

The Department of Justice (DOJ) Office of the Inspector General (OIG) announced today the release of a report examining aspects of the Drug Enforcement Administration's (DEA) Confidential Source Program. The OIG initiated the audit as a result of the OIG's receipt and review of numerous allegations regarding the DEA's handling and use of confidential sources. We found that the DEA's policy for confidential sources, which was approved by the DOJ Criminal Division in 2004, differs in several significant respects from the Attorney General's Guidelines Regarding the Use of Confidential Informants (AG Guidelines), which is the DOJ's overarching policy regarding component use of confidential sources. We also found that the DEA's Confidential Source Program lacks sufficient oversight and lacks consistency with the rules governing other DOJ law enforcement components.

The OIG's specific findings in the report released today include:

- **The policy governing DEA's Confidential Source Program allows the use of high-risk individuals as confidential sources without the same level of review required by the AG Guidelines.** The use of high-level and privileged or media-affiliated sources – such as individuals who are part of drug trafficking organization leadership, as well as lawyers, doctors, or journalists – can pose an increased risk to the public and can have unique legal implications for DOJ. For this reason, the AG Guidelines require special approval before these individuals may be used as a source. Yet we found that the DEA's Confidential Source Program has no similar requirement, resulting in a relative lack of DEA and DOJ oversight.
- **DEA policy and practices are not in line with the AG Guidelines' requirements for reviewing, approving, and revoking confidential sources' authorization to conduct Otherwise Illegal Activity (OIA).** The effects of inadequate oversight of OIA by confidential sources could prove detrimental to DEA operations and liability, and could create unforeseen consequences. For instance, confidential sources could engage in illegal activity that has not been adequately considered, or could overstep their boundaries with a mistaken belief that the DEA has sanctioned any illegal activities in which they participate.
- **Contrary to its own policy, the DEA did not always review its continued use of long-term confidential sources and, when it did, the reviews were neither timely nor rigorous.** We found that between 2003 and 2009, the DEA used over 240 long-term confidential sources without rigorous review, often devoting less than 1 minute per source to consider the appropriateness of the source's continued use. In addition, in most instances the DEA continued to use these sources without obtaining the required DOJ concurrence. This created a significant risk that improper relationships between government handlers and sources could be allowed to continue over many years, potentially resulting in the divulging of sensitive information or other adverse consequences for the government. In some cases, the DEA continued to use, for up to 6 years without any DOJ intervention, individuals who were involved in unauthorized illegal activities and who were under investigation by federal entities.
- **The DEA confidential source policy does not include any specific guidance regarding the use of DEA licensees as confidential sources.** DOJ guidance emphasizes the need for controls to ensure that no licensee is led to believe that the continued validity of their license is predicated on their status as a confidential source, yet we found that the DEA's confidential source policy does not specifically address the recruitment, establishment, or use of sources who have been issued a DEA-provided controlled substance registration number.

- **The DEA provided *Federal Employees' Compensation Act (FECA)* benefits to confidential sources without any process in place for reviewing the claims and determining eligibility for these benefits.** We estimated that, in just the 1-year period from July 1, 2013, through June 30, 2014, the DEA paid 17 confidential sources or their dependents FECA benefits totaling approximately \$1.034 million. We also found that the DEA inappropriately continued using and paying confidential sources who were also receiving full disability benefits through FECA, and that the DEA had not adequately considered the implications of awarding such benefits on the disclosure obligations of federal prosecutors and had not consulted the DOJ about the issue.

Finally, the report released today notes that the OIG's audit, which is ongoing, has been seriously delayed by instances of uncooperativeness from the DEA, including attempts to prohibit the OIG's observation of confidential source file reviews and delays, for months at a time, in providing the OIG with requested confidential source information and documentation. In each instance, the matters were resolved only after the Inspector General elevated them to the DEA Administrator. As a result, over 1 year after we initiated this review, the OIG only has been able to conduct a limited review of the DEA's Confidential Source Program. We are continuing our audit to more fully assess the DEA's management and oversight of its confidential sources.

The OIG's report made seven recommendations to the DEA to improve the policies and management of its Confidential Source Program. The DEA agreed with all of the recommendations.

Report: Today's report can be found on the OIG's website at the following link: <https://oig.justice.gov/reports/2015/a1528.pdf>.

Multimedia: The OIG has released both a video message and a podcast to accompany today's report. The two-minute video features the Inspector General outlining the report's findings, and the 10-minute podcast features the Inspector General discussing the report in more detail. Both the video and podcast can be accessed at the following link: <https://oig.justice.gov/multimedia/>.