OIG, however [REDACTED] stated that the tapes showed obvious violations of procedures, including failure to identify the target, failure to do visual signals, failure to give the target a reasonable chance to respond, failure of the FAP chain of command, and US aircrew interference in the authorization process.

In his role as [REDACTED] was involved in the formulation of the 1997 and 1999 SOPs and was aware that visual signals were not included in the description of the required procedures [REDACTED] told the Peru Task Force after the missionary shootdown that Peruvian pilots made the decision about whether or not to conduct visual signals during an interception. He misleadingly told the PTF, however, that this had not been an issue early in the program because most interceptions were performed at night and the target usually took harsh evasive action. In those cases, [REDACTED] said that there was no requirement to perform visual signals. In fact, [REDACTED] knew that most of the shootdowns that occurred between 1995 and 1999 had been conducted in daylight and the targets had not all taken evasive action.

- ◆ [REDACTED] served as the Peru desk officer in LA Division in 1997 to 1998 and monitored ABDP compliance with the PD and MOJ. He conducted a detailed review of the reports of the 17 August 1997 shootdown and clearly understood the violations that had occurred. He nonetheless failed to adequately review the subsequent shootdowns of October 1997. As [REDACTED] Program Manager [REDACTED] from 1998 to 2001, he was involved in the formulation of both 1999 SOPs, each of which failed to include visual signals as a

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required procedure. As Program Manager at the time of the July 2000 shutdown, he reported falsely that required procedures had been conducted, specifically citing visual signaling. In the aftermath of the missionary shutdown, [REDACTED] truthfully told the Peru Task Force in e-mail that visual signals had not been conducted in that shutdown. In his OIG interview, [REDACTED] said, "We were floundering" with regard to visual signals. He said that no one was conspiring to hide anything, but he did not know why the impracticality of conducting visual signals was not raised. [REDACTED] said someone should have sent a "reality cable" that told Headquarters that visual signals were impossible to accomplish.

- ◆ [REDACTED] was the [REDACTED] Program Manager [REDACTED] from 1993 to 1996. He was involved in reviewing and reporting on eight shutdowns that occurred during his tour in Peru. Each of these shutdowns involved violations of the required intercept procedures. [REDACTED] repeatedly failed in his oversight and reporting responsibilities. He stated that he watched most, if not all, of the shutdown videotapes to see if the intercept steps had been followed. [REDACTED] asserted that the good thing about the tapes was that wing wagging was always visible and that visual signaling could be confirmed. In reviewing videotapes with OIG, [REDACTED] said it was now clear to him that the intercept procedures had not been followed precisely back then and that the ABDP had not complied with the PD and MOJ from the beginning of the program.

- ◆ [REDACTED] was [REDACTED] from 1997 to 1999. He supervised [REDACTED] all of whom incorrectly reported that all proper procedures were followed in the ABDP. [REDACTED] understood the requirements of the PD and MOJ

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and knew that the ABDP, as the only lethal program LA Division was conducting, "had to be done right." [REDACTED] knew he was responsible to ensure that the rules were followed. [REDACTED] was aware of the deviations in the 17 August 1997 shutdown and was part of the team review process established by [REDACTED] to monitor subsequent shutdowns. He failed to adequately oversee shutdown activities and report violations in the two October 1997 shutdowns that followed. He also failed to adequately review and supervise the development of the March 1999 SOPs that excluded visual signals as a required intercept procedure.

- ◆ [REDACTED] served as the sole Agency representative to the Interagency Review Group, and the chief of the Agency's internal accountability review. [REDACTED] was fully aware of the Peru Task Force's documented findings and videotape review that revealed long-standing non-compliance of the ABDP from the start of the program. He failed to report these findings in his own report and provided misleading information in that report. He also failed to provide the PTF's findings to the IRG, despite having been charged with providing relevant information to this NSC-directed interagency investigatory group. This resulted in the IRG producing a misleading and incomplete report.
- ◆ [REDACTED] was Latin America Legal Adviser at the time of the missionary shutdown. He also served as Legal Adviser to the Peru Task Force. [REDACTED] knew that the PTF documented sustained and significant violations of required intercept procedures dating back to the first shutdown. He advised the Task Force not to issue a formal written report. This prevented the PTF's findings from being provided to outside institutions, including the SSCI, which was conducting its own investigation; the Interagency Review Group; the NSC; and the Department of Justice,

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which was conducting a criminal investigation. [redacted]
also provided informal discovery to defense counsels in
violation of Agency regulations; this was contrary to his
obligations as a US Government attorney.

[redacted]

~~SECRET~~ [redacted]

RECOMMENDATIONS

1. [REDACTED] **For the Director, Central Intelligence Agency.** The Director, CIA should convene an Agency Accountability Board (AAB) to review the performance of the officers identified in the Conclusions of this Report, paragraph 568. The Accountability Board, using the Agency's standards for employee accountability,¹ should review the performance of these officers with regard to their oversight, management, and implementation of the Airbridge Denial Program in Peru and their role related to actions the Agency took, or did not take, in response to the shutdown of the missionary aircraft. The Accountability Board should include a senior aviator drawn from outside CIA. Because senior personnel from the Agency's Office of General Counsel (OGC) were involved in these matters, counsel not part of OGC should provide legal advice to the Board. Notice of the establishment of this Board should be provided to the Inspector General.² This Recommendation is considered to be significant.

¹ [REDACTED] Pertinent portions of Agency regulations concerning accountability and discipline are summarized in Exhibit B.

² [REDACTED] The Acting General Counsel objects to provision of legal advice to the Agency Accountability Board from outside OGC. He states that this action "attempts to subvert the statutory and regulatory role of the General Counsel in providing legal guidance to the DCIA and to Agency management and programs. . . . Whenever the role of an OGC attorney in providing guidance to a CIA intelligence activity has been reviewed for accountability purposes, another OGC attorney has served as legal advisor to that AAB." In this case, because of the involvement of senior OGC personnel in the issues under review, OIG deems this Recommendation to be prudent to avoid a conflict of interest. The Department of Justice should be requested to provide appropriate legal guidance if there is any question whether the Office of Inspector General's recommendation for external legal advice improperly encroaches on the statutory responsibilities of the General Counsel.

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2. [] **For the Associate Deputy Director, CIA.** The ADDCIA should create, document, and implement a policy and standard operating procedure that ensures the integrity and accessibility of substantive investigations, inquiries, assessments, or reviews undertaken by the Agency of program failures. Such reviews should be independent and result in published final reports. Those reports and supporting documentation should be retained, and the reports should be provided to internal components and external bodies with a need and right to know. Agency personnel, and those in their chain of command, who were involved in the implementation of the programs being reviewed or investigated should not participate, directly or indirectly, in the reviews. Documentation of this process should be provided to the Inspector General. This recommendation is considered to be significant.

3. [] **For the Deputy Director, CIA and the General Counsel.** The DDCIA, in his capacity as Chairman of the [] should review the command and control responsibilities for all CIA covert action and other programs involving lethal authorities to ensure clear chains of command and accountability. The DDCIA further should direct the implementation of a process that ensures the [] is provided, annually, with a signed certification attesting that each covert action program—and any non-covert action lethal activity—being carried out by the Agency has been proactively reviewed by Agency attorneys and that it has been affirmatively determined that actions taken pursuant to those programs and operations were found to be consistent with law and regulation, to the best of the attorneys' knowledge and belief, based on their reviews and information

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available to them.³ The DD CIA should provide the Inspector General copies of the directives implementing this recommendation. This Recommendation is considered to be significant.

CONCUR:

[]

JOHN L. HEIGERSON
Inspector General

15 August 2008

Date

[]

³ [] The Acting General Counsel "objects to this Recommendation because it misapprehends the nature of the rotational attorney's role and responsibilities." OIG understands the traditional role and responsibilities of OGC attorneys in CIA; they are described in this Report. That role failed to provide any useful, continuing oversight of the lethal program described in this Report. Hence, OIG believes an annual certification process would assist in ensuring CIA lethal activities are undertaken in a lawful manner. Additionally, the Acting General Counsel, D/NCS, and D/CNC, in comments on the draft report, all observed that the original formulation used in this recommendation would have had an attorney certifying that "all" actions undertaken pursuant to the program had been reviewed, placing the attorney in a management role where he or she was unrealistically responsible for awareness of every action, significant or not. In response to these observations, the recommendation has been adjusted to clarify that what is sought is active, reasonable, continuing awareness by, and counsel from, an OGC attorney or attorneys, enabling the attorneys—without taking on the functions of management—to certify annually that the actions they have reviewed have been found to be consistent with law and regulation "to the best of the attorneys' knowledge and belief, based on their reviews and information available to them."

JUN 25 2001 5:02PM NSC MULTILAT

NO.162 P.2

THE WHITE HOUSE
WASHINGTON

December 8, 1994

Presidential Determination
No. 95-9MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF DEFENSESUBJECT: Resumption of U.S. Drug Interdiction Assistance
to the Government of Peru

Pursuant to the authority vested in me by section 1012 of the National Defense Authorization Act for Fiscal Year 1995, Public Law 103-337, I hereby determine with respect to Peru that: (a) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (b) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.

William P. Clinton

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JUN 25 2001 5:02PM

NSC MULTILAT

NO. 162

P. 3

Memorandum of Justification for
 Presidential Determination Regarding the
 Resumption of U.S. Aerial Tracking Information Sharing
 and Other Assistance to the Government of Peru

Section 1012 of the National Defense Authorization Act for Fiscal Year 1995 provides that "[n]otwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country . . . to interdict or attempt to interdict an aircraft in that country's territory or airspace if-

- (1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and
- (2) the President . . . has determined with respect to that country that-

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft."

Narcotics production and trafficking pose a grave threat to Peru's national security. Sixty percent of the world's coca leaf supply is grown east of the Andes in Peru. The resulting drug trade, generating billions of dollars of illicit profits annually, has undermined the Government of Peru's efforts to put the legitimate Peruvian economy on a stable footing due to the effects of narcodollars on the black market economy. Trafficking has also impeded concerted efforts to bring legitimate political and agricultural development to rural areas, and weakened military and law enforcement institutions by narcotics corruption. Above all, Peruvian narcotics trafficking organizations have provided substantial funding to Peruvian terrorist organizations, specifically the Shining Path and MRTA, fueling a vicious guerrilla war which has resulted in two thirds of the country being placed under martial law, and left thousands dead since 1980.

Illegal flights by general aviation aircraft are the lifeline of the traffickers' operations. They move narcotics and related contraband, such as chemicals, currency, and weapons into and through Peru and they ferry logistical supplies to production sites and staging areas. In the face of this threat, the Government of Peru lacks the resources to control all of its airspace and to respond when trafficker aircraft land at remote locations outside the effective control of the government. Accordingly, drug smuggling aircraft flagrantly defy Peru's sovereignty, penetrating its borders at will and flying freely throughout the country.

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Identification: The PAF will attempt to identify an aircraft as a legitimate flight. This will include determining whether the aircraft is on a previously filed flight plan and by attempting to establish radio communication with the aircraft. When control centers (ground and/or air radars) detect an overflight of any aircraft, they will attempt to identify it through correlation of flight plans and by electronic means--through use of IFF or radio communications.

Intercept: If the PAF determines that an aircraft flying in the ADIZ is not on a previously approved flight plan, and if it is not possible to establish communication and confirm the aircraft's identification as an innocent aircraft, the Commanding General of the Peruvian Air Force Sixth Territorial Air Region (VI RAT) may direct the launch of interceptor aircraft to visually identify the aircraft, verify its registry, attempt to establish radio contact, and, if necessary, cause the aircraft to proceed to a safe and adequate air strip where the PAF will require the aircraft to land -- using intercept procedures consistent with International Civil Aviation Organization guidelines.

If radio communication is established during the intercept, but the PAF is not satisfied that the aircraft is on a legitimate mission, the PAF may direct the aircraft to land at a safe and adequate air strip. If radio contact is not possible, the PAF pilot must use a series of internationally recognized procedures to make visual contact with the suspect aircraft and to direct the aircraft to follow the intercepting aircraft to a secure airfield for inspection.

Use of Weapons: If the aircraft continues to ignore the internationally recognized instructions to land, the PAF pilot -- only after gaining permission of the Commanding General of the VI RAT or in his absence the Chief of Staff -- may fire warning shots in accordance with specified PAF procedures. If these are ignored, and only after again obtaining the approval of the Commanding General of the VI RAT or in his absence the Chief of Staff, the PAF pilot may use weapons against the trafficking aircraft with the goal of disabling it. Finally, if such fire does not cause the intercepted pilot to obey PAF instructions, the VI RAT commander may order the trafficker aircraft shot down.

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The final decision to use force against civil aircraft in flight -- once all other steps have been exhausted -- requires authorization from the VI RAT Commander -- or in his absence his Chief of Staff -- who will verify that all appropriate procedures have been fulfilled.

Peruvian air interdiction procedures also protect against innocent loss of life on the ground. The decision to fire at an aircraft requires approval of the Commander of the Peruvian Air Force Sixth Territorial Air Region -- or his Chief of Staff. These procedures do not contemplate the use of weapons against an aircraft flying over a populated area. The ADEZ in Peru covers areas which are very sparsely populated.

With respect to interceptors firing against trafficking aircraft on the ground, the procedures are similar to those for an aircraft in flight. When a pilot encounters a suspect aircraft on the ground, he must attempt to establish radio communication with the aircraft and employ visual signals which are also observable by any other persons on the ground in the vicinity. Only in response to armed attack or in the event that the aircraft attempts to take off after communication, identification, and warning procedures have been completed may the VI RAT commander authorize use of weapons to disable the aircraft if there is no risk to innocent bystanders.

The Peruvian procedures are designed to identify for interception aircraft that are likely to be engaged in drug trafficking and, for aircraft so intercepted, to provide proper notice that they are required to land. These procedures minimize the risk of misidentification. Any decision to fire on civil aircraft, and the procedures and events leading to it, will subsequently be reviewed by the GOP pursuant to legal provisions and sanctions available to it against any GOP official who deviates from established procedures.

The USG and GOP jointly operate all radar facilities and the Sixth Territorial Air Region command center in Peru. Peruvian personnel accompany most USG airborne tracking platforms overflying Peru. As part of their standard operating instructions, all official USG personnel in jointly manned facilities and platforms will regularly monitor compliance with agreed procedures and immediately report irregularities through their chain of command. Should there be evidence suggesting that procedures are not being followed, the USG will reevaluate whether Peru has appropriate procedures to protect against the loss of innocent life.

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Exhibit B

Exhibit B: Accountability Standards

According to Agency Regulation
Conduct, Accountability, and Discipline:

- states that, Employees . . . are expected to perform their duties in a professional and satisfactory manner. An employee who is responsible for a significant failure to act in accordance with the level of professionalism and diligence reasonably to be expected or who evidences a pattern of conduct that demonstrates a failure to carry out the functions of his position has not lived up to this standard....
- addresses the responsibility of managers, noting that, Managers ultimately are responsible for the actions or inactions of their subordinates and should institute reasonable measures to ensure compliance with Agency standards of conduct.
- addresses discipline, stating that, All employees, including managers, are expected to meet the Agency's standards of conduct and perform Agency duties in a satisfactory manner. Those who fail to do so may be subject to disciplinary action, which may range from an oral admonition to termination of employment....
- indicates that, Any finding of deficient performance must be specific and may include omissions and failure to act in accordance with a reasonable level of professionalism, skill, and diligence.

[Redacted]

- [Redacted] states that, Determinations under the above standard will be based in part on whether the facts objectively indicate a certain action should have been taken or not taken and whether the employee had the opportunity and the responsibility to act or not act.
- [Redacted] notes that, Managers may be held accountable in addition for the action(s) or inaction of subordinates even if the manager lacks knowledge of the subordinates conduct. Such accountability depends on: (1) Whether the manager reasonably should have been aware of the matter and has taken reasonable measures to ensure such awareness. (2) Whether the manager has taken reasonable measures to ensure compliance with the law and Agency policies and regulations.

[Redacted]