



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

July 30, 2021

The President
The White House
Washington, D.C. 20500

Subject: OSC File Nos. DI-16-1098, DI-18-1075

Dear Mr. President:

I am forwarding to you a report provided to the U.S. Office of Special Counsel (OSC) in response to disclosures of wrongdoing at the Drug Enforcement Administration (DEA), Port-au-Prince, Haiti Country Office. Because the DEA is a component of the Department of Justice, OSC referred the allegations to then Attorney General Jeff Sessions for investigation pursuant to 5 U.S.C. § 1213(c) and (d). The Attorney General delegated the responsibility for conducting the investigation and signing the report to the DEA Administrator. DEA's Office of Global Enforcement conducted the original investigation and issued a report with the coordination and assistance of the agency's Office of Chief Counsel and Inspections Division. In response to OSC's request for additional information, the Acting DEA Administrator issued a supplemental report¹ based on further investigation by the DEA's Operations Division. I have reviewed the agency report and whistleblower comments, and in accordance with 5 U.S.C. § 1213(e), provide the following summary of the report, the whistleblowers' comments, and my findings. As summarized below, I have determined that the DEA's findings and report are unreasonable.

The Whistleblowers' Allegations

The whistleblowers, [REDACTED] and [REDACTED], who consented to the release of their names, are former DEA Special Agents who worked in Port-au-Prince, Haiti. They disclosed to OSC that the DEA Port-au-Prince, Haiti Country Office failed to take appropriate measures to implement an effective seaport security program to appropriately assist Haiti with strengthening its counter-narcotics law enforcement program. They also disclosed that DEA failed to properly conduct its investigation of the 2015 M.V. *Manzanares* drug seizure.² Specifically, the whistleblowers raised concerns regarding (1) inadequate training of Haitian law enforcement; (2) inadequate office space and equipment, such as surveillance cameras, at Haitian seaports; (3) insufficient vetting of Haitian law enforcement partners; and (4) inadequate support for the *Manzanares* investigation.

¹ The original report and supplemental report collectively comprise the agency report.

² The M.V. *Manzanares* is a cargo ship from which Haitian authorities seized a large cache of drugs hidden in its hold in April 2015.

DEA's Investigation and Original Report

DEA did not substantiate the whistleblowers' allegations. Specifically, the agency concluded that it had provided adequate training to Haitian law enforcement, including nine training seminars held in Port-au-Prince, Haiti in the last five years and ad-hoc, hands-on training. It reported that the U.S. Coast Guard Defense Attaché, rather than DEA, is responsible for assessing port security measures in Haiti. It stated that while there were limits to how much input U.S. government agencies can have over Haitian port security, DEA, in conjunction with the Department of State, Bureau of International Narcotics and Law Enforcement (INL), has been involved with some improvements. It reported that, currently, a group of Haitian law enforcement officers has a permanent office located in a shipping container at the port and Haitian law enforcement has a presence in the port 24 hours a day, 7 days a week. In its report, DEA explained that a "trusted police unit" was created in Haiti in 2016 through an interagency agreement with INL, but that the Haitian counter-narcotics law enforcement unit was not considered a formal "vetted unit." The report stated that DEA removed the Haitian law enforcement commander of that unit in 2018 after the current Port-au-Prince Country Attaché requested his removal due to corruption concerns. DEA did not find sufficient evidence to support the whistleblowers' allegation that DEA denied resources for the *Manzanares* investigation.

In their comments on DEA's report, the whistleblowers criticized the agency for failing to take their disclosures seriously and contended that the report failed to address the issues referred for investigation. They further asserted that DEA had a conflict of interest in investigating its own operations. The whistleblowers also stated that the training DEA has provided to Haitian law enforcement is insufficient and ineffective to ensure basic knowledge of seaport law enforcement and that DEA misrepresented management's responses to the whistleblowers' requests for training by stating in the report that the whistleblowers failed to provide specific examples of formal training requests that were denied. As to the whistleblowers' allegations regarding inadequate equipment, DEA reported that it requested an x-ray machine for Haitian law enforcement at the seaport, but the whistleblowers noted they still do not have one. The whistleblowers criticized DEA for claiming, without support, that the local law enforcement that it works with in Haiti is not a "vetted unit" and believe that DEA's response to corruption concerns about the Haitian law enforcement commander had been slow.³ The whistleblowers also disputed DEA's conclusion that it has pursued the *Manzanares* investigation appropriately. Specifically, they criticized DEA for ignoring evidence about a manager conspiring with a Haitian law enforcement commander to destroy evidence, not permitting pursuit of appropriate leads, and inappropriately deactivating confidential sources.

³ One of the whistleblowers claims to have reported back in 2015 that the Haitian commander at issue failed a polygraph test and DEA did not seek his removal until 2018.

DEA's Supplemental Report

At OSC's request, DEA provided a supplemental report to address the whistleblowers' comments. In that report, the agency explained the steps it took to investigate the whistleblowers' allegations and reiterated that, despite seaport security being outside the mission or responsibility of DEA, the agency nonetheless engaged in efforts to improve port security. In response to the question about additional scanning and x-ray equipment, DEA inexplicably stated that it did not have any record of the current status of the request, much less that it was approved. In response to the whistleblowers' concerns about the DEA conducting the investigation of its own operations, DEA claimed that no conflict existed because the Office of Chief Counsel had limited involvement with, and influence on, the investigation, without addressing the roles of the Office of Global Enforcement and Inspections Division charged with investigating the whistleblowers' allegations. With regard to the whistleblowers' allegation that a DEA official conspired with Haitian law enforcement to destroy drug evidence seized from the *Manzanares*, DEA stated that, while there were different opinions about whether the seized drugs should have been destroyed, Haitian officials had the authority to destroy the drugs and coordinated with DEA regarding the destruction process—indeed the DEA reimbursed Haitian officials \$1,500 for costs associated with the destruction of the drugs. DEA continues to investigate the *Manzanares* seizure and is coordinating with the United States Attorney's Office regarding potential criminal charges.

In response to the supplemental report, the whistleblowers asserted that DEA ignored the additional information they provided. The whistleblowers also criticized the agency for allowing the destruction of evidence and for failing to explain why a DEA official paid Haitian law enforcement to destroy drug evidence seized from the *Manzanares*. The whistleblowers contend that the Office of Chief Counsel's involvement in the investigation created a conflict of interest and that, contrary to DEA's assertions, its involvement impacted the findings. The whistleblowers also commented that the DEA's assertions regarding its limited role in Haiti do not withstand scrutiny and that the supplemental report confirmed that DEA is unwilling to take responsibility or consider the need for corrective action against the unimpeded flow of illegal drugs through Haiti.

OSC's Determination

OSC acknowledges that DEA's role in promoting seaport security in Haiti is limited, given that DEA is operating in a foreign country and the U.S. Coast Guard has primary responsibility for coordinating maritime security. However, since the U.S. government expends resources for DEA to operate in Haiti, it is incumbent on the agency to be as effective as possible in its mission to disrupt the flow of illegal drugs into the United States. DEA's apparent position that, because of its limited role, it is not accountable for the effectiveness of its work in Haiti, is not reasonable. In its reports, DEA does not adequately explain why it did not provide additional training and resources for seaport security and does not clarify whether DEA ever received the screening equipment it requested. Nor does it adequately explain DEA's payment for the destruction of drugs in the *Manzanares* investigation, which it claims is still open. Moreover, DEA failed to explain why there was a significant delay in severing ties with a corrupt Haitian

The President
July 30, 2021
Page 4 of 4

official. Accordingly, I cannot determine that the agency's findings are reasonable. I urge DEA to more closely review its operations in Haiti and implement measures to improve its effectiveness.

As required by 5 U.S.C. § 1213(e)(3), OSC has sent copies of the agency report, this letter, and the whistleblowers' comments to the Chairs and Ranking Members of the Senate and House Committees on the Judiciary. OSC also has copies of these documents and a copy of the original referral letter in our public file, which is available at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in black ink, appearing to read "Henry J. Kerner", with a stylized flourish at the end.

Henry J. Kerner
Special Counsel

Enclosures