

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
<http://oversight.house.gov>

Opening Statement
Ranking Member Elijah E. Cummings

Hearing on “Oversight of the DEA’s Confidential Source Program”
November 30, 2016

Mr. Chairman, thank you for holding today’s hearing, which focuses on a report issued in September by the Inspector General (IG) of the Department of Justice that identifies weaknesses in the management and oversight of DEA’s confidential source program.

Confidential sources are essential to DEA’s efforts to combat illicit drug trafficking. DEA Special Agents are on the front lines of recruiting and managing these sources. This is an extremely difficult and dangerous task.

Unfortunately, the confidential source program has long suffered from inadequate oversight—at least as far back as the Bush Administration—and although they have made some improvements, they still have a lot of work to do, particularly in safeguarding civil liberties.

In July 2005—during the Bush Administration—the Inspector General issued a report finding, “deficiencies” that led them to conclude that “DEA does not have an effective confidential source payment tracking system.”

This finding is almost identical to the IG’s report this past September, which found, “deficiencies” that led them to conclude that “DEA did not institute sufficiently strong internal controls over confidential source payments.”

Back in 2005, the IG found, “multiple DEA offices categorized the same source differently and improperly categorized other sources.”

Eleven years later, the IG again found “substantial variations in how confidential sources are categorized.”

The IG report in September raised serious concerns about so-called “Limited Use” sources, or sources who provide information they receive by virtue of their business position.

The IG found that DEA doesn’t require the same level of oversight of these sources, which are managed at lower levels in Field Offices.

According to the IG, DEA paid \$26.8 million to 477 Limited Use sources between FY2011 and FY2015. That's an average of about \$56,000 per source. Some of these sources were used on a daily basis over an extended period of time.

In addition, DEA paid employees from the Transportation Security Administration and Amtrak for information that DEA should have obtained from them at no cost. In fact, one Amtrak employee—who I understand was terminated in 2014—was paid nearly a million dollars over 20 years to provide information that DEA could have obtained by picking up the phone and calling the Amtrak Police Department. That was money Amtrak could have used for new equipment for its police officers.

These challenges are persistent, they are longstanding, and they predate the current Administrator. Nevertheless, Mr. Patterson, this is your watch and your boss's watch, and we expect you to work tirelessly to address these issues.

Now, DEA has definitely made progress in improving oversight of its program. Just today, the Government Accountability Office sent a letter to this Committee stating that DEA fully met the recommendation made in 2015 to improve monitoring of informant activities.

Despite these improvements, I believe there is one significant area that has not received sufficient attention, and that is the issue of protecting the civil liberties of innocent Americans. As part of this investigation, we have heard how one DEA agent encouraged a confidential source at a bus company to provide entire passenger manifests for some bus routes—on a daily basis for more than three years.

Think about that. No warrant. No probable cause. No apparent standard at all. That means if you traveled by bus between two U.S. cities, it's possible that the DEA obtained your personal information. And they still may have it today.

The breadth of this power raises serious questions about the privacy of many innocent Americans, and it raises questions about the need for legal process.

This is not a partisan issue, and I'm sure many of my colleagues on the other side of the aisle are also concerned about this extensive government intrusion into their lives with little oversight. I hope we can pursue some of these questions here today, and I thank all of our witnesses for being here.

Thank you again, Mr. Chairman.

Contact: Jennifer Werner, Communications Director, (202) 226-5181.