



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

MANAGEMENT ADVISORY MEMORANDUM

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Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities

EVALUATION AND INSPECTIONS DIVISION



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

November 21, 2024

Management Advisory Memorandum

To: Lisa Monaco
Deputy Attorney General

Anne Milgram
Administrator
Drug Enforcement Administration

A handwritten signature in blue ink, appearing to read "Michael E. Horowitz".

From: Michael E. Horowitz
Inspector General

Subject: Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities

The purpose of this memorandum is to bring to your immediate attention serious concerns identified by the U.S. Department of Justice (Department, DOJ) Office of the Inspector General (OIG) during our ongoing oversight of the Drug Enforcement Administration's (DEA) transportation interdiction activities. The OIG's oversight includes an evaluation of the DEA's transportation interdiction activities and a separate ongoing OIG investigation, both of which were initiated earlier this year. This memorandum also follows prior OIG audits, reviews, and investigations that have identified significant issues with the DEA's use of consensual encounters at transportation facilities and its management of its confidential source (CS) program, all of which have informed the analysis and recommendations in this memorandum.

The OIG recently identified that, during its transportation interdiction activities, the DEA was not complying with its own policy on consensual encounters conducted at mass transportation facilities, resulting in personnel creating potentially significant operational and legal risks. Specifically, the DEA was not complying with DEA policy to complete the DEA-177 Consensual Encounter Form (DEA-177 form) for each consensual encounter, despite prior DEA representations to the OIG that the DEA was doing so. Additionally, the DEA was not ensuring that all DEA task force personnel complete interdiction training required by DEA policy, despite the DEA's prior representations to the OIG that the DEA would do so, resulting in personnel conducting interdiction activities at transportation facilities without first receiving the required training.

In our view, and as described in detail below, proceeding with such interdiction activities in the absence of critical controls, such as adequate policies, guidance, training, and data collection, creates substantial risks that DEA Special Agents (SA) and Task Force Officers (TFO) will conduct these activities improperly; impose unwarranted burdens on, and violate the legal rights of, innocent travelers; imperil the Department's asset forfeiture and seizure activities; and waste law enforcement resources on ineffective interdiction actions.

On November 12, 2024, after receiving a draft of this Management Advisory Memorandum (MAM), the Deputy Attorney General issued a directive to the DEA to suspend conducting, pending an assessment and evaluation, all consensual encounters at mass transportation facilities unless they are either connected to an existing investigation or approved by the DEA Administrator based on exigent circumstances. We describe that directive below and provide it in [Appendix 1](#).

Prior OIG Reports and Findings Concerning the DEA's Interdiction Activities at Transportation Facilities

The Department has long been concerned—and long received complaints—about potential racial profiling in connection with cold consent encounters in transportation settings. In response to concerns about possible racial profiling by federal law enforcement agencies, between 2000 and 2003, following a June 1999 directive by then President Bill Clinton, the DEA collected consensual encounter data on every encounter in certain mass transportation facilities as part of a Department pilot project to examine the use of race in law enforcement operations. Neither the DEA nor the Department drew any conclusions from the data collected about whether the consensual encounters were being conducted in an unbiased manner, and in 2003 the DEA terminated its data collection efforts. However, its consensual encounter activities continued.

More than 10 years later, after receiving separate racial profiling complaints from two African American women resulting from their “cold consent encounters” with DEA task force members on an airport jetway, the OIG found in a [2015 report](#) that the DEA still did not collect sufficient data on these cold consent encounters to assess whether they were being conducted impartially.¹ Specifically, we found that DEA Task Force Groups (TFG) had not collected information about each of the consent encounters they had conducted since 2003 and that, when TFGs did document an encounter—when they made a seizure or made an arrest—they did not systematically collect demographic information. Additionally, we determined that, although the DEA had directed TFG managers and new SAs and TFOs to receive required transportation interdiction training (known as “Operation Jetway” training), the DEA had not ensured that training and operational requirements were clearly established, communicated to TFG members, or followed. Our 2015 report therefore recommended that the DEA develop a way to track all cold consent encounters and their results and that it require that TFG members and supervisors attend Jetway training or alternative DEA-approved interdiction training. The DEA concurred with, and agreed to implement, both recommendations.

The OIG also addressed the issue of the DEA's transportation interdiction activities in two subsequent oversight reports that identified significant concerns with the DEA's management and oversight of its CSs and with its cash seizure and forfeiture activities. In a [2016 audit of the DEA's CS Program](#), which included a review of CSs in transportation settings, the OIG found that the DEA did not adequately oversee payments to its sources and that SAs gave instructions and guidance to Limited Use CSs, often referred to as “tipsters,” which DEA policy specifies are sources who “must provide information independently, i.e., without ‘direction’ from DEA.” Our audit found that the DEA's actions tested the boundaries of “Limited Use” and what it

¹ A cold consent encounter is a method of consensual encounter during which an officer approaches an individual and asks for consent to speak with them. As defined in our 2015 report, a cold consent encounter can occur when an officer approaches an individual based on no particular behavior, or based on the officer's perception that the individual is exhibiting characteristics indicative of drug trafficking, without any independent predicated information. The encounter typically entails the officer asking for consent to speak with the individual and, if the officer thinks it warranted, seeking consent to search their belongings. See DOJ OIG, [Review of the Drug Enforcement Administration's Use of Cold Consent Encounters at Mass Transportation Facilities](#), Evaluation and Inspections (E&I) Report 15-3 (January 2015), oig.justice.gov/reports/review-drug-enforcement-administrations-use-cold-consent-encounters-mass-transportation.

means to provide information “without direction.”² For example, we found that DEA SAs had recruited and established multiple commercial airline employees as Limited Use CSs and these airline employees had provided DEA SAs with passenger travel information, including flight, itinerary, and ticket information. Our audit also found that some DEA SAs requested that CSs provide them with suspicious travel itineraries that met criteria defined by the DEA SAs. The report found that the DEA appeared to have recruited certain sources we examined to act on behalf of, or in partnership with, the DEA and that the sources participated in these activities with an expectation of receiving potentially significant compensation.

In a 2017 OIG review of the [Department’s oversight of its cash seizure and forfeiture activities](#), we found that the Department and its investigative components, including the DEA, did not fully evaluate and oversee their seizure and forfeiture activities because the Department did not formally collect or evaluate the necessary data.³ Our analysis of a sample of DEA cash seizures, most of which occurred in transportation interdiction settings and had characteristics that we believed made them susceptible to civil liberties concerns, found that the DEA conducted cash seizures that did not always advance or relate to criminal investigations. We also found that most of these seizures were initiated based on observations and immediate judgments of DEA SAs and TFOs, without preexisting intelligence of a specific drug crime. The report further found that the DEA did not require TFOs to receive training on federal asset seizure and forfeiture laws prior to conducting federal seizures.

In 2016, the DEA provided the OIG documentation representing that it required all task force members and supervisors participating in interdiction activities to attend Operation Jetway training, in response to a recommendation made in the OIG’s 2015 cold consent encounters report. Based on the OIG’s review of this documentation and additional training records provided by the DEA in 2017, the OIG determined that the DEA had addressed the OIG’s recommendation and closed it. The DEA Agents Manual now provides, in Section 6655B: “All DEA personnel (SAs/TFOs) participating in drug interdiction units at mass transportation facilities are required to attend and complete the [Operation Jetway] training.”

By 2022, the DEA had provided the OIG documentation showing that it had, among other things, developed a required “Consensual Encounter” form (known as the DEA-177 form) to document all consensual encounters, including cold consent encounters, at mass transportation facilities, including demographic information about the travelers, and that it had developed a way to use that information to gain a better understanding of whether and under what circumstances cold consent encounters are an effective use of law enforcement resources. The DEA Agents Manual now requires in Section 6655D that all consent encounters at mass transportation facilities be documented by completing a DEA-177 form. Based on the information submitted by the DEA, and the OIG’s review of it, the OIG determined that the DEA had addressed the OIG’s recommendation and closed it.

The Issue

In response to various recent allegations, and to follow up on our 2015 cold consent encounters report, earlier this year the OIG initiated an evaluation of the interdiction activities of the DEA at transportation centers, including its use of seizures and consensual encounters, as well as the data collection and tracking of such activities. The OIG’s current oversight work, including the evaluation and a separate ongoing

² DOJ OIG, [Audit of the Drug Enforcement Administration’s Management and Oversight of Its Confidential Source Program](#), Audit Report 16-33 (September 2016), oig.justice.gov/reports/audit-drug-enforcement-administrations-management-and-oversight-its-confidential-source.

³ DOJ OIG, [Review of the Department’s Oversight of Cash Seizure and Forfeiture Activities](#), E&I Report 17-02 (March 2017), oig.justice.gov/reports/review-departments-oversight-cash-seizure-and-forfeiture-activities.

investigation, has recently identified several serious concerns about the DEA's interdiction activities in transportation settings.⁴

First, during the investigation, we learned of a DEA office that has a Limited Use CS, who is an employee of a commercial airline, and has for several years been paying the CS a percentage of forfeited cash seized by the DEA office from passengers at the local airport when the seizure resulted from information the CS had provided to the DEA. Specifically, we learned that for the past several years this CS has sent the DEA office information from the airline's reservation system identifying passengers who purchased tickets to certain U.S. cities within 48 hours of the travel so that the DEA could, among other things, approach those passengers at the airport and seek their consent to search their carry-on luggage. During consensual encounters, passengers have the right to decline to engage with the DEA SAs or TFOs or have their bag searched. If the law enforcement officer does not already possess at least a reasonable suspicion that a crime has been or is being committed, the law enforcement officer lacks the necessary legal basis to detain the passenger or their property.

As an example of the DEA's use of this CS, earlier this year, in the early morning, the DEA office received from the CS a list of five such individuals traveling to a major U.S. city and commercial hub on a domestic flight, operated by the CS's employer, that was scheduled to leave approximately 3 hours later. DEA SAs and TFOs at the local airport planned to approach the travelers whose names appeared on the list—after those travelers had passed through airport security and while they were in the process of boarding their flight—to have a consensual encounter with them. Based on the OIG's prior work in this area, such consensual encounters may include a request that a traveler consent to a search of their belongings, if the SA or TFO thinks it warranted. Our investigators were told that, after receiving the list and prior to approaching the travelers, the DEA ran checks for prior criminal records. None of the five had a prior relevant criminal history. Thus, any consensual encounter would have been based solely on the fact that within the previous 48 hours they had purchased tickets, some of which were one way, to fly to a major U.S. city that is a significant business center. The DEA had no additional information to suggest that these five passengers might be engaged in illegal activity.

As one of the five travelers was boarding their flight, the traveler was approached by a DEA TFO, who decided to detain the traveler's carry-on bag after the traveler did not consent to a search.⁵ The DEA TFO advised the traveler that he was detaining the bag, but he told the traveler that they were free to board the plane without the bag. The traveler ultimately decided to remain with the bag. Thereafter, a law enforcement drug-detection dog, according to the DEA, alerted to the bag. The DEA TFO then told the traveler that they could either consent to the search of the bag or the DEA would detain it further and seek a search warrant. The passenger eventually told the DEA that it could search the carry-on bag and signed a consent form. No cash, drugs, or other contraband was found when the DEA searched the bag, and the bag was returned to the traveler. By that time, the traveler had missed their original flight. The traveler made a video and audio recording of this encounter on a personal recording device, and an edited version of the video and audio has been made public.

During our ongoing investigation, we found that, contemporaneously with this incident, the DEA did not prepare any paperwork other than the traveler's signed consent-to-search form (there was no DEA-177 form completed). We found that the DEA did so months later, only after details of the encounter with this

⁴ While our investigation remains open, the concerns we describe and the recommendations we make in this MAM complete our evaluation.

⁵ In light of the OIG's ongoing investigation, the description of this incident in this MAM does not include all of the details of which the OIG is aware, but only those that are directly relevant to this MAM.

traveler became public. None of the members of the DEA TFG were wearing a body-worn camera, which is not required by any DEA or Department policy and is consistent with the practice of another DEA TFG that we reviewed as part of our evaluation. Consequently, this traveler currently holds the only known video and audio recording of substantial portions of this encounter, leaving the DEA without an important record of the interaction as it and the OIG attempt to assess what occurred.

The OIG has learned that, due to the delay caused by this traveler's initial refusal to consent to the search of their carry-on bag, the DEA was unable to have consensual encounters with all of the other travelers whose names were on the list provided by the CS. The OIG investigation has been unable to determine exactly how many other passengers on the list had consensual encounters with the DEA that day, and/or how many searches may have been conducted of them, because there are no completed DEA-177 forms and no seizures or arrests were made, which would have necessitated DEA paperwork to be completed.

The OIG's review of DEA records revealed that the CS who provided the information to the DEA task force that day has received tens of thousands of dollars from the DEA over the past several years for seizures resulting from information the CS provided of travelers with tickets purchased within 48 hours of their flight. We are unable to determine the total number of travelers the DEA has searched over the years as a result of information provided by the CS, or the number who have refused to be searched following consensual encounters with the DEA at the local airport, because the DEA office in question kept records of such interactions only when they resulted in a seizure of money or contraband.

We believe that the information our investigation has uncovered thus far regarding the DEA's transportation interdiction activities at this airport illustrates several potentially significant—and in many cases longstanding—systemic issues and possible legal risks. Among them are whether the DEA's multiyear payments to a Limited Use CS could result in a finding that the CS is acting as an agent of the DEA, thereby rendering the CS a government actor for Fourth Amendment purposes. It also raises questions as to whether CSs employed by private transportation companies may be violating state law by providing passenger data to the DEA (in the absence of a subpoena) in the increasing number of states that tightly regulate business use of consumer data. Additionally, Limited Use CSs provide information to the DEA without direction about suspicious activity or behavior that could be indicative of criminal activity. This raises the question of whether DEA policy intends for the Limited Use CS category to include airline employees who provide to the DEA, with some regularity, lists of travelers who purchase tickets within 48 hours for flights to certain major metropolitan U.S. cities, without any further suspicion about those passengers. We note that it is hardly unusual for travelers, including business travelers and last-minute vacationers, to purchase tickets within 48 hours of a flight. We also believe that the DEA and the Department need to consider whether approaching airline passengers to request consent to search their carry-on bag as they are approaching the jetway to board their soon-to-be departing flight could be viewed as placing undue pressure on travelers to accede to such requests.

Further, the DEA's failure to collect data for each consensual encounter, as required by its own policy, and its continued inability to provide us with any assessment of the success of these interdiction efforts once again raise questions about whether these transportation interdiction activities are an effective use of law enforcement resources—and leaves the DEA once again unable to provide adequate answers to those questions.

Second, consistent with the practice of the DEA office in the airport interdiction incident described above, and despite the DEA's prior commitment in response to our 2015 recommendations to document each of its consensual encounters in transportation facilities, we learned during our current evaluation of failures by DEA offices that conduct interdiction at other transportation facilities to comply with the DEA Agents Manual requirement to timely complete a DEA-177 form following a consensual encounter with a traveler.

Specifically, in addition to the encounters at the airport described above, which had no associated DEA-177 forms, our evaluation work has revealed that at least two additional TFGs at other airports did not complete a DEA-177 form following each consensual encounter they conducted. An Assistant Special Agent in Charge who oversaw one of these TFGs explained that until August 2024 he was not aware of the requirement to complete the DEA-177 form. The use of this form is important because it can help the DEA assess whether its consensual encounter activities are an efficient and effective use of law enforcement resources and whether there is evidence of racial profiling in its use of these activities.⁶

Even for instances in which DEA-177 forms were completed, we learned of other issues. For example, although the DEA Agents Manual requires submission of the DEA-177 form on the day of the encounter, we were told of DEA-177 forms that had only recently been submitted (after the OIG's evaluation had been announced) for consensual encounters that were conducted months prior. There were also numerous examples in which DEA-177 form data was incomplete, which risks limiting the DEA's ability to rely on such data to assess its activities. In addition, our interviews with some TFG personnel and Field Division leadership identified confusion about the DEA-177 form. Specifically, the form, which is labeled "Consensual Encounter Form," has a drop-down menu to respond to the question about the "Basis for the Encounter" and that drop-down menu has three choices: (1) "Based on SAs/TFOs observations (cold)," (2) "Based on a tip/lead," and (3) "Other." However, the form does not provide a clear definition of "cold" consent encounter and this term is not defined in the DEA Agents Manual. Not surprisingly, given this absence of a definition, one TFG member told us that this option on the DEA-177 form was misleading because he believed that cold consent encounters did not exist, despite the characterization on the DEA-177 form. Another TFO said that he did not understand the purpose of the DEA-177 form. TFG personnel and Field Division leadership indicated that the form's basis for encounter options could be improved, and one TFO told us that he had created an index card to help remind himself how to fill out the form. In light of the issues we have identified and testimony received, we believe that the DEA should promptly address this apparent confusion to ensure that it is not a cause of DEA SAs and TFOs failing to complete the form accurately and completely.

Additionally, we are concerned that, despite the DEA's representation to the OIG in 2022 that it would use the information collected on DEA-177 forms to track and analyze data associated with consensual encounters to assess their effectiveness as a law enforcement tool, we have yet to receive evidence that the DEA has conducted such an analysis. Indeed, in September 2024 the DEA told us that its Office of Regional and Local Impact and its Office of Compliance do "not possess pertinent supporting documentation necessary to ascertain the efficacy of consensual encounters taking place at mass transit facilities."

Third, we have learned during our evaluation that, while the DEA has continued to conduct interdiction activities at transportation facilities, it has not provided its transportation interdiction training, known as Operation Jetway training (Jetway training), since February 2023 and that this training has been suspended since April 2023. As a result, there have been SAs and TFOs conducting interdiction who have never completed the required training, including the TFO who detained the traveler's carry-on bag in the incident described above. In one TFG we analyzed as part of our evaluation, four of the seven personnel who

⁶ Media reporting has raised concerns regarding the DEA's asset seizure and forfeiture activities in transportation interdiction settings, as well as the burdens on passengers who were not charged with a crime and who contested DEA seizures of their property. For example, see Teny Sahakian, "[Court Orders DOJ to Hand Back This Man's Seized Money. How He Lost Anyway: 'Cost Me an Arm and a Leg.'](https://www.foxnews.com/media/court-orders-doj-hand-back-mans-seized-money-how-lost-anyway-cost-arm-leg)" *Fox News*, August 25, 2023, www.foxnews.com/media/court-orders-doj-hand-back-mans-seized-money-how-lost-anyway-cost-arm-leg, and Justin Jouvenal, "[The DEA Seized Her Father's Life Savings at an Airport Without Alleging Any Crime Occurred, Lawsuit Says.](https://www.washingtonpost.com/local/public-safety/the-dea-seized-her-fathers-life-savings-at-an-airport-without-alleging-any-crime-occurred-lawsuit-says/2020/01/15/1d9986e6-36e6-11ea-bb7b-265f4554af6d_story.html)" *The Washington Post*, January 15, 2020, www.washingtonpost.com/local/public-safety/the-dea-seized-her-fathers-life-savings-at-an-airport-without-alleging-any-crime-occurred-lawsuit-says/2020/01/15/1d9986e6-36e6-11ea-bb7b-265f4554af6d_story.html (both accessed October 25, 2024).

belonged to the TFG that conducted airport interdiction had not completed the required Jetway training. These personnel included the DEA Group Supervisor. This is contrary to DEA policy as described in the DEA Agents Manual, which requires all DEA SAs and TFOs participating in drug interdiction units at mass transportation facilities, as well as unit first-line supervisors, to attend and complete Jetway training. It is also contrary to representations made to the OIG in 2016 that this training would be required for all new SAs and TFOs assigned to interdiction units.

Moreover, we have serious concerns that even those TFG personnel who have met the DEA's Jetway training requirements have received inadequate and inappropriate training that was contrary to DOJ guidance, creating significant risk that such personnel will conduct transportation interdiction activities improperly. During our evaluation, we learned that in April 2023 the DEA's Office of Training completed a review of the DEA's Jetway training program and identified significant concerns about the quality of the training, as well as risks related to racial profiling. Notably, the Office of Training's report stated that the DEA's Equal Employment Opportunity Program had reviewed the Jetway training materials and found that they "included techniques that are contrary to DOJ's racial profiling guidance and, if applied, could open [the] DEA to accusations of targeting individuals based solely on protected characteristics such as race, ethnicity, or disability." Further, the Office of Training found that the Jetway training did not adequately address consensual encounters and that training documents were not fully compliant with Title VI of the Civil Rights Act or DOJ guidance for federal law enforcement agencies regarding the use of race, ethnicity, gender, national origin, religion, sexual orientation, or gender identification.⁷ According to the Office of Training, the "lack of training [on consensual encounters] creates a significant risk to the DEA."⁸

Additionally, the DEA Office of Training's review found that the DEA-177 form was not consistently applied by personnel conducting transportation interdiction and that "unknown" was often selected in the required "perceived race, ethnicity, and gender of individual encountered" field to avoid the perception of bias. Further, the Office of Training found that the Jetway training program had no consolidated DEA headquarters senior leadership oversight and that the program did not align with DEA training policies or instructor-vetting practices.

⁷ DOJ, "Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity," December 2014.

⁸ According to the DEA, the resulting report was not finalized and was put on hold, citing the need for additional stakeholder engagement. Nonetheless, in response to receiving the DEA Office of Training's report, the DEA Chief of Intelligence stated via email that same day, "Given the findings of this report, the Intelligence Division is permanently suspending the program." That suspension has remained in place through the date of this MAM. (The OIG has not conducted an independent evaluation of the training.)

After reviewing a draft of this MAM, DEA officials told us that, despite the Chief of Intelligence's email stating that the Jetway training program was "permanently suspend[ed]," and the fact that more than 18 months later the training program has not been restarted, the program was actually "paused" and not permanently suspended. The DEA further stated that SAs and TFOs receive DOJ-mandated non-Jetway training and additional non-Jetway training regarding consensual encounters throughout their careers. We did not find the DEA's response persuasive. Regardless of whether the Jetway training program has been permanently suspended or paused, or whether SAs and TFOs have received other, non-Jetway consensual encounter training, the DEA put in place a policy—following the OIG's 2015 report identifying serious issues with the DEA's operation of its interdiction activities at mass transportation facilities—that mandates Jetway training for its SAs and TFOs assigned to drug interdiction units at mass transportation facilities. That policy is still in place. Through this evaluation, we have learned that the DEA stopped providing that training more than 18 months ago, yet it has been conducting its mass transportation interdiction activities with personnel who have not received the training required by DEA policy.

In addition to the serious concerns that the DEA itself identified with the Jetway training provided prior to the program's suspension in April 2023, the absence of training is exacerbated by important gaps that we have identified in the DEA's policy for transportation interdiction that have left SAs and TFOs with inadequate guidance. For example, the DEA Interdiction Manual, last updated in 2010, was intended to provide guidance on legal issues relating to drug interdiction, including consensual encounters with passengers at airports. Among its provisions, the Interdiction Manual offered guidance on the temporary seizure of luggage from a departing airline passenger, stating that "detention of a bag from a departing passenger implies that a more permanent type of detention is occurring."

The DEA Interdiction Manual went on to state that "even though some cases have upheld the detention of departing passenger luggage when the detention has been of limited duration, this practice should be avoided." When we asked the DEA about this provision in connection with the incident detailed above, some DEA personnel told us that they were unaware of the Interdiction Manual. Separately and more generally, the DEA stated that the Interdiction Manual was not policy and should not have been considered as such. During our evaluation, in August 2024 we interviewed DEA Office of Chief Counsel personnel about, among other things, the Interdiction Manual. We learned that, subsequently, the Office of Chief Counsel recommended that the Interdiction Manual be removed from the DEA's employee intranet site; further, we learned that the Interdiction Manual was rescinded and removed in September 2024.⁹

Since the DEA's rescinding of the Interdiction Manual, the DEA Agents Manual remains the DEA's primary transportation facilities interdiction guidance for DEA SAs and TFOs. However, our review of the DEA Agents Manual shows that it provides limited or no guidance in multiple areas, such as how a "cold" consent encounter is defined and which indicators or factors may be appropriate for SAs and TFOs to use to approach individuals for consensual encounters. By contrast, the Interdiction Manual provided a non-exhaustive list of factors that, as of 2010, had been cited by courts as providing a basis to support a finding of reasonable suspicion, while also noting that, although "no single factor...will amount to reasonable suspicion," a "combination of...these factors, observed through the perspective of your training, can provide reasonable suspicion..." Similarly, DEA personnel who completed the Jetway training before it was suspended told us that the training had provided instruction on indicators, which interviewees described as behaviors or characteristics that may be indicative of potential criminal activity. A DEA headquarters official acknowledged that there might be confusion regarding DEA policy because it is not sufficiently detailed regarding what SAs and TFOs generally should or should not do during interdiction activities.

As noted above, in our view, proceeding with such interdiction activities in the absence of critical controls, such as adequate policies, guidance, training, and data collection, creates substantial risks that DEA SAs and TFOs will conduct these activities improperly; impose unwarranted burdens on, and violate the legal rights of, innocent travelers; imperil the Department's asset forfeiture and seizure activities; and waste law enforcement resources on ineffective interdiction actions.

On November 12, 2024, after receiving a draft of this MAM, the Deputy Attorney General issued a directive to the DEA to suspend conducting consensual encounters with individuals at mass transportation facilities pursuant to the DEA's transportation interdiction activities unless the encounters are either connected to an ongoing investigation or approved by the DEA Administrator based on exigent circumstances. The directive notes that a broader review of the costs and benefits of the transportation facilities interdiction program is needed, including whether it remains effective and useful given the DEA's priorities and limited resources. The directive therefore suspends these encounters until the utility of conducting consensual encounters

⁹ After reviewing a draft of this MAM, the DEA stated that the Interdiction Manual was designed to provide case examples for SAs and TFOs and was removed to avoid confusion.

(unconnected to an existing investigation) at mass transportation facilities is evaluated and assessed, and identified concerns are sufficiently addressed. The directive further states that these encounters “may not be resumed absent explicit direction from the Deputy Attorney General.”

The directive states that, while the suspension of consensual encounters pursuant to the program is intended to prohibit consensual encounters unconnected to another investigation, it is not intended to prohibit other consensual encounters in which DEA SAs and TFOs may engage. For example, with approval from the DEA Special Agent in Charge (SAC) of the Field Division, SAs and TFOs may still conduct lawful and DOJ policy-compliant consensual encounters with individuals at transportation facilities as part of a pre-planned activity in an ongoing, predicated investigation involving one or more identified targets or criminal networks. The directive further states that the receipt of travel information from a CS, standing alone, does not constitute the type of predicated, ongoing investigation that will support a consensual encounter under this directive unless the travel information has a nexus to a predicated investigation and the requisite SAC approval is obtained. According to the directive, if an exigent circumstance arises in which it would be appropriate to conduct a consensual encounter that otherwise would be prohibited under the directive, such an encounter may be approved by the DEA Administrator provided prompt notice is given to the Office of the Deputy Attorney General, the consensual encounter complies with law and current DEA policy, and the consensual encounter is appropriately documented regardless of its investigative outcome. See [Appendix 1](#).

Recommendations

To address risks related to the DEA’s transportation interdiction activities, we make the following recommendations:

To the Office of the Deputy Attorney General

1. Ensure that the DEA enforces its policy requirement for Special Agents and Task Force Officers to timely complete the DEA-177 Consensual Encounter Form for each consensual encounter, and ensure that required data is being entered.
2. Ensure that the DEA fully implements appropriate transportation interdiction training that meets the purpose and intent of the OIG’s prior recommendations, incorporates DOJ guidance, and addresses the concerns identified in the DEA Office of Training’s report that led the DEA to suspend its Jetway training in April 2023.
 - a. Once implemented, ensure that the DEA enforces its policy requirement for Special Agents and Task Force Officers participating in drug interdiction units at mass transportation facilities to complete transportation interdiction training.
 - b. Assess whether the DEA should provide additional training to DEA Special Agents and Task Force Officers who previously received Jetway training.
3. Assess whether the DEA’s repeated payment of a percentage of cash forfeitures to transportation company employees, based on tips leading to seizures, over a period of years, is consistent with the Limited Use Confidential Source category and appropriate under Department of Justice policy.
4. Assess whether the DEA, in connection with its interdiction efforts at mass transportation facilities, should permit, outside the context of a predicated investigation, cash rewards to private company employees for regularly providing, over an extended period, potentially private consumer data without their employer’s knowledge and without any legal process.

5. Consider whether to direct the Department of Justice law enforcement components to expand their body-worn camera policies to require the use of body-worn cameras during pre-planned consensual encounters with travelers at mass transportation facilities.

To the DEA

6. Prohibit participation in transportation interdiction activities at mass transportation facilities by DEA Special Agents and Task Force Officers who have not received appropriate training.
7. Update the policy on "Consensual Encounters Conducted at Mass Transportation Facilities" in the DEA Agents Manual to provide additional consensual encounter guidance regarding transportation interdiction activities.
8. Provide additional training or guidance on the DEA-177 Consensual Encounter Form to ensure that DEA Special Agents and Task Force Officers understand the importance of the form and how to complete it accurately. Update fields or instructions on the form, if needed.
9. Determine whether transportation interdiction activities and the use of confidential sources for this purpose is an effective use of law enforcement resources, and assess whether the benefits of these actions outweigh the potential legal risks.

The Department and the DEA have each provided a formal response to this memorandum indicating concurrence with the recommendations (Appendices [2](#) and [4](#), respectively). The OIG's analyses of each response are provided in Appendices [3](#) and [5](#), respectively. By January 10, 2025, please advise the OIG on the actions that the Department and the DEA have taken or intend to take regarding these issues. If you have any questions or would like to discuss the information in this memorandum, please contact me at (202) 514-3435 or Donellen Schlosser, Chief Inspector, acting in the role of Assistant Inspector General, Evaluation and Inspections, at (202) 616-4620.

cc: Marshall L. Miller
Principal Associate Deputy Attorney General, Office of the Deputy Attorney General

Adam Chandler
Chief of Staff and Associate Deputy Attorney General, Office of the Deputy Attorney General

Bradley Weinsheimer
Associate Deputy Attorney General, Office of the Deputy Attorney General

George Turner
Associate Deputy Attorney General, Office of the Deputy Attorney General

Katie Medearis
Associate Deputy Attorney General, Office of the Deputy Attorney General

Edward J. Kovacs
Chief Compliance Officer, Office of Compliance, Drug Enforcement Administration

Janice O. Swygert
Program Manager, External Audit Liaison Section, Office of Compliance, Drug Enforcement Administration

Louise M. Duhamel, Ph.D.
Assistant Director, Internal Review and Evaluation Office, Justice Management Division

Appendix 1: Transportation Facilities Interdiction Program Directive



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

November 12, 2024

MEMORANDUM FOR ADMINISTRATOR, DRUG ENFORCEMENT
ADMINISTRATION

FROM: THE DEPUTY ATTORNEY GENERAL *Cecilia Munoz*

SUBJECT: Transportation Facilities Interdiction Program Directive

Internal and ongoing reviews by the Department of Justice, Drug Enforcement Administration (DEA), and Office of Inspector General have identified concerns with DEA's use of consensual encounters unconnected to an existing investigation with individuals at mass transportation facilities as part of the DEA's broader transportation interdiction activities ("transportation facilities interdiction program" or "program"). These reviews have prompted the need for a broader review of the costs and benefits of the program, including whether it remains effective and useful given DEA's priorities and limited resources.

Until the utility of conducting consensual encounters pursuant to the transportation interdiction facilities program is evaluated, assessed, and identified concerns are sufficiently addressed, I am directing that the DEA suspend conducting consensual encounters pursuant to the program, subject to my further review following the assessment and evaluation. Consensual encounters pursuant to the program may not be resumed absent explicit direction from the Deputy Attorney General.

While suspending consensual encounters pursuant to the program is intended to prohibit consensual encounters unconnected to another investigation, it is not intended to prohibit other consensual encounters in which DEA Special Agents (agents) and task force officers (TFOs) may engage. For example, with approval from the Special Agent in Charge (SAC) of the Field Division, agents and TFOs still may conduct lawful and DOJ policy-compliant consensual encounters with individuals at transportation facilities as part of a pre-planned activity in an ongoing, predicated investigation involving one or more identified targets or criminal networks. Note that the receipt of travel information from a confidential source, standing alone, does not constitute the type of predicated, ongoing investigation which will support a consensual encounter under this Directive unless the travel information has a nexus to a predicated investigation and the requisite SAC approval is obtained. At the same time, if an exigent circumstance arises in which it would be appropriate to conduct a consensual encounter that otherwise would be prohibited under this directive, such an encounter may be approved by the DEA Administrator provided prompt notice is given the Office of the Deputy Attorney General, the consensual encounter complies with law and current DEA policy, and the consensual encounter is appropriately documented regardless of its investigative outcome.

Consensual encounters are an important tool used by law enforcement in the investigation of potential criminal conduct. When used appropriately, these encounters advance the interests of public safety and help ensure those encountered are kept safe and treated with the respect and dignity every individual has the right to expect when engaging with members of law enforcement. By suspending the use of consensual encounters pursuant to DEA's transportation interdiction facilities program and authorizing it to be restarted only when its utility has been properly evaluated and assessed — and appropriate policies and training have been implemented — we help ensure that the Department is fulfilling its mission to keep the American people safe, protect civil rights, and uphold the rule of law.

Appendix 2: The Department's Response to the Draft Report



U.S. Department of Justice

Office of the Deputy Attorney General

Office of the Deputy Attorney General

950 Pennsylvania Ave., N.W.
RFK Main Justice Bldg.
Washington, D.C. 20530

MEMORANDUM

TO: Donellen Schlosser
Acting Assistant Inspector General

FROM: Bradley Weinsheimer
Associate Deputy Attorney General
Office of the Deputy Attorney General

Katie B. Medearis
Associate Deputy Attorney General
Office of the Deputy Attorney General

DATE: November 19, 2024

SUBJECT: Department of Justice's Response to draft Management Advisory Memorandum, "*Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities*"

The Department of Justice appreciates the opportunity to respond to the Office of the Inspector General (OIG) Management Advisory Memorandum (MAM) entitled, "*Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities*." The Department recognizes the importance of the OIG's work on this issue.

Prior to issuance of the MAM, the Department and DEA were collectively evaluating the DEA's use of consensual encounters as part of its interdiction activities at mass transportation centers ("the program"). While these internal reviews were pending, the OIG issued the draft MAM and raised related concerns based on its review. In connection with initial analysis and discussions between the Department, the DEA, and the IG, the Deputy Attorney General (DAG) issued a memorandum directing the DEA to suspend the program until an assessment is completed, identified concerns addressed, and the DAG approves resumption of the program. See MAM, Appendix 1 (DAG Directive).

The Department concurs with each of the five recommendations directed to the Office of the Deputy Attorney General (ODAG). ODAG will coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

Appendix 3: OIG Analysis of the Department's Response

The OIG provided a draft of this Management Advisory Memorandum (MAM) to the Office of the Deputy Attorney General (ODAG), and ODAG provided a formal response on behalf of the Department, which is included in [Appendix 2](#). The OIG's analysis of ODAG's response and the actions necessary to close the recommendations are discussed below.

The Department stated in its response that it and the DEA were collectively evaluating the DEA's use of consensual encounters as part of its interdiction activities at mass transportation centers ("the program") and noted that the Deputy Attorney General has issued a memorandum directing the DEA to suspend the program until an assessment is completed, identified concerns are addressed, and the Deputy Attorney General approves resumption of the program (see the Deputy Attorney General's November 12, 2024 memorandum included in [Appendix 1](#)). The response further stated that the Department concurred with each of the five recommendations directed to ODAG and that it would coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The Department stated that the steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

Recommendation 1

Ensure that the DEA enforces its policy requirement for Special Agents and Task Force Officers to timely complete the DEA-177 Consensual Encounter Form for each consensual encounter, and ensure that required data is being entered.

Status: Resolved.

Department Response: The Department concurred with this recommendation and stated that it would coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The Department stated that the steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

OIG Analysis: The Department's planned actions are responsive to the recommendation. By January 10, 2025, please provide documentation demonstrating that the Department has coordinated with the DEA to ensure that, for consensual encounters in predicated investigations with one or more identified targets or criminal networks, and for other consensual encounters if an interdiction program at mass transportation facilities is authorized to resume, that the DEA has in place a mechanism to enforce its policy requirement for Special Agents (SA) and Task Force Officers (TFO) to timely complete the DEA-177 Consensual Encounter Form for each consensual encounter and ensure that required data is being entered.

Recommendation 2

Ensure that the DEA fully implements appropriate transportation interdiction training that meets the purpose and intent of the OIG's prior recommendations, incorporates DOJ guidance, and addresses the concerns identified in the DEA Office of Training's report that led the DEA to suspend its Jetway training in April 2023.

- a. Once implemented, ensure that the DEA enforces its policy requirement for Special Agents and Task Force Officers participating in drug interdiction units at mass transportation facilities to complete transportation interdiction training.
- b. Assess whether the DEA should provide additional training to DEA Special Agents and Task Force Officers who previously received Jetway training.

Status: Resolved.

Department Response: The Department concurred with this recommendation and stated that it would coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The Department stated that the steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

OIG Analysis: The Department's planned actions are responsive to the recommendation. By January 10, 2025, please provide documentation demonstrating that the Department has ensured that the DEA fully implements appropriate transportation interdiction training that meets the purpose and intent of the OIG's prior recommendations, incorporates DOJ guidance, and addresses the concerns identified in the DEA Office of Training's report that led the DEA to suspend its Jetway training in April 2023. Further, once implemented, please provide documentation demonstrating that the Department has enforced its policy requirement for SAs and TFOs participating in drug interdiction units at mass transportation facilities to complete transportation interdiction training. Finally, please provide the results of the Department's assessment of whether the DEA should provide additional training to DEA SAs and TFOs who previously received Jetway training, including any supporting documentation, or an update on its progress.

Recommendation 3

Assess whether the DEA's repeated payment of a percentage of cash forfeitures to transportation company employees, based on tips leading to seizures, over a period of years, is consistent with the Limited Use Confidential Source category and appropriate under Department of Justice policy.

Status: Resolved.

Department Response: The Department concurred with this recommendation and stated that it would coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The Department stated that the steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

OIG Analysis: The Department's planned actions are responsive to the recommendation. By January 10, 2025, please provide the results of the Department's assessment, including any supporting documentation, or an update on its progress.

Recommendation 4

Assess whether the DEA, in connection with its interdiction efforts at mass transportation facilities, should permit, outside the context of a predicated investigation, cash rewards to private company employees for regularly providing, over an extended period, potentially private consumer data without their employer's knowledge and without any legal process.

Status: Resolved.

Department Response: The Department concurred with this recommendation and stated that it would coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The Department stated that the steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

OIG Analysis: The Department's planned actions are responsive to the recommendation. By January 10, 2025, please provide the results of the Department's assessment, including any supporting documentation, or an update on its progress. The Department may also want to consider and assess whether such rewards

to private company employees for regularly providing, over an extended period, potentially private consumer data without their employer's knowledge and without any legal process, is appropriate in predicated investigations.

Recommendation 5

Consider whether to direct the Department of Justice law enforcement components to expand their body-worn camera policies to require the use of body-worn cameras during pre-planned consensual encounters with travelers at mass transportation facilities.

Status: Resolved.

Department Response: The Department concurred with this recommendation and stated that it would coordinate with the DEA and other law enforcement components, as appropriate, in response to each recommendation. The Department stated that the steps taken to close many of the recommendations will depend, in part, on whether the DEA proposes resumption of the transportation interdiction program.

OIG Analysis: The Department's planned actions are responsive to the recommendation. By January 10, 2025, please provide documentation demonstrating that the Department has considered whether to direct the DOJ law enforcement components to expand their body-worn camera policies to require the use of body-worn cameras during pre-planned consensual encounters with travelers at mass transportation facilities, including for such encounters as part of a predicated investigation, as well as upon a potential future resumption of the program.

Appendix 4: The DEA's Response to the Draft Report



U.S. Department of Justice
Drug Enforcement Administration
Office of Compliance
8701 Morrisette Drive
Springfield, Virginia 22152

www.dea.gov

MEMORANDUM

TO: Michael E. Horowitz
Inspector General
Department of Justice
Office of the Inspector General

FROM: Edward J. Kovacs
Chief of Compliance
Drug Enforcement Administration
Office of Compliance

EDWARD
KOVACS

Digitally signed by
EDWARD KOVACS
Date: 2024.11.19
14:23:53 -0500

SUBJECT: DEA Response to Office of the Inspector General Draft Management Advisory Memorandum titled *Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities*

The Drug Enforcement Administration (DEA) has received the Department of Justice (DOJ), Office of the Inspector General (OIG), Evaluation and Inspection Division, Management Advisory Memorandum (MAM) titled, "*Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities*." DEA concurs with concerns identified in the MAM regarding DEA-177 Forms not being complete and timely and with the finding that not all DEA Special Agents and Task Force Officers participating in interdiction groups have completed Jetway training.

In response to the MAM, DEA has raised concerns with OIG, including: OIG reliance on a draft DEA Office of Training Report that was never issued by DEA, and OIG's concerns about removal of an interdiction manual when all relevant DEA policies and procedures on interdiction activities are included in the DEA Agents' Manual, which is accessible to all agents and employees.

OIG issued a total of nine recommendations in this report. Recommendations 1-5 were addressed to the Office of the Deputy Attorney General (ODAG) and recommendations 6-9 were addressed to DEA. The below responses address the recommendations made to DEA.

6. Prohibit participation in transportation interdiction activities at mass transportation facilities by DEA Special Agents and Task Force Officers who have not received appropriate training.

DEA Response

DEA concurs with the recommendation.

As a result of the Deputy Attorney General's Transportation Facilities Interdiction Program Directive (DAG's Directive), issued on November 12, 2024, DEA has suspended conducting consensual encounters pursuant to the program. In accordance with the DAG's Directive, DEA will only conduct consensual encounters at transportation facilities if connected to an ongoing investigation and with approval of the Field Division Special Agent in Charge. In exigent circumstances, the DEA Administrator may approve a consensual encounter at a transportation facility that would otherwise be prohibited by the DAG's Directive provided that the Administrator provides notice to the Office of the Deputy Attorney General and the encounter is appropriately documented.

DEA has been conducting its own internal review and evaluation of its Transportation Interdiction Program. As part of the internal review, DEA is assessing how it can most effectively use its limited resources to further its core mission - saving lives by defeating the two criminal networks in Mexico, the Sinaloa and Jalisco cartels, which are responsible for the fentanyl and methamphetamine that is killing Americans.

7. Update the policy on "Consensual Encounters Conducted at Mass Transportation Facilities" in the DEA Agents Manual to provide additional consensual guidance regarding transportation interdiction activities.

DEA Response

DEA concurs with the recommendation.

8. Provide additional training or guidance on the DEA-177 Consensual Encounter Form to ensure that DEA Special Agents and Task Force Officers understand the importance of the form and how to complete it accurately. Update fields or instructions on the form, if needed.

DEA Response

DEA concurs with the recommendation.

9. Determine whether transportation interdiction activities and the use of confidential sources for this purpose is an effective use of law enforcement resources and assess whether the benefits of these actions outweigh the potential legal risks.

DEA Response

DEA concurs with the recommendation.

If you have any questions or concerns regarding DEA's response, please contact Janice Swygert, Program Manager, External Audit Liaison Section, at (571) 776-3119.

Appendix 5: OIG Analysis of the DEA's Response

The OIG provided a draft of this Management Advisory Memorandum (MAM) to the DEA, and the DEA provided a formal response, which is included in [Appendix 4](#).

In its formal response, the DEA stated that it concurs with concerns identified in this MAM regarding DEA Consensual Encounter Forms (DEA-177 forms) not being complete and timely, and that not all DEA Special Agents (SA) and Task Force Officers (TFO) participating in interdiction groups have completed Jetway training. The DEA response also stated that the DEA had raised concerns with the OIG about the draft MAM, including the OIG's reliance on what the DEA asserted was a draft DEA Office of Training report that, according to the DEA response, was "never issued" by the DEA, and the OIG's reference to the DEA's removal of its Interdiction Manual because, the DEA stated, all relevant DEA policies and procedures on interdiction activities are included in the DEA Agents Manual, which it noted is accessible to all agents and employees.

The DEA previously raised concerns with the OIG about the MAM's reference to its Office of Training's report and its Interdiction Manual, which we referenced above in footnotes 8 and 9. With regard to the OIG's reliance on the DEA Office of Training's report, we note that documentation provided by the DEA showed that the DEA's Intelligence Division decided to suspend the program based on the findings of the report. In addition, the report was signed by senior DEA officials, apparently indicating their approval of it. With regard to the DEA Interdiction Manual, which was last updated in 2010, despite the DEA's statement that all relevant policies and procedures on interdiction activities are included in the DEA Agents Manual, this MAM identified that the DEA Agents Manual provided limited or no guidance in multiple areas, which has left SAs and TFOs with inadequate guidance.

The OIG's analysis of the DEA's response regarding specific recommendations and the actions necessary to close them are discussed below.

Recommendation 6

Prohibit participation in transportation interdiction activities at mass transportation facilities by DEA Special Agents and Task Force Officers who have not received appropriate training.

Status: Resolved.

DEA Response: The DEA concurred with this recommendation and stated that, as a result of the Deputy Attorney General's Transportation Facilities Interdiction Program directive issued on November 12, 2024, the DEA has suspended conducting consensual encounters pursuant to the program. The DEA stated that, in accordance with the directive, the DEA will conduct consensual encounters at transportation facilities only if connected to an ongoing investigation and with approval of the Field Division Special Agent in Charge (SAC). The DEA further stated that, in exigent circumstances, the DEA Administrator may approve a consensual encounter at a transportation facility that would otherwise be prohibited by the directive provided that the Administrator provides notice to the Office of the Deputy Attorney General and the encounter is appropriately documented. The DEA stated that it has been conducting its own internal review and evaluation of its Transportation Interdiction Program and that, as part of this review, the DEA is assessing how it can most effectively use its limited resources to further its core mission—which the DEA described as saving lives by defeating the two criminal networks in Mexico, the Sinaloa and Jalisco cartels, which are responsible for the fentanyl and methamphetamine that are killing Americans.

OIG Analysis: The DEA's planned actions are partially responsive to the recommendation. The DEA stated that, absent exigent circumstances and approval by the DEA Administrator, it would conduct consensual encounters at transportation facilities only if "connected to an ongoing investigation" and with the approval

of the Field Division SAC. We note, however, that the Deputy Attorney General's directive used different, and potentially narrower, language to describe this scenario: it stated that the encounter must take place "in an ongoing, predicated investigation involving one or more identified targets or criminal networks" and also receive the approval of the Field Division SAC. In any event, to meet the intent of this recommendation, the DEA must ensure that any DEA SAs and TFOs who conduct such consensual encounters permitted under the conditions established in the Deputy Attorney General's directive have received the appropriate training.

By January 10, 2025, please provide evidence that, in the event that interdiction at mass transportation facilities is authorized to resume: (1) the DEA has prohibited SAs and TFOs from participation in interdiction activities at mass transportation facilities if they have not received the appropriate training and (2) SAs and TFOs who have participated in interdiction activities at mass transportation facilities since the issuance of this MAM have received appropriate training.

Recommendation 7

Update the policy on "Consensual Encounters Conducted at Mass Transportation Facilities" in the DEA Agents Manual to provide additional consensual encounter guidance regarding transportation interdiction activities.

Status: Resolved.

DEA Response: The DEA concurred with this recommendation.

OIG Analysis: By January 10, 2025, please provide documentation demonstrating that the DEA has updated the policy on "Consensual Encounters Conducted at Mass Transportation Facilities" in the DEA Agents Manual to provide additional consensual encounter guidance regarding transportation interdiction activities, including consensual encounters in predicated investigations.

Recommendation 8

Provide additional training or guidance on the DEA-177 Consensual Encounter Form to ensure that DEA Special Agents and Task Force Officers understand the importance of the form and how to complete it accurately. Update fields or instructions on the form, if needed.

Status: Resolved.

DEA Response: The DEA concurred with this recommendation.

OIG Analysis: By January 10, 2025, please provide documentation demonstrating that the DEA has provided additional training or guidance on the DEA-177 form, including its use in predicated investigations. Additionally, if the DEA determines that it needs to update fields or instructions on the DEA-177 form, please provide copies of the updated form and documentation demonstrating that the updated form has been implemented.

Recommendation 9

Determine whether transportation interdiction activities and the use of confidential sources for this purpose are an effective use of law enforcement resources, and assess whether the benefits of these actions outweigh the potential legal risks.

Status: Resolved.

DEA Response: The DEA concurred with this recommendation.

OIG Analysis: By January 10, 2025, please provide documentation demonstrating that the DEA has determined whether transportation interdiction activities, including consensual encounters at mass transportation facilities and the use of confidential sources employed by private companies for this purpose, are an effective use of law enforcement resources. Further, please provide the results of the DEA's assessment of whether the benefits of these actions outweigh the potential legal risks, including any documentation or analysis used to support the assessment, or provide an update on its progress.