

Memorandum

To: Jodi Avergun, Chief, NDDS
CC: Michael Walther, Deputy Chief, NDDS
From: Thomas M. Kent, Trial Attorney, Wiretap Unit
Date: 12/19/2004
Re: Operation Snowplow - Dissemination of information on corruption within the DEA and the mishandling of related investigations by OPR to the Public Integrity Section.

As discussed in my memorandum, dated December 13, 2004, several unrelated investigations, including Operation Snowplow, identified corrupt agents within the DEA. As further discussed in my memorandum, OPR's handling of the investigations into those allegations has come into question and the OIG investigator who was actively looking into the allegations has been removed from the investigation. As discussed in my e-mail, dated December 17, 2004, I want to speak directly with the Public Integrity Section because I want to ensure that the allegations are fully investigated and acted upon if true.

As promised, I am providing you with further information on the allegations and evidence that is already in files at OPR and OIG. Agents I know were able to vouch for my credibility and several individuals close to the prior investigations that uncovered corruption agreed to speak with me. I had a limited time frame in which to speak with them and ask questions. They were able to provide me with some of the highlights, but certainly not all of the information that is sitting over at OPR and OIG. Such a debriefing, based on what I learned in a few hours, would take days.

Having been failed by so many before and facing tremendous risks to their careers and their safety and the safety of their families, they were understandably hesitant to reveal the information I requested, including the names of those directly involved in criminal activity in Bogota and the United States. They agreed to reveal the names to me on the condition that I not further disseminate them for the time being. They are prepared to provide the Public Integrity Section with those names and everything in the files at OPR and OIG, and then some, if called upon to do so.

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ALLEGATIONS AND EVIDENCE ALREADY BEFORE OPR AND OIG:

First Allegation. A DEA group in Florida was working an investigation into a Colombian based supply network. They had informants who were able to identify the ships that were used to transport tens of thousands of kilograms of narcotics and the individuals to whom the shipments belonged. Targets began to cooperate in the ongoing investigation and they made startling revelations concerning DEA agents in Bogota. They alleged that they were assisted in their narcotics activities by the agents. Specifically, they alleged that the agents provided them with information on investigations and other law enforcement activities in Colombia. The targets were able to provide the DEA group in Florida with confidential reports they obtained from the agents in Bogota (those documents were turned over to OPR and OIG). One of the reporting agents was placed on administrative leave shortly thereafter. While he was out, Agents in Bogota arranged to have a meeting with one of the informants. As the informant left that meeting, he was murdered. Other informants, unrelated to the above-described investigation, but who also worked with the DEA group in Florida were also murdered. Each murder was preceded by a request for their identity by an agent in Bogota. The agent from the DEA group in Florida who was placed on administrative leave was terminated by the DEA.

Second Allegation. Another DEA group in Florida was working an investigation into another Colombian based supply network. They were working with the Bogota Country Office. They had informants who were able to identify a new method of smuggling. Specifically, the narcotics traffickers in Colombia were infusing acrylic with cocaine and shaping it into any number of commercial goods. The acrylic was then shipped to the United States and Europe where, during processing, the cocaine was extracted from the acrylic. The informants sent samples to the DEA group in Florida on different occasions, but the DEA's chemists were unable to properly replicate the extraction process. Finally, all agreed that the informants would bring another sample and would walk the DEA chemists through the extraction process. Agents contacted the Bogota Country Office to discuss the informants planned travel and their bringing cocaine out of Colombia infused in acrylic. They were advised that the best tact was for the informants to carry it out themselves. When the informants did go to the airport in Colombia they were arrested. The agent contacted in the Bogota Country Office by the DEA group in Florida, told Colombian officials to lock them up and throw away the key. He disavowed any knowledge that the informants had permission to bring the cocaine to the United States or that they would be carrying it infused in acrylic. He even went so far as to represent that he had no knowledge they were even in Colombia. His misrepresentations were backed by another agent in Bogota. The informants were imprisoned for nine months while the accusations flew back and forth. Once it was determined that the agents in Bogota were lying, the informants were released. One of the informants was kidnapped and murdered in Bogota where he had gone into hiding.

Third Allegation. The same DEA group in Florida that made the second allegation had an informant who was approached by the FARC to provide communications equipment. The informant was incarcerated in Bogota at the time. The group worked the investigation with agents from Bogota. Unbeknownst to them, one of the agents they were working with was the same agent connected to the deaths of the informants referred to in the first allegation. That agent assured the DEA group in Florida that they would be able to get the informant out of prison. However, when they arrived in Bogota they were told by another Bogota based agent, identified as corrupt during the second allegation, that they would not be able to get the informant out of prison. As the two sides argued back and forth the informant was challenged by the Bogota agents to prove his allegations. He did so by making a videotape of a conversation he then had with a member of the FARC in jail in which they discussed their desire for him to provide them with communications equipment. When confronted with the actual tape that confirmed the informant's story, the agents in Bogota complained that what the informant and DEA group from Florida had done was illegal and they would be unable to obtain the informant's release. The investigation was stagnant for a time until the informant was out of prison and living outside of Colombia. He re-established contact with the DEA group in Florida and informed them that he was still in contact with the FARC and could still work the investigation. One of the Bogota agents traveled to Washington, D.C. and convinced the DEA to shut it down and not work with the informant. The informant once again reached out for the DEA group in Florida after the impasse, this time with information that there was weapons grade nuclear material for sale in Spain. A third proposal was prepared. The Bogota agent that traveled to Washington, D.C. in response to the second proposal now claimed that the informant was a pedophile. The investigation was halted. The Bogota agent was called on his claim and could not provide any evidence to support it.

A meeting was held after a fourth proposal to once again pursue the communications angle with the FARC. The same Bogota agent once again spoke out in opposition, claiming that he was against using the informant, against putting phones we would intercept into the hands of the FARC, and alleging that one of the targets, a target his own group had identified as a narcotics trafficker, had nothing to do with narcotics. The agent was unable to dissuade those involved in the investigation and it finally took off with the assistance of the NSA. The investigation continued until the informant was faxed a document that identified him as a DEA informant on the FARC. The document mirrored information the DEA group in Florida provided the corrupt agents in Bogota previously. The investigation into the document and its source led the agents to several other DEA informants. The agents were then able to record numerous conversations between their informants and the other DEA informants. They discussed, among other things, the narcotics trafficker who is believed to have started the document, discussing DEA informants on the FARC, on its path. That person is also a DEA

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informant and is believed to have been controlled by the Bogota Country Office. Among other things, it was alleged that that informant had several agents on his payroll who provided him with classified information. The agents were believed to work in Colombia and Washington, D.C. (those tapes were also turned over to OPR and OIG). The agents in the DEA group in Florida, through their informants, were able to set up a meeting in Florida where an agent from Bogota and an agent from Washington would attend to meet with some of the DEA informants to discuss, among other things, information on a pending indictment. The meeting was called off when it was learned that that agents likely knew of the trap.

Fourth allegation. Operation Snowplow. After getting up on our first narcotics phone, I turned toward the task of tackling the separate money laundering investigation, only to find out from my case agent that it had come to a halt. Specifically, he was instructed by his superiors to close the investigation and deactivate his informants. Inquiries at SOD led to speculation that the money laundering investigation was shut down because it was running into a concurrent investigation by OIG, although it was unclear if the OIG investigation centered around problematic informants or corrupt agents. After further inquiries I was able to determine that the money laundering investigation was shut down after involvement by OPR, not OIG. As the Colorado investigation picked up steam, OIG, who already had already spoken with the agents who reported the first, second and third allegations, learned that my case agent was developing information relevant to their investigation. An OIG investigator contacted my case agent and sought his cooperation in the investigation. It appears that OPR learned of the OIG investigation and our related money laundering investigation in the months that followed. In June of 2004, OPR and DEA, the two agencies embarrassed by the prior allegations and likely to come under tremendous scrutiny for their own actions in response, demanded that my case agent turn all of the information he previously gave to OIG over to OPR. One week after submitting the requested detailed memorandum to OPR, the money laundering investigation was shut down. The same agent connected to the murders of the informants described in the first allegation then began to call my case agent to learn the identity of his informants.

FAILURES BY DEA / OPR / OIG TO ENSURE THESE AND OTHER ALLEGATIONS ARE FULLY INVESTIGATED AND ACTED UPON:

The first allegation was brought to OPR. By all accounts OPR did nothing about it. When confronted with the allegations, the investigators at OPR treated the reporting agents as if they had a disease and did not want anything to do with them or the evidence they amassed. As discussed above, one of the reporting agents was even terminated by the DEA. When agents checked the files that were eventually transferred to OIG, they saw that certain evidence given to OPR was never passed on to OIG.

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The second and third allegations were also brought to OPR. By all accounts, once again, OPR did nothing about them. Instead, one of the agents who reported the corruption found himself the target of numerous OPR investigations. The informant who was identified during the third allegation as the narcotics trafficker with several agents on his payroll was eventually brought to Florida to take a polygraph test on the allegations that he was obtaining classified documents from agents in Bogota and elsewhere. He passed the test. However, the polygrapher was instructed by OPR not to report on the test. He was instructed that the test never took place.

The first, second and third allegations were discussed with an OIG investigator. He was advised up front that the allegations would make his career, but the process of holding those responsible accountable may destroy his career. He jumped right in and soon found himself frustrated at every turn. He was recently removed from the investigation for reasons that still remain a mystery. The investigation was reassigned, but by all accounts, once again, nothing is being done with the allegations.

CREDIBILITY OF REPORTING AGENTS:

The individuals making the allegations are agents and supervisors. Some of them have been regarded as being among the best agents in the country. An agent involved in the first allegation took a polygraph test. The polygrapher testified on his behalf before OIG. The polygrapher testified that he not only passed, but exhibited the best chart he has ever seen in his 45 years as a polygrapher, a time period in which he administered some 28,000 such tests.

An agent involved in the second and third allegations testified during internal proceedings designed to discredit other members of the DEA. Although pressured by the DEA and its Chief Counsel's Office to do so, he refused to commit perjury. After one such proceeding the judge, who ruled in favor of the targeted employee, found the reporting agent more credible than the DEA's witness, whom the judge found had perjured himself. After making some of the allegations described above, the reporting agent himself became the subject of an OPR investigation into allegations that he had perjured himself. The allegation was based on a complaint filed by the attorney in the Chief Counsel's Office who pressured him to lie under oath. He was cleared of all charges. When that reporting agent went head to head with agents in Bogota on the issue in the second allegation of whether or not Bogota had granted permission for the informants to leave Colombia with cocaine and whether or not they would be traveling with the cocaine infused in acrylic, he took a polygraph test and passed. A representative of the Department of Justice reviewed the allegations and found that the reporting agent had been telling the truth and the two corrupt agents in Bogota had been lying all along to the Colombian and U.S. governments.

CRACKS BEGINNING TO FORM / DISASTER WAITING TO HAPPEN:

There has already been some litigation related to the events discussed in this memorandum. The agent terminated after making the first allegation took part in proceedings to obtain reinstatement. During those proceedings, a SAC, a witness against the agent, confessed to taking a bribe. In support of his decision to reinstate the agent, the judge found that the DEA attorney and OPR representatives lied during the proceedings.

In another allegation, not previously discussed, a DEA supervisor made false allegations which led to an agent's arrest. The agent denied the charges and offered to make full statements to whoever would listen without restrictions. He did so and he also took a polygraph test. He passed. The supervisor however refused. The agent was ultimately cleared of all wrongdoing. A complaint was brought against the supervisor, but, as with the above complaints to OPR, nothing has been done. In fact, the supervisor has been promoted. He and the DEA are now the subject of a multi-million dollar lawsuit.

The first four wiretap investigations I worked on when coming to the Wiretap Unit of NDDS all took place in Boston. Working there meant immersing oneself in the turmoil caused by the Whitey Bulger scandal, one which destroyed the credibility of the FBI and to some extent that of the U.S. Attorney's Office for the District of Massachusetts. To my benefit, some of the agents and investigators I worked with were among those who took Bulger's group and the corrupt FBI agents down. What I learned pales in comparison to what is brewing over at the DEA and OPR. The failures here are on a scale that dwarfs the Bulger scandal and, as I learned, they are continuing. One of the corrupt agents from Bogota, who was central to the second and third allegations, was recently intercepted over a wiretap. That conversation links him to ongoing criminal activity. Specifically, in it he discusses his involvement in laundering money for the AUC. That call has been documented by the DEA and that agent is now in charge of numerous narcotics and money laundering investigations.

DOJ'S OPPORTUNITY TO STEP IN AND HOLD THOSE RESPONSIBLE ACCOUNTABLE:

The agents who reported the above-described allegations did so to correct wrongs committed by other members of the DEA and OPR. Their attempts to do so led to retaliation. As discussed above, the cracks in the lid DEA and OPR has attempted to place on this problem are getting bigger. It is only a matter of time before this thing explodes. The agents, through me, want to take their concerns to the Public Integrity Section to ensure once and for all that the allegations are fully investigated and acted upon. Based on my conversations with them, I believe that

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those allegations will come out whether or not you allow me to go to the Public Integrity Section. If we are unable to arrange for a sit down between the reporting agents and those attorneys within the Department of Justice who are tasked with ensuring that corrupted agents and officials are held accountable, then I firmly believe that we will watch from the sidelines as the allegations play out in a courtroom, on the news, and/or on Capital Hill. The reporting agents have placed their trust in me. That was not easy given that they were aware that some of the allegations were brought to the attention of NDDS back in July, as was the idea of going to the Public Integrity Section, but nothing was done. I have assured them that I will lay the issues before you with a much more detailed accounting of the allegations and how the DEA and OPR, and now seemingly OIG, have failed to fully investigate the allegations and hold those responsible accountable. If we can put them together with the Public Integrity Section, they assured me that other agents, who have to this point remained silent for fear of retaliation, will come forward. Those agents have additional evidence not in the files maintained by OPR and OIG. I believe, based on their representations, that that new evidence alone would put the corrupt agents in prison.

QUESTION: Can I, given that we are aware of the specific allegations and the fact that the investigating agencies are dropping the ball, go directly to the Public Integrity Section and disseminate what we have learned through our investigation so, at the very least, they have the opportunity to make sure an appropriate investigation is undertaken?