

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TED CRUZ, TEXAS  
JEFF FLAKE, ARIZONA  
DAVID VITTER, LOUISIANA  
DAVID A. PERDUE, GEORGIA  
THOM TILLIS, NORTH CAROLINA

PATRICK J. LEAHY, VERMONT  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

October 17, 2016

**VIA ELECTRONIC TRANSMISSION**

Chuck Rosenberg  
Acting Administrator  
U.S. Drug Enforcement Administration  
Lincoln Place-West  
700 Army Navy Drive  
Room 12060  
Arlington, VA 22202

Dear Acting Administration Rosenberg:

Since 2014, I have sent numerous letters to the Department of Justice (DOJ) Drug Enforcement Administration (DEA) regarding insufficient oversight of the DEA's Confidential Source Program.<sup>1</sup> Last month, the DOJ Office of Inspector General (OIG) published a report finding that the "DEA's management and oversight of, and policies governing, its Confidential Source Program required significant improvement."<sup>2</sup> The DOJ OIG has previously issued four reports highlighting the DEA's lack of oversight of the program.<sup>3</sup> Given that the DEA pays hundreds of millions of dollars to thousands of sources—an estimated 9,000 sources received \$237 million between fiscal years 2011 and 2015<sup>4</sup>—the DEA's apparent lack of control and oversight within its Confidential Source Program is alarming.

The DOJ OIG's recent audit found that the DEA paid travel and parcel industry employees as confidential sources for information that could have been obtained at no cost.<sup>5</sup> The DOJ OIG also reported several instances where the DEA paid deactivated confidential sources, in violation of the DEA Special Agents Manual.<sup>6</sup> The DOJ OIG determined that one Amtrak

---

<sup>1</sup> Letter from Charles E. Grassley, Chairman, Senate Committee on the Judiciary, to Chuck Rosenberg, Acting Administrator, Drug Enforcement Administration (March 14, 2016); Letter from Charles E. Grassley, Chairman, and Patrick Leahy, Ranking Member, Senate Committee on the Judiciary, to Loretta Lynch, Attorney General, and Michael Horowitz, Inspector General, U.S. Department of Justice (July 23, 2015); Letter from Charles E. Grassley, Ranking Member, Senate Committee on the Judiciary, to Michele Leonhart, Administrator, Drug Enforcement Administration (Aug. 7, 2014).

<sup>2</sup> U.S. Department of Justice, Office of the Inspector General, *Audit of the Drug Enforcement Administration's Management and Oversight of its Confidential Source Program*, Audit Report i (Sept. 29, 2016) [hereinafter DOJ OIG September 2016 Audit Report], available at <https://oig.justice.gov/reports/2016/a1633.pdf#page=1>.

<sup>3</sup> *Id.* at 1–3.

<sup>4</sup> *Id.* at i.

<sup>5</sup> *Id.* at 15–16.

<sup>6</sup> *Id.* at 39–40.

employee received \$962,615 over a period of approximately 21 years “for information that was available at no cost to the government.”<sup>7</sup> These payments included \$44,000 paid after the DEA deactivated the source.<sup>8</sup> In another instance, the DEA paid a source \$469,158 after deactivating the source two times for “unsatisfactory behavior” that included “provid[ing] false statements to a prosecutor during the course of an investigation.”<sup>9</sup>

The DOJ OIG also reported that the DEA utilizes some of its Limited Use confidential sources “on a daily basis, for long periods of time, and with high compensation,” indicating that the sources do not “fit the definition of a Limited Use confidential source or Source of Information.”<sup>10</sup> The DEA Special Agents Manual requires that Limited Use confidential sources provide information independently, without direction from the DEA.<sup>11</sup> However, the OIG’s audit revealed that the DEA “tested the boundaries of what it means to provide information without direction,” including by requesting sources to provide passenger manifests and to search passenger databases for suspicious travel itineraries.<sup>12</sup> Additionally, Limited Use confidential sources were among the most highly compensated sources, with 477 Limited Use sources receiving more than \$26.8 million between fiscal year 2011 and 2015.<sup>13</sup>

The DOJ OIG concluded that the DEA’s oversight “is not commensurate with the significant amount of money that it pays to confidential sources.”<sup>14</sup> The DOJ OIG also found that the DEA did not examine the reliability of the sources and whether they “frequently or rarely provide useful information.”<sup>15</sup> Poorly monitored or mismanaged sources present significant risks and costs to investigations, law enforcement agencies, and taxpayers. This is why rigorous and ongoing internal oversight of such sources is essential.

In response to the DOJ OIG’s audits and separate reviews performed by the Government Accountability Office, DEA management, and the DOJ Criminal Division, your office has agreed to implement policy and procedural changes regarding the oversight and management of the Confidential Sources program. According to a June 21, 2016 letter, the DEA has revised its guidelines regarding the use of confidential sources to become compliant with the Attorney General’s Guidelines, including by prohibiting government employee confidential source hires and payments for information that could be obtained at no charge to the government.<sup>16</sup>

This Committee is seeking a broader understanding of how the DEA’s revised guidelines will address the improper and unnecessary use of confidential sources and payments, and of the DEA’s planned actions in response to the DOJ OIG’s audit. The DEA has previously refused to

---

<sup>7</sup> *Id.* at 15–16, 39–40.

<sup>8</sup> *Id.* at 39–40.

<sup>9</sup> *Id.* at 39.

<sup>10</sup> *Id.* at 23.

<sup>11</sup> *Id.* at 11.

<sup>12</sup> *Id.* at 23.

<sup>13</sup> *Id.* at 8, 11.

<sup>14</sup> *Id.* at 33.

<sup>15</sup> *Id.* at iii.

<sup>16</sup> Letter from Matthew J. Straitt, Section Chief, Congressional Affairs Section, Drug Enforcement Administration, to Charles E. Grassley, Chairman, Senate Committee on the Judiciary (June 21, 2016).

respond to certain questions, citing the ongoing DOJ OIG investigations.<sup>17</sup> It is my understanding that those investigations are now complete, so I anticipate that the DEA will provide a full response.<sup>18</sup> Accordingly, please respond to the following questions:

1. What factors contributed to the DEA's improper and unnecessary use of taxpayer dollars for nearly 20 years? What recommendations have been offered to resolve these issues and is DEA working to implement them?
2. Has the DEA identified the agents or employees responsible for authorizing the improper and unnecessary use of taxpayer dollars in the cases cited in the OIG report, and if so, are there any disciplinary actions being taken against the employees?
3. Has the DEA identified any instances, in addition to those that the DOJ OIG reported, in which the DEA made improper or unnecessary payments for information? Please identify each case and the amount of taxpayer dollars that were improperly or unnecessarily used.
4. What is the DEA's policy and process for vetting confidential sources? To what extent, does the DEA evaluate the information provided to assess the sources credibility and value of information provided?
5. Does the DEA ever promise or give confidential sources a percentage of funds seized during interdiction cases and consensual searches? Please explain.
6. According to the OIG report, "DEA Special Agents may request that the confidential source who provided the initial tip receive a monetary award for their contributions to DEA cases."<sup>19</sup> What are the DEA's policies and procedures for issuing such awards? From 2011 to 2016, how many confidential sources received awards, in addition to the normal confidential source payment? For each award, please provide the total dollar amount that was awarded and justification for the award.

Thank you in advance for your cooperation with this request. Please number your responses according to their corresponding questions and respond no later than October 31, 2016. In addition to providing a written response, I request that your office provide a staff-level briefing to discuss your answers. If you have questions, please contact Samantha Brennan of my Committee staff at (202) 224-5225.

---

<sup>17</sup> See Letter from Eric J. Akers, Deputy Chief, Office of Congressional and Public Affairs, Drug Enforcement Administration, to Hon. Charles E. Grassley, Ranking Member, Senate Committee on the Judiciary (Nov. 7, 2014); Letter from Matthew J. Strait, Section Chief, Congressional Affairs Section, Drug Enforcement Administration, to Charles E. Grassley, Chairman, Senate Committee on the Judiciary (June 21, 2016).

<sup>18</sup> U.S. Department of Justice, Office of the Inspector General, *Investigative Summary: Findings Concerning the DEA's Use of Amtrak Employees as Paid Confidential Sources* (Jan. 7, 2016), available at <https://oig.justice.gov/reports/2016/f160107a.pdf>; U.S. Department of Justice, Office of the Inspector General, *Investigative Summary: Findings Concerning the DEA's Use of a TSA Airport Security Screener as a Paid Confidential Source* (Jan. 7, 2016), available at <https://oig.justice.gov/reports/2016/f160107b.pdf>; DOJ OIG September 2016 Audit Report.

<sup>19</sup> DOJ OIG September 2016 Audit Report at 14.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Judiciary Committee

cc: The Honorable Patrick Leahy  
Ranking Member  
Senate Judiciary Committee