

September 5, 2013

The Honorable Patrick Leahy
Chairman, Senate Committee on the
Judiciary

The Honorable Charles Grassley
Ranking Member, Senate Committee on the
Judiciary

The Honorable Bob Goodlatte
Chairman, House Committee on the
Judiciary

The Honorable John Conyers
Ranking Member, House Committee on the
Judiciary

The Honorable Tom Carper
Chairman, Senate Committee on Homeland
Security and Governmental Affairs

The Honorable Tom Coburn
Ranking Member, Senate Committee on
Homeland Security and Governmental
Affairs

The Honorable Darrell Issa
Chairman, House Committee on Oversight
and Government Reform

The Honorable Elijah Cummings
Ranking Member, House Committee on
Oversight and Government Reform

Cc: The Honorable Eric Holder, Attorney General of the United States

Dear Sirs:

In light of recent revelations that the Drug Enforcement Administration (DEA) has been using controversial programs linked to the National Security Agency (NSA) and Central Intelligence Agency (CIA) and AT&T to make drug-related prosecutions, we hereby call on the House and Senate Judiciary and Oversight Committees to hold broad hearings to investigate the DEA and hold it accountable for its actions.

On Monday 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*. 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, 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 Monday 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*. 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.

The implications of the Reuters revelations are serious and far-reaching. Since the Edward Snowden/NSA revelations, the American public has been continuously told by the Obama Administration and others that such programs do not constitute a domestic spying program, and that the programs are solely used for counterterrorism purposes. The news that the DEA is using such programs in domestic drug cases directly contradicts both these assertions. Additionally, we believe that by covering up the origins of evidence it obtained, the DEA has violated the constitutional rights of many Americans and created judicial chaos. Indeed, lawyers seeking to review certain cases and convictions have been stymied by the fact that authorities will not inform them when and where such methods were used.

Unfortunately, the DEA's reckless actions are not simply an isolated incident. A lack of oversight has enabled this government bureaucracy to run rampant over people's civil rights and liberties, and we call on Congress to take action and review the Agency's overall role. The following recent DEA actions illustrate why your Committees' broad review is warranted:

- On July 31, 2013, the DEA settled a \$4.1 million lawsuit with Daniel Chong, a University of California San Diego student who was left unattended and unfed in a holding cell for five days.¹
- Members of Congress and human rights groups continue to call on the DEA to answer questions about the DEA-assisted drug war operation last year in Honduras that led to the massacre of four indigenous civilians.²
- 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.³
- 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.⁴
- 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.⁵
- DEA Administrator Michele Leonhart has on several occasions ignored science and overruled the DEA's own administrative law judges on medical issues.⁶

¹ Stan Wilson, "Daniel Chong, forgotten in DEA cell, settles suit for \$4.1 million," CNN, accessed September 3, 2013, <http://www.cnn.com/2013/07/30/justice/california-dea-settlement>.

² Guy Wilson, "Government won't probe of DEA raid in Honduras," Washington Times, accessed September 3, 2013, <http://www.washingtontimes.com/news/2013/feb/12/no-probe-of-dea-raid-in-honduras/?page=all>.

³ Richard A. Serrano, "DEA acknowledges supporting role in Operation Fast and Furious," Los Angeles Times, accessed September 3, 2013, <http://articles.latimes.com/2011/aug/05/news/la-pn-fast-furious-20110805>.

⁴ 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/>.

⁵ 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/>.

⁶ 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.

This year marks the 40th Anniversary of President Richard Nixon's creation of the DEA. Critics of the War on Drugs note that over the last 40 years Congress has rarely held hearings on the DEA, its actions, and its efficacy.

In response to the Reuters story, the Department of Justice merely said that it was "looking into the issues raised by this story." We are not confident that this will result in a thorough investigation of the DEA and its activities. Therefore, we call on Congress to hold hearings and hold the DEA accountable for its actions.

Sincerely,

American-Arab Anti-Discrimination Committee
American Civil Liberties Union (ACLU)
Baltimore Student Harm Reduction Coalition
Bill of Rights Defense Committee
Blacks in Law Enforcement of America
CIP Americas Program
Citizens Opposing Prohibition
Drug Policy Alliance
Ella Baker Center for Human Rights
FedCURE
Global Exchange
Independent Firearm Owners Association
Institute for Policy Studies, Drug Policy Project
International Drug Policy Consortium (a global network of 106 NGOs)
JASS (Just Associates)
Law Enforcement Against Prohibition
Liberty Coalition
Marijuana Policy Project
National Organization for the Reform of Marijuana Laws
School of the Americas Watch
StoptheDrugWar.org
Students for Sensible Drug Policy
Witness for Peace