

GAO Highlights

Highlights of [GAO-15-807](#), a report to the Chairman, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

Federal law enforcement components used more than 16,000 confidential informants in fiscal year 2013 as part of criminal investigations. Informants can be critical to an investigation, but without appropriate oversight, problems can occur that undermine the credibility of the informant's role in an investigation. *The Attorney General's Guidelines* sets forth procedures on the management of informants, including vetting potential informants and overseeing informants' illegal activities that components authorize to support an investigation.

GAO was asked to review the use of confidential informants. GAO reviewed the extent to which (1) DOJ and DHS components' policies address the Guidelines for vetting informants and overseeing their illegal activities and (2) selected components have monitoring processes to ensure compliance with the Guidelines.

GAO reviewed components' documented policies and monitoring processes and interviewed agency officials about their practices. GAO visited components' field offices in three locations chosen based on the numbers of informants overseen, among other factors.

What GAO Recommends

GAO recommends that DOJ and DHS and their components take actions to update components' policies and monitoring processes to improve handling and oversight of confidential informants. DOJ and DHS concurred with our recommendations.

View [GAO-15-807](#). For more information, contact David C. Maurer at (202) 512-9627 or maurerd@gao.gov.

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CONFIDENTIAL INFORMANTS

Updates to Policy and Additional Guidance Would Improve Oversight by DOJ and DHS Agencies

What GAO Found

Some components within the Departments of Justice (DOJ) and Homeland Security (DHS) do not fully address procedures outlined in *The Attorney General's Guidelines* (the Guidelines)—which established procedures to help ensure that components exercise their authorities regarding the use of informants appropriately and with adequate oversight. Eight components within DOJ and DHS—the Bureau of Alcohol, Tobacco, Firearms and Explosives; the U.S. Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); the U.S. Marshals Service (USMS); U.S. Customs and Border Protection; U.S. Immigration and Customs Enforcement (ICE); the U.S. Coast Guard (USCG); and the U.S. Secret Service (USSS)—have policies in place that generally address the procedures outlined in the Guidelines for vetting a confidential informant.

However, five of the eight components' policies are not fully consistent with the Guidelines' provisions for overseeing informants' illegal activities. For example, the Guidelines require agencies to document certain information when authorizing an informant to participate in an activity that would otherwise be considered illegal (e.g., purchasing illegal drugs from someone who is the target of a drug-trafficking investigation). DEA, USMS, ICE, USCG, and USSS do not fully address the requirements to provide the informant with written instructions about the authorized activity and require signed acknowledgment from the informant. Without such documentation, if an informant engages in an activity that exceeds the scope of the authorization, the agency may not be able to demonstrate that the informant's actions were not authorized, thereby limiting the agency's ability to prosecute the informant for the unauthorized illegal activity.

The DOJ and DHS components that oversaw the most informants in fiscal year 2013—the FBI, DEA, ICE, and USSS—have monitoring processes in place to help ensure that agents are complying with their respective components' policies. Such monitoring activities include supervisory reviews, as well as headquarters inspections and self-inspections within the field offices. These agencies also use administrative tools, such as standardized forms, that cover the requirements in their policies and help ensure that agents capture necessary information. However, as noted above, some components' policies do not fully address the procedures in the Guidelines, and as a result, the components' monitoring processes likewise do not assess compliance with those procedures in the Guidelines. Consequently, agencies may not have reasonable assurance that they are complying with procedures established in the Guidelines to address the risks associated with using informants.

This is a public version of a sensitive report that GAO issued in March 2015. It does not include details that ICE deemed law enforcement sensitive.