

April 1, 2014

The Honorable Frank Wolf
Chairman
House Committee on Appropriations
Subcommittee on Commerce, Justice, Science, and
Related Agencies
United States House of Representatives

The Honorable Chaka Fattah
Ranking Member
House Committee on Appropriations
Subcommittee on Commerce, Justice, Science and
Related Agencies
United States House of Representatives

Dear Chair and Ranking Member:

In anticipation of Michele M. Leonhart, Administrator of the Drug Enforcement Administration (DEA), appearing before your Subcommittee on April 2, 2014 for a budget hearing entitled “Drug Enforcement Administration and State of Research on Drug Abuse in America”, we the below-signed criminal justice, civil liberties human rights, and drug policy organizations encourage you to address the following issues during this hearing. The DEA has been involved in numerous troubling incidents over the past few years, and we request that you use this opportunity to hold the agency accountable for its actions.

In particular, we would ask that members of the Subcommittee request Administrator Leonhart to respond to the following issues and concerns:

- **DEA use of NSA programs to surveil U.S. citizens:** On August 5, 2013, Reuters published an article by John Shiffman and Kristina Cooke entitled *U.S. directs agents to cover up program used to investigate Americans*.¹ The piece contained the startling news that the DEA has been collaborating with the NSA, CIA, and other agencies to spy on American citizens in the name of the War on Drugs. The journalists also revealed that DEA agents are actively creating and encouraging other agencies to create fake investigative trails to disguise where the information originated, known as “parallel construction”, a scheme that prosecutors, defense attorneys, judges and others are arguing has robbed defendants of their right to a fair trial. Hundreds or thousands of cases could be affected. On September 2, 2013, the New York Times published an article by Scott Shane and Colin Moynihan entitled *Drug Agents Use Vast Phone Trove, Eclipsing N.S.A. 's*.² The article states that the DEA has regularly accessed a vast AT&T database to obtain the call records of U.S. citizens and pursue drug convictions. In response to both stories, the Department of Justice merely said that it was “looking into the issues raised by this story.”³ More than six months later neither the DEA nor DOJ has answered questions about the legitimacy of the operation.
- **DEA’s role in Honduras killings:** In May 2012, the DEA participated in a drug war operation in Ahuas, Honduras, that led to the massacre of four indigenous civilians. Members of the House and Senate, as well as human rights groups continue to call on the DEA to answer questions about its role in the incident, to no avail.⁴ A 2012, Office of Inspector General memo revealed that, “to

¹ John Shiffman and Kristina Cooke, “Exclusive: U.S. Directs Agents to Cover Up Programs Used to Investigate Americans,” Reuters, August 5, 2013.

² Scott Shane and Colin Moynihan, “Drug Agents Use Vast Phone Trove, Eclipsing N.S.A. 's,” *The New York Times*, September 1, 2013.

³ Karen McVeigh, “US Drug Agency Surveillance Unit to be Investigated by Department of Justice,” *The Guardian*, August 6, 2013.

⁴ Guy Taylor, “Government Won’t Probe of DEA Raid in Honduras,” *The Washington Times*, February 12, 2013.

date DEA has not cooperated with Department of State (State) and the investigation cannot proceed further.”⁵ [parenthesis added]

- **DEA’s pact with a Mexican drug cartel.** In January 2014, an investigation by Mexican newspaper *El Universal* revealed that from 2000-2012, the DEA had an agreement with the Sinaloa cartel that enabled it to smuggle billions of dollars of drugs, in exchange for information on rival drug cartels.⁶
- **DEA’s role in the Fast and Furious scandal.** In 2011, as part of the Department of Justice’s “Fast and Furious” scandal, it was revealed that DEA agents had smuggled or laundered millions of dollars in drug profits for Mexican drug cartels as part of an on-going sting operation that appears to have been perilously close to facilitating crime instead of preventing it.⁷
- **Andrew Chambers scandal.** Defense attorneys in Arizona are claiming government misconduct because the DEA has rehired Andrew Chambers, a government informant who was terminated by the Justice Department years ago amid accusations of serial perjury.⁸
- **DEA conflicts with DOJ policy.** The DEA continues to be criticized by local, state, and federal elected officials for interference in state efforts to provide medical marijuana to cancer, HIV/AIDS, MS and other patients, despite the Department of Justice’s decision on August 29, 2013, not to challenge certain state marijuana laws.⁹
- **The DEA’s refusal to acknowledge science.** DEA Administrator Michele Leonhart has on several occasions ignored science and overruled the DEA’s own administrative law judges on medical issues relating to marijuana.¹⁰

As the Subcommittee responsible for funding the DEA, you are in a prime position to address and ask for responses from the DEA about its role in these matters. The FY15 Presidential budget request for the DEA is over \$2 billion. U.S. taxpayers want to know that their dollars are being spent wisely and responsibly. Thus far, the DEA has shown little or no willingness to respond to Congressional concern on these and other issues. A lack of oversight has enabled this agency to violate the civil rights and liberties of U.S. (and other) citizens, and we call on you to hold the agency accountable.

It has been over 40 years since President Richard Nixon created the DEA as part of his War on Drugs. In that time, there have been few hearings that tackle the myriad problems that surround the agency. As appropriators, it is your duty to make substantive inquiries about the actions of government agencies, and we therefore urge you to raise the aforementioned issues with Ms. Leonhart at your hearing.

We are eager to work with you, and look forward to your response.

Sincerely,

⁵ Dan Beeton and Alexander Main, “Leaked State Department Memo’s “DEA Shooting in Honduras” Portion, Dissected,” Center for Economic and Policy Research, June 13, 2013, <http://www.cepr.net/index.php/blogs/the-americas-blog/leaked-state-department-memos-dea-shootings-in-honduras-portion-dissected>.

⁶ “DEA Negotiated With Mexican Drug Cartel Members: Report,” The Huffington Post, January 25, 2014, http://www.huffingtonpost.com/2014/01/13/dea-negotiated-mexico-drug-cartels_n_4590832.html.

⁷ Richard A. Serrano, “DEA Acknowledges Supporting Role in Operation Fast and Furious,” *Los Angeles Times*, August 5, 2011.

⁸ Dennis Wagner, “DEA reactivates controversial fired informant,” USA Today, accessed September 3, 2013, <http://www.usatoday.com/story/news/nation/2013/06/05/dea-reactivates-controversial-informant/2390989/>.

⁹ Nicole Flatlow and Joseph Diebold, “Feds Raid Washington Medical Marijuana Dispensaries,” Think Progress, accessed September 3, 2013, <http://thinkprogress.org/justice/2013/07/25/2353361/dea-raids-washington-marijuana/>.

¹⁰ Andrew Miga, “Lyle Craker, UMass Professor, Drops Bid To Grow Medical Pot,” Huffington Post, accessed September 3, 2013, http://www.huffingtonpost.com/2011/03/04/lyle-craker-umass-profess_n_831635.html.

Acción Técnica Social ATS
American Civil Liberties Union (ACLU)
La Asociación Costarricense para el Estudio en Intervención en Drogas (ACEID)
Baltimore Student Harm Reduction Coalition (BSHRC)
Centro Cáritas de Formación para la Atención de las Farmacodependencias y Situaciones Críticas Asociadas A.C.
Centro de Investigación Drogas y Derechos Humanos CIDDH
CIP Americas Program
La Comisión Mexicana de Defensa y Promoción de los Derechos Humanos
Corporación Viviendo
Cultura Joven A.C.
Drug Policy Alliance
Espolea A.C.
FedCURE
Global Exchange
Guatemala Human Rights Commission/USA
The Institute for Policy Studies Drug Policy Project
The International Drug Policy Consortium (IDPC)
Intercambios Asociación Civil
Liberty Coalition
Marijuana Policy Project
Network in Solidarity with the People of Guatemala/NISGUA
Puente, Investigación y Enlace (PIE) Bolivia
Proderechos
Psicotropicus - Brazilian Drug Policy Center
RAISSS - Colombia
RAISSS - Uruguay
School of the Americas Watch (SOA Watch)
Students for Sensible Drug Policy
Witness for Peace

cc: Members of the House Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies