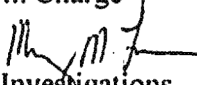




U.S. Immigration
and Customs
Enforcement

FEB 18 2007

MEMORANDUM FOR: All Special Agents in Charge
FROM: Marcy M. Forman 
Director, Office of Investigations
SUBJECT: Brownsville-Merida Reminder

The Brownsville Letter and Merida Memorandum (Brownsville-Merida agreement) was implemented in 1999 as a result of the United States conducting money laundering investigations in Mexico. The Brownsville-Merida agreement expired in 2001; however, ICE remains bound by the Brownsville-Merida agreement by the order of the U.S. Ambassador to Mexico. There are no exceptions to the authorization process. The Brownsville-Merida agreement requires the United States provide information and notice to the Mexican government prior to conducting any investigative activities in Mexico. For the purpose of the Brownsville-Merida agreement, these investigative activities are described as either operational or intelligence gathering in nature.

Operational activities by ICE special agents or individuals operating under their control must be reported to the Mexican government and can be authorized for up to 60 days from the date of approval. Operational activities are described as, but not limited to, controlled deliveries, currency and narcotics smuggling negotiations, general conspiratorial meetings and activities in which sources of information may become witnesses to criminal acts, etc. These operational activities will always require strict compliance with the Brownsville-Merida agreement.

Intelligence gathering activities by ICE Special Agents and individuals under their control can be authorized for up to 120 days from the date of approval. This does not require notification to the Mexican government. These activities would include, but are not limited to, witnessing criminal conspiratorial conversations, acquiring license plate numbers of vehicles involved in contraband smuggling, providing details on criminal methodologies and structures, etc.

Attached you will find copies of the Brownsville Letter and Merida Memorandum of Understanding agreement as well as sample memorandums to support 60-day operational and 120-day intelligence gathering requests. Questions regarding Brownsville-Merida should be directed to Program Manager (b)(6),(b)(7)(C) at (202) 616 (b)(6),(b)(7)(C) or email (b)(6),(b)(7)(C)@dhs.gov.

Attachments

UNITED STATES GOVERNMENT
Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE



DATE: NOV 19 1999

FILE: INV 1 OI:IO:SM PMM

TO : All Special Agents in Charge
All Resident Agents in Charge
Customs Attache, Mexico

FROM : Assistant Commissioner
Office of Investigations

SUBJECT: Implementation of Brownsville Letter/Merida MOU Notice Requirements

Background

On July 2, 1998, the United States and Mexican Attorneys General signed an accord (hereinafter identified as the "Brownsville Letter") outlining requirements for prior notification of cross-border law enforcement operations conducted by federal law enforcement agencies of either country. To immediately address the requirements of the Brownsville Letter, the Office of Investigations thereon established operating policies and procedures in accordance with Drug Enforcement Administration (DEA) guidelines. These instructions are delineated in the Office of Investigations Memorandum entitled "Revised DEA Policy on Informants Operating in the Republic of Mexico; dated December 29, 1998 (attachment 1).

On February 15, 1999, both Attorneys General then signed a Memorandum of Understanding (hereinafter identified as the "Merida MOU") defining the actual implementation procedures of the Brownsville Letter; and on September 15, 1999, the Deputy Attorney General (DAG) issued final implementation instructions (hereinafter identified as the "Brownsville Letter/Merida MOU Notice Requirements") for all federal law enforcement agencies proposing any type of operational activity within Mexico. For Customs purposes the new notification requirements now expand beyond drug investigations and include all financial, strategic, cybersmuggling and fraud related investigations that involve operational activity within Mexico.

Purpose

This memorandum is authored to update the existing Office of Investigations policy and procedures outlined in attachment 1, as well as incorporate the policies and procedures outlined in the "Brownsville Letter/Merida MOU Notice Requirements; dated September 15, 1999 (attachment 2).

Updates

The DAG memorandum "Brownsville Letter/Merida MOU Notice Requirements," will now act as the base document for all definitive guidance on the parameters of law enforcement operational activity and the process of prior notification to Mexican officials. Office of Investigations memorandum "Revised DEA Policy on Informants Operating in the Republic of Mexico" (attachment 1) will continue to remain in effect as the internal operating procedures, with the following modifications:

- a) Page 1, paragraph 1: "narcotic smuggling investigations" is now expanded to encompass all financial, strategic, fraud and cybersmuggling investigations in addition to narcotic smuggling investigations.
- b) Paragraph 2: Intelligence gathering activities and the required approvals therein apply only to narcotic smuggling investigations.
- c) Paragraphs 3,4: apply only to narcotic smuggling investigations.
- d) Page 2, paragraph entitled "Operational Activities": now includes all financial, strategic, fraud and cybersmuggling investigations, however, approval for operational activity associated with these types of investigative activity will be obtained by the Customs Attache in Mexico City, vice DEA. In addition, all operational activity requests should now be submitted in the format outlined in attachment 3.
- e) Page 2, paragraph entitled "Intelligence gathering activities": applies only to narcotic smuggling investigations. In addition, all intelligence gathering activity requests should now be submitted in the format outlined in attachment 4.
- f) Page 3, paragraph 1: applies only to narcotic smuggling investigations.

Routine travel to Mexico for non-operational activities by Customs agents (i.e. site surveys, liaison meetings, and headquarters directed travel) will continue to be submitted for approval using the standard 20-point memorandum.

Questions regarding currently policy and procedures should be directed to the Smuggling Investigations Division, Border Initiatives Coordinator. Training handbooks delineating the Brownsville Letter/Merida MOU requirements and approval process for operational and intelligence gathering activities in Mexico are also available from the Border Initiatives Coordinator.

Attachments

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE



DATE: DEC 29 1996

FILE: INV 1 01:10:SM PMM

TO : All Special Agents in Charge
All Resident Agents in Charge
Customs Attache, Mexico

FROM : Assistant Commissioner
Office of Investigations *Bruce A. Welch*

SUBJECT: Revised DEA Policy on Informants Operating In the Republic of Mexico

This memorandum revises policy and procedures for informants operating in the Republic of Mexico related to narcotic smuggling investigations. This memorandum takes effect immediately and will remain in effect until revised or incorporated into the relevant chapters of the Special Agent Handbook.

In the attached Drug Enforcement Administration (DEA) Telex dated November 10, 1998, DEA issued new policy and procedures regarding operational activities of informants in the Republic of Mexico (Mexico). DEA has now separated informant activity in Mexico into two distinct categories; "operational activity" and "intelligence gathering activity." The DEA policy establishes definitions and authorization procedures for each of these activities.

The DEA policy change will now require SAIC/RAIC offices to obtain approval for foreign travel and country clearance from DEA, prior to sending an informant into Mexico, or using an informant residing in Mexico, to conduct intelligence gathering activities. Approval for informants residing in cities contiguous with the United States/Mexican border to conduct intelligence gathering activities will extend for a period of 90 days. At the end of the 90 day period, the SAIC/RAIC office will generate a report of investigation (ROI) detailing the information received from the informant. A copy of the ROI will be distributed to the Customs Attache in Mexico. The Customs Attache in Mexico will then make the ROI available to the DEA Country Attache in Mexico. Subsequent requests for additional 90 day authorizations will be granted based upon the informant's activities during the previous 90 days.

The 90 day authorization period will be modified in duration for informants who reside outside border locations. The authorization period for these informants will be determined by actual requirements. SAIC/RAIC authorization requests should identify the amount of time an informant will reasonably require to complete the intelligence gathering activity. The same ROI reporting requirements, detailed above, apply.

2

The following information outlines the definitions of operational activity and intelligence gathering activity, and provides the approval process required before initiating these activities.

Operational activities:

Operational activities are defined as all Customs directed informant travel into Mexico, or use of informants residing in Mexico, for the purposes of undercover meetings, surveillance, recording drug related telephone conversations and controlled deliveries. Advance approval from the DEA Country Attache and the Chief of Mission will be required prior to any travel or activity. In these cases, the DEA Country Attache will be required to provide notification of the operational activity to a high level Government of Mexico (GOM) law enforcement official, and receive approval therefrom. Unless otherwise agreed upon, all notification to the GOM will be in general nondescript terms. The Customs Attache will also review the information before release to GOM law enforcement officials. On all requests, SAIC/RAIC offices should advise the Customs Attache in Mexico and their local DEA counterparts of any potential concerns associated with this notification. Non-notification will only occur if the operational activity has been approved by the DEA Sensitive Activity Review Committee (SARC).

For Customs purposes, the procedure to obtain approval for operational activity in Mexico remains unchanged. Per Customs Directive 5330-03; Procedures for Foreign Travel by Office of Enforcement Personnel, attachment 6, SAIC/RAIC offices will continue to use the standard "20 point" memorandum for requests.

Intelligence gathering activities:

Intelligence gathering activities are defined as all Customs directed informant travel into Mexico, or use of informants residing in Mexico, for the purposes of collecting information such as vehicle license plates, addresses and photographs. This will include situations where informants are in a position to "overhear" drug related conversations by virtue of their employment or associations. Advance approval from the DEA Country Attache will be required prior to any travel or activity. In these cases, the DEA Country Attache will NOT provide notification of the intelligence gathering activity to GOM officials.

Requests for informants to conduct intelligence gathering activities in Mexico will be submitted using the standard "20 point" memorandum. The subject of the memorandum should be modified to read:

"Request for 90 day intelligence gathering activity."

3

If at any time during the 90 day authorization period, an informant becomes involved in an operational activity (previously defined), the SAIC or RAIC office will submit an addendum to the original request entitled "Addendum # ___ to intelligence gathering activities" before any additional activities involving the informant may proceed. This addendum should be concise, clearly reference the informant's number and include the details of the investigation that have caused the informant's status to become operational.

SAIC/RAIC offices should advise the appropriate HQ Smuggling Division desk officer of any problems encountered in the implementation of this revised policy. Questions regarding this revised policy should be directed to the appropriate HQ Smuggling Division desk officer.

Attachment