

The Department of Justice Office of the Inspector General (OIG) today released a report on the Drug Enforcement Administration's (DEA) use of cold consent encounters at mass transportation facilities. The OIG's report found that the DEA does not collect sufficient data on cold consent encounters to enable it or the OIG to assess whether the encounters are conducted in an unbiased or effective manner, raising both civil rights concerns and questions regarding the best use of limited law enforcement resources. The OIG's review further found that the DEA's management of its interdiction task force groups does not ensure that training and operational requirements are clearly established, communicated, or followed.

Cold consent encounters by DEA task force groups occur when an agent approaches an individual based on the officer's perception that the person is exhibiting characteristics indicative of drug trafficking, but without the officer having any independent predicated information. The encounter typically entails the officer asking for consent to speak with the individual and, if the agent thinks it warranted, to search the individual's belongings. Within DEA operations, cold consent encounters are primarily used by task force groups comprised primarily of DEA Special Agents and state and local law enforcement officers who work to interdict drug trafficking at mass transportation facilities, such as airports, train stations, and bus stations. As the Department of Justice has previously noted, cold consent encounters are more often associated with racial profiling than contacts based on previously acquired information.

The report released today identifies three areas in which improvements to the DEA's operations would result in better protection of the rights of citizens, and stronger management and oversight of cold consent encounters at mass transportation facilities:

- The OIG found that the DEA does not collect sufficient data on cold consent encounters to assess whether they are being conducted impartially. For example, the task force groups do not collect demographic information about each cold consent encounter they conduct. Without this information the DEA cannot assess, and the OIG was unable to determine, whether the DEA is conducting these encounters in an unbiased manner. The DEA previously collected demographic information about these encounters as part of a pilot project intended to examine the DEA's use of race in interdiction operations, but it terminated the project in 2003. Neither the DEA nor the Department was able to draw any conclusions about racial profiling from that pilot data because the DEA was unable to obtain a demographic baseline of the relevant population in the pilot locations. Even though collecting similar data today would not be conclusive with regard to racial profiling absent a valid baseline, the OIG nevertheless believes that such data would enhance oversight of the DEA's interdiction activities and assist the DEA in responding to allegations that it inappropriately considers race as a basis for cold consent encounters.
- The OIG found that, because the DEA does not document all consent encounters with travelers and whether or not the contact resulted in an arrest or a seizure, neither the DEA nor the OIG can assess whether cold consent encounters are an effective means of interdiction. The DEA collected data about cold consent encounters conducted in transportation facilities as part of the pilot program terminated in 2003, but the relevance of that data today is questionable given that the Transportation Security Administration subsequently began mandatory screening of all travelers. Without current data about cold consent encounters and their results, the DEA cannot assess whether and under what circumstances this interdiction technique is an effective use of its limited law enforcement resources.

- The OIG found that the DEA does not centrally manage or coordinate its interdiction operations. This has contributed to confusion regarding training requirements and procedures for conducting cold consent encounters and searches at mass transportation facilities. Without establishing better coordination among the DEA officials who promulgate policy, those who provide interdiction training, and those who supervise and conduct interdiction operations, the DEA cannot ensure that its traveler interdiction activities are being conducted appropriately.

The OIG made five recommendations to the DEA to strengthen management and oversight of cold consent encounters in mass transportation facilities and protect the rights of the public. The DEA concurred with all five of the recommendations.

The report released today can be found on the OIG's website at:

<http://www.justice.gov/oig/reports/2015/e153.pdf>.