

DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

# REPORT OF INVESTIGATION

<b>SUBJECT</b> Nicholas J. Palmeri (***-**- <span style="background-color: black; color: black;">(b)(6); (b)(7)(C)</span> ) Regional Director North and Central Americas Region Mexico City, Mexico		<b>CASE NUMBER</b> 2021-007375
<b>OFFICE CONDUCTING INVESTIGATION</b> Fraud Detection Office		<b>DOJ COMPONENT</b> Drug Enforcement Administration
<b>DISTRIBUTION</b>	<b>STATUS</b>	
<input checked="" type="checkbox"/> Field Office FDO <input checked="" type="checkbox"/> AIGINV <input checked="" type="checkbox"/> Component DEA <input type="checkbox"/> USA <input type="checkbox"/> Other	<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED PREVIOUS REPORT SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Date of Previous Report:	

## SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Drug Enforcement Administration (DEA) Office of Professional Responsibility (OPR) alleging that in August and September 2020, then North and Central Americas Region (NCAR) Regional Director (RD) Nicholas J. Palmeri approved the use of DEA Sensitive Investigative Unit (SIU) funds to purchase unallowable items as part of trips to the Mexico City Country Office (MCCO) and the Panama Country Office by then Acting DEA Administrator (b)(6); (b)(7)(C). Additionally, OPR provided information that Palmeri inappropriately requested reimbursement of expenses from representation funds for his own birthday party, held on (b)(6); (b)(7)(C) 2020.

During the course of the investigation, the OIG found indications that multiple offices within the NCAR and under Palmeri's supervision were inappropriately requesting and documenting use of SIU funds in order to mitigate the challenges of getting cash for operational use within the region caused by the COVID-19 pandemic.

The OIG investigation substantiated the allegations that Palmeri approved the use of SIU funds to purchase unallowable items used during (b)(6); (b)(7)(C) visit to the MCCO and that Palmeri inappropriately requested and received payment for expenses related to his own birthday party. Additionally, the OIG investigation substantiated that NCAR offices at Palmeri's direction misused the SIU request and documentation process in order to relocate cash within the NCAR offices in Mexico.

<b>DATE</b>	January 18, 2023	<b>SIGNATURE</b>	<span style="background-color: black; color: black;">(b)(6); (b)(7)(C)</span>
<span style="background-color: black; color: black;">(b)(6); (b)(7)(C)</span>			
<b>PREPARED BY SPECIAL AGENT</b>		<b>SIGNATURE</b>	Digitally signed by ANDREW HARTWELL Date: 2023.01.18 11:23:52 -05'00'
<b>DATE</b>	January 18, 2023		
Andrew Hartwell			
<b>APPROVED BY SPECIAL AGENT IN CHARGE</b>			

A review of documentation provided by the DEA, including emails, indicated the MCCO received cash payments from the (b)(6); (b)(7)(C) through the use of SIU payments issued to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) who documented in the requests that the SIU funds were spent to further (b)(6); (b)(7)(C) cases, when the funds were actually used for unallowable costs related to (b)(6); (b)(7)(C) visit. Additional documentation reviewed by the OIG, showed the MCCO planned (b)(6); (b)(7)(C) visit to include items such as a cocktail hour, a mariachi band at a local restaurant, and a dinner held at Palmeri's residence. Receipts provided by the DEA indicated DEA personnel were reimbursed for various expenses related to the Acting Administrator's visit, including the purchase of alcohol, with SIU funds.

Additional email documentation reviewed showed Palmeri planned his (b)(6)th birthday party to be held at his residence on (b)(6); (b)(7)(C) 2020, and in February 2021, requested reimbursement for expenses related to this event from representation funds. Email correspondence found that Palmeri did not disclose that the primary purpose of this event was the celebration of his birthday, describing it instead as a reception dinner.

Witnesses told the OIG that they reviewed receipts affiliated with (b)(6); (b)(7)(C) visit to the MCCO and that there were unallowable uses of SIU funds. Another witness told the OIG that, if she knew the (b)(6); (b)(7)(C) 2020 event had been a birthday party, she would have recommended (b)(6); (b)(7)(C) deny the request for payment. Witnesses also confirmed that Palmeri held his (b)(6)th birthday party at his residence, and while some (b)(6); (b)(7)(C) government officials were present, the primary purpose of the event was to celebrate Palmeri's birthday. Witnesses stated that the MCCO requested the resident offices near the U.S. border obtain and provide cash to the MCCO due to the difficulty of obtaining cash during the pandemic.

In a compelled interview, Palmeri accepted responsibility for the use of SIU funds for the purchase of items for (b)(6); (b)(7)(C) visit, and stated he thought such items were allowable as they were meant to enhance the relationship between the (b)(6); (b)(7)(C) government and the DEA. Palmeri also stated he thought the reimbursement with representation funds for his birthday party was appropriate because (b)(6); (b)(7)(C) government officials attended the event. However, Palmeri also admitted that his party was initially planned as a private event, and he only invited (b)(6); (b)(7)(C) government officials after a DEA operation caused friction with the (b)(6); (b)(7)(C) government.

Additionally, Palmeri confirmed he directed the offices under his supervision to provide the MCCO SIUs with cash transfers from their SIUs due to the difficulty of obtaining cash during the pandemic. He explained that these transactions were assigned case numbers related to the originating resident office and that he believed those designations were appropriate because all Mexico cases fall under MCCO supervision.

The Public Integrity Section declined to open a criminal investigation on Palmeri.

DEA proposed removal of Palmeri on January 14, 2022, due to a separate DEA investigation, and subsequently removed Palmeri prior to the conclusion of this investigation.

The OIG has completed its investigation and is providing this report to the DEA for its review and action it deems appropriate.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).



## Background

As explained in an OIG audit report, "The DEA has developed various methods to support and fund partnerships with foreign law enforcement agencies that provide the DEA with access to dedicated foreign law enforcement officials who assist the DEA with international operations and narcotics intelligence sharing initiatives." *Audit of the Drug Enforcement Administration's Headquarters-Based Oversight of its Supported Foreign Law Enforcement Units*, Audit Division 21-109 (August 2021), <https://oig.justice.gov/sites/default/files/reports/21-109.pdf>. One of these methods was the establishment of SIUs, which have the mission to "cooperatively train, equip, and support specialized units within host nation counternarcotics forces to develop and share intelligence in order to target, disrupt, dismantle, and prosecute major international DTOs impacting the United States." SIUs are supported by DEA Headquarters that budgets and allocates funding to specific units. SIU funds are governed by DEA Agent Manual Section 6541.5(l)(3)(c), DEA Sensitive Investigative Unit (SIU), and non-SIU Vetted Unit Programs.

### Palmeri's Misuse of Sensitive Investigative Unit Funds

The information provided to the OIG alleged that, in August and September 2020, Nicholas Palmeri approved the misuse of SIU funds to purchase unallowable items for Acting DEA Administrator (b)(6); (b)(7)(C) visit to the MCCO.

DEA Agent Manual Section 6541.5(l)(3)(c), DEA Sensitive Investigative Unit (SIU) and non-SIU Vetted Unit (VU) Programs states:

The DEA appropriated funds must be obligated within the fiscal year they are appropriated. These are referred to as Operational funds. These funds can be used to fund operational and investigative expenses, payment of confidential sources and travel. Imprest funds cannot be utilized for non-operational travel such as training. The payment of salary supplements and the purchase of equipment are not authorized with these funds.

DEA Agent Manual Section 6541.5(l)(5)(a-d) directs Country Offices to establish a written protocol for the payment of operational expenses to include providing receipts or an itemized list of expenses.

A review of documentation provided by the DEA revealed (b)(6); (b)(7)(C) requested two SIU disbursements of \$20,000 and \$21,000 from (b)(6); (b)(7)(C) in August 2020. Email correspondence indicated the withdrawals were conducted under the supervision of (b)(6); (b)(7)(C) and Regional Director Nicholas Palmeri. The form DEA-12, Receipt for Cash or Other Items, for each disbursement indicated the funds were operational expenses to be used in support of (b)(6); (b)(7)(C) cases. The subvouchers for each disbursement showed the funds were then provided by (b)(6); (b)(7)(C) to an MCCO (b)(6); (b)(7)(C) and that (b)(6); (b)(7)(C) cleared the requests with (b)(6); (b)(7)(C) by submitting memoranda stating receipts were unavailable due to the sensitive nature of the referenced investigations.

Documentation provided to the OIG by DEA OPR indicated the DEA Office of Inspections identified receipts corresponding to the \$20,000 SIU replenishment. These receipts included items such as alcohol purchased at a Sam's Club, deposits for restaurant reservations, and a florist. The OIG requested receipts pertaining to the \$21,000 SIU replenishment, but the DEA could not locate any corresponding receipts. A review of Palmeri's email correspondence found planned expenses for the Acting Administrator's visit that corresponded with the receipts provided to the Office of Inspections. The OIG found no records to indicate that SIU funds were used for personal use by any DEA officials.

(b)(6); (b)(7)(C) told the OIG that the purchases made for Acting Administrator (b)(6); (b)(7)(C) visit to the MCCO were unallowable uses of SIU funds. According to (b)(6); (b)(7)(C) SIU funds are meant to be used for operational expenses, and the purchases made for the Acting Administrator's visit were not of an operational nature.

(b)(6); (b)(7)(C) told the OIG that he requested the disbursements from (b)(6); (b)(7)(C) at the direction of (b)(6); (b)(7)(C) who told (b)(6); (b)(7)(C) that the MCCO was short and needed the disbursements for operational expenses, suggesting the funds were going to be used for a high-value target. (b)(6); (b)(7)(C) told the OIG that he did not know whether the cash he provided to the MCCO was used in furtherance of the (b)(6); (b)(7)(C) case numbers he documented as associated with the disbursements. (b)(6); (b)(7)(C) told the OIG that due to his discomfort with the procedure, he ensured that he documented the transfers of cash to the MCCO on the subvouchers with signatures of the foreign national SIU (b)(6); (b)(7)(C) and a DEA witness.

(b)(6); (b)(7)(C) told the OIG that he was unaware of the final use of the two disbursements submitted to the MCCO by (b)(6); (b)(7)(C) because he was (b)(6); (b)(7)(C) prior to the Acting Administrator's visit.

In a compelled interview, Palmeri confirmed SIU funds were used to pay for items for Acting Administrator (b)(6); (b)(7)(C) visit to the MCCO and accepted responsibility for this usage. Palmeri stated he thought the use of SIU funds in this instance was allowable because it was used to foster goodwill between the (b)(6); (b)(7)(C) government and the DEA, (b)(6); (b)(7)(C) agreed with the use of SIU funds for (b)(6); (b)(7)(C) visit. Palmeri also referenced a similar allegation of misuse of SIU funds, reported by Palmeri, (b)(6); (b)(7)(C) for a comparable event held prior to (b)(6); (b)(7)(C) visit to Mexico, that, according to Palmeri, was found to have no merit. Palmeri noted that (b)(6); (b)(7)(C) visit to the Panama Country Office also involved the use of SIU funds for an event held with the DEA's Panamanian law enforcement partners and that no DEA staff expressed concern with this usage.

SIU funds documentation provided by the DEA confirmed SIU funds were used to pay for expenses for the closeout dinner held during Acting Administrator (b)(6); (b)(7)(C) visit to the Panama Country Office. Additionally, the OIG obtained the management review and supporting documentation pertaining to the (b)(6); (b)(7)(C) complaint Palmeri mentioned, which alleged that the (b)(6); (b)(7)(C) misused SIU funds by purchasing gift baskets provided to SIU counterparts at the (b)(6); (b)(7)(C) closeout conference held in December 2019. The DEA management review was initiated after a complaint was referred to the OIG and then sent back to DEA as a management referral. The management review confirmed that SIU funds were used for this expenditure but found the expense was in accordance with DEA and NCAR policies. The review also noted that the DEA Office of Inspections had conducted an inspection of the (b)(6); (b)(7)(C) after the alleged misuse of funds and found no issues or concerns with the operation of the (b)(6); (b)(7)(C)

The Public Integrity Section declined to open an investigation on Palmeri.

DEA proposed removal of Palmeri on January 14, 2022, due to a separate DEA investigation, and subsequently removed Palmeri prior to the conclusion of this investigation.

### OIG's Conclusion

The OIG investigation concluded that Palmeri's misuse of SIU funds for the MCCO and the Panama Country Office constituted violations of DEA Agent Manual Sections 6541.5I(1)(3)(c) and 6541.5I(1)(5)(a-d). The OIG investigation also found that multiple offices within the NCAR were expending SIU funds for non-operational events held for its host nation's counterparts.

### Palmeri's Misuse of Representation Funds and Lack of Candor in His Request for those Funds

The information provided to the OIG alleged that Palmeri requested representation funds from the DEA to reimburse expenses related to his birthday party, held on (b)(6); (b)(7)(C) 2020.

The DEA Financial and Acquisition Management Policy Manual (FAMPM) Section 1102.54(F) states that

Representation funds are to be used for "official reception and representation expenses," which are defined as "official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions" (28 U.S.C. § 530C(b)(1)(D)). Rep funds may be used for expenses incurred by DEA officials whose position includes the responsibility for establishing and maintaining relationships of value to DEA. These relationships may be with foreign officials or with high-level U.S. citizens, including community leaders, when the working relationship with DEA benefits the agency as a whole.

Additionally, the DEA Personnel Manual, Section 2735.20(E), Conduct Prejudicial to the Government, states,

E. Lack of Candor. 1. DEA employees will not omit or conceal information that in the circumstances should have been disclosed in order to make a written or oral statement accurate and complete. Knowing failure to be forthright includes, but is not limited to, omission or concealment in employment and official documents or other matters under official investigation.

A review of documentation submitted by Palmeri in his request for reimbursement with representation funds indicated Palmeri submitted the request in February 2021, several months after the event. The description of the event provided to (b)(6); (b)(7)(C) indicated the event was a reception dinner held for representatives from (b)(6); (b)(7)(C). A receipt for six meals was provided as the only supporting documentation. Palmeri made no mention that the event was also his (b)(6) birthday party. The request was approved, leading to Palmeri's reimbursement of \$736.20.

A review of email correspondence between Palmeri, (b)(6); (b)(7)(C) showed multiple opportunities for Palmeri to explain the dual nature of the event. Palmeri's emails indicated (b)(6); (b)(7)(C) forwarded a birthday invitation to him on October 20, 2020, advertising his (b)(6) birthday party for (b)(6); (b)(7)(C) 2020.

(b)(6); (b)(7)(C) told the OIG that had she known the event for which Palmeri was requesting reimbursement for was his birthday party, she would have recommended (b)(6); (b)(7)(C) deny the request.

(b)(6); (b)(7)(C) told the OIG that she attended the event and there was no indication it was anything other than a birthday party for Palmeri, although (b)(6); (b)(7)(C) officials were also in attendance.

In a compelled interview, Palmeri explained that he had initially planned his birthday party as a private event, but that he ended up inviting (b)(6); (b)(7)(C) government officials after a separate issue caused friction between the MCCO and its (b)(6); (b)(7)(C) law enforcement counterparts. Palmeri said that, to receive reimbursement, he requested the caterer of his birthday party create a receipt to account for the food served to the (b)(6); (b)(7)(C) government officials. Palmeri told the OIG that inviting these officials to his personal birthday party assisted in reestablishing goodwill between the DEA and the (b)(6); (b)(7)(C) government, and as such was an allowable use of representation funds.

The Public Integrity Section declined to open an investigation on Palmeri.

DEA proposed removal of Palmeri on January 14, 2022, due to a separate DEA investigation, and subsequently removed Palmeri prior to the conclusion of this investigation.

## OIG's Conclusion

The OIG investigation concluded that Palmeri's actions violated DEA policy, specifically DEA Financial and Acquisition Management Policy Manual (FAMP) Section 1102.54(F), by requesting reimbursement from representation funds for a personal event, rather than for "official reception and representation expenses." Additionally, the OIG also concluded that Palmeri lacked candor in his request for the representation funds reimbursement by intentionally omitting any reference to the fact that the event for which he was requesting reimbursement was his birthday party.

## Palmeri Directed the NCAR to Inappropriately Request and Document Use of SIU Funds for Legitimate Operational Purposes

During the course of the investigation, the OIG found indications that at Palmeri's direction multiple offices within the NCAR were inappropriately requesting and documenting use of SIU funds in order to mitigate the challenges of getting cash for operational use within the region caused by the COVID-19 pandemic.

DEA Agent Manual Section 6541.5(l)(3)I, DEA Sensitive Investigative Unit (SIU) and non-SIU Vetted Unit (VU) Programs states:

The DEA appropriated funds must be obligated within the fiscal year they are appropriated. These are referred to as Operational funds. These funds can be used to fund operational and investigative expenses, payment of confidential sources and travel. Imprest funds cannot be utilized for non-operational travel such as training. The payment of salary supplements and the purchase of equipment are not authorized with these funds.

DEA Agent Manual Section 6541.5(l)(5)(a-d) directs Country Offices to establish a written protocol for the payment of operational expenses to include providing receipts or an itemized list of expenses. It also directs the disbursement of operational expenses via the form DEA-1165, Receipt for Cash--Subvoucher, and cleared via form DEA-1164, Claim for Reimbursement for Expenditures on Official Business.

Documentation reviewed by the OIG found that [REDACTED] requested two disbursements of cash from its SIU that were then transported and provided to the MCCO SIU. These disbursements indicated they were for use on [REDACTED] cases and were cleared without receipts due to the sensitive nature of the investigations. The memoranda used to clear these disbursements were approved through [REDACTED]. The DEA-1165 subvouchers showed the funds were disbursed to the MCCO [REDACTED]. The DEA was able to provide receipts pertaining to one of these disbursements but could not provide receipts for the other. Receipts affiliated with one of the disbursements indicated purchases of flowers, alcohol, and a mariachi band were reimbursed with cash from the SIU.

[REDACTED] told the OIG that he obtained these cash disbursements and transported them to the MCCO, where he transferred the cash to the custody of the MCCO AIC SIU. [REDACTED] could not confirm that the disbursements were used in furtherance of the investigations documented in the paperwork he submitted to request and clear the disbursements. [REDACTED] explained that, due to the difficulty the MCCO had in obtaining cash during the pandemic, the MCCO management requested offices near the U.S. border obtain cash for disbursement to other NCAR offices.

(b)(6); (b)(7)(C) told the OIG that, due to the difficulty in obtaining cash for SIU operational expenses during the pandemic, Palmeri and MCCO management established a procedure wherein border offices obtained cash in the U.S. for transport to other MCCO offices as needed.

In a compelled interview, Palmeri also confirmed that he established this process and stated that documenting the disbursements to any case number was appropriate because all cases in the NCAR support the overall DEA mission. When asked how the SIU would be able to successfully monitor such cash disbursements to ensure the funds were used for allowable purposes, as they had already been cleared at the border SIUs, Palmeri stated the foreign national cashiers are trained to know what is "prudent."

### OIG's Conclusion

The OIG concluded that Palmeri violated DEA policy, specifically DEA Agent Manual Sections 6541.5(l)(3)(c) and 6541.5(l)(5)(a-d), when he circumvented established procedures to relocate cash from SIUs with more access to cash to other SIUs within the NCAR region that could not readily obtain cash due to restrictions caused by the COVID-19 pandemic. These procedures caused SIUs to document withdrawals against cases the funds were not used for and leaving the actual use of the cash undocumented in some instances. While Palmeri stated the foreign national SIU cashiers were trained to only disburse cash for allowable purchases, the receipts that were reimbursed with SIU funds suggest that the cashiers would not deny requests for reimbursement, which could result in additional reimbursements for unallowable costs or misuse of DEA funds.