



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

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MEMORANDUM TO DICK THORNBURGH
Attorney GeneralRE: Sources of Funds for \$1,000,000 Reward for Information
Leading to the Apprehension and Arrest of General Noriega

The Administration has announced a \$1,000,000 reward for information leading to the apprehension and arrest of General Manuel Noriega. As described more fully below, we believe that the necessary funds for this reward are currently available from the following sources: (1) \$600,000 from the State Department, pursuant to section 36 of the State Department Basic Authorities Act of 1956, 22 U.S.C. § 2708; (2) \$250,000 from the Department of Justice Assets Forfeiture Fund, pursuant to 28 U.S.C. § 524(c); and (3) \$150,000 from the Drug Enforcement Administration, pursuant to section 516 of the Controlled Substances Act, 21 U.S.C. § 886(a).

1. State Department Authority to Pay Rewards

Section 36(b) of the State Department Basic Authorities Act of 1956, 22 U.S.C. § 2708(b), provides in part that:

(1) The Secretary of State, upon the request of a chief of mission and with the concurrence of the Attorney General, may pay a reward to any individual who furnishes information leading to--

(A) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves--

(i) a violation of United States drug laws which occurs primarily outside the territorial jurisdiction of the United States and which is such that the individual would be a major violator of such laws

General Noriega has been indicted for violations of United States drug laws; his actions in this regard took place primarily outside the territorial jurisdiction of the United States; and his actions were such that he would be considered a "major violator" of the United States drug laws. Accordingly, section 36(b) clearly authorizes the State Department to pay a reward for information leading to the "arrest or conviction" of General Noriega.

Section 36(c) of the State Department Basic Authorities Act of 1956, 22 U.S.C. § 2708(c), as recently amended by Pub. L. No. 101-231, § 13(a) (Dec. 13, 1989), provides that:

A reward under this section may not exceed \$2,000,000. A reward of \$100,000 or more may not be made without the approval of the President or the Secretary of State personally.

The State Department informs us that only \$600,000 in appropriated funds is currently available for purposes of paying a reward under section 36(b). Because section 36(c) authorizes the State Department to pay a reward of up to \$2,000,000, the full \$600,000 available may be applied to the \$1,000,000 reward that has been offered for information leading to the apprehension and arrest of General Noriega.

We note that section 36(b)(2) of the Act provides that:

[t]o ensure that the rewards program authorized by this subsection, especially paragraph (1)(A)(i), does not duplicate or interfere with the payment of informants or the purchase of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this subsection . . . shall be governed by procedures approved by the Secretary of State and the Attorney General.

We do not interpret this provision as flatly prohibiting the Secretary of State and the Department of Justice from both offering rewards with respect to the same individual. Section 36(b)(2) is intended to require coordination between the Departments to ensure that the reward program of the Secretary of State does not duplicate the efforts of the Justice Department programs and that it does not interfere with the operation of such programs. See H.R. Conf. Rep. No. 783, 99th Cong., 2d Sess. 70, reprinted in 1986 U.S. Code Cong. & Admin. News 1926, 1943 ("[This provision] reflects the intention of the committee of conference that the rewards offered under this section in no way duplicate or interfere with the current information rewards system of the Department of Justice . . ."). There is nothing in the Act or its legislative history that would indicate that

Congress intended to prohibit the Secretary of State and the Department of Justice from coordinating their programs and pooling their resources in an effort to obtain the capture of an especially notorious and dangerous drug trafficker. Where the coordination called for in the Act exists, no "duplication" of programs is involved.

Accordingly, we conclude that the Secretary of State may currently provide \$600,000 of the reward, with the remaining \$400,000 to be provided by funds of the Department of Justice.

2. Department of Justice Assets Forfeiture Fund

Section 524(c) of Title 28 of the United States Code provides in part that:

(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund . . . which shall be available to the Attorney General without fiscal year limitation for the following purposes of the Department of Justice--

• • •
(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States . . .

Information leading to the apprehension and arrest of a drug trafficker such as General Noriega would clearly be "information . . . directly relating to violations of the criminal drug laws of the United States." Therefore, funds for an award may be paid from the Assets Forfeiture Fund.

Section 524(c)(2) limits the amount of any award under section 524(c)(1)(B) to \$250,000. We are able to make currently available the full \$250,000 amount.

3. DEA Funds for Rewards

Section 516(a) of the Controlled Substances Act, 21 U.S.C. § 886(a), provides that:

The Attorney General is authorized to pay any person, from funds appropriated for the Drug Enforcement Administration, for information concerning a violation of [this Act], such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

Section 1015 of the Controlled Substances Import and Export Act, 21 U.S.C. § 965, makes this provision applicable to violations under that Act as well. Information leading to the apprehension and arrest of General Noriega is clearly "information concerning a violation of [the Controlled Substances Act and the Controlled Substances Import and Export Act]." Accordingly, section 516(a) authorizes the Attorney General to pay a reward for such information out of funds appropriated for the DEA. We have \$150,000 of such funds available for the payment of the reward for information concerning General Noriega.

Conclusion

The necessary funds for the \$1,000,000 reward for information leading to the apprehension and arrest of General Manuel Noriega are currently available from the following sources: (1) \$600,000 from the State Department, pursuant to section 36 of the State Department Basic Authorities Act of 1956; (2) \$250,000 from the Department of Justice Assets Forfeiture Fund, pursuant to 28 U.S.C. § 524(c); and (3) \$150,000 from the Drug Enforcement Administration, pursuant to section 516 of the Controlled Substances Act.



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