

# DRUG ENFORCEMENT ADMINISTRATION

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## HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM,  
AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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## DRUG ENFORCEMENT ADMINISTRATION

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WEDNESDAY, JUNE 20, 2012

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME, TERRORISM,  
AND HOMELAND SECURITY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 10 a.m., in room 2141, Rayburn Office Building, the Honorable F. James Sensenbrenner, Jr., (Chairman of the Subcommittee) presiding.

Present: Representatives Sensenbrenner, Marino, Adams, Goodlatte, Gohmert, Conyers, Scott, Pierluisi, Polis, Chu, Jackson Lee, and Cohen.

Staff present: (Majority) Caroline Lynch, Subcommittee Chief Counsel; Bart Forsyth, Counsel; Tony Angeli, Counsel; Arthur Radford Baker, Counsel; (Minority) Bobby Vassar, Subcommittee Chief Counsel; Joe Graupensberger, Counsel; and Veronica Eligan, Professional Staff Member.

Mr. SENSENBRENNER. The Subcommittee will come to order. I would like to welcome Administrator Leonhart and thank her for testifying before the Subcommittee this morning. We all appreciate the DEA's efforts and great strides it has made to combat the increasingly dangerous drug trade. The Administrator's testimony comes at a timely moment as the war on drugs approaches a potential crossroads. On July 1, Mexico will elect a new president. By all accounts, Enrique Pena Nieto, of the Institutional Revolutionary Party, is leading the field.

The PRI Government has governed Mexico for 71 years, until 2000. While in power, the PRI minimized violence by turning a blind eye to the cartels. The current president, Felipe Calderon, has changed that strategy and aggressively confronted organized crime.

As mentioned in your testimony, the key to the DEA's success along the Southwest border is our relationship with the Government of Mexico. You have characterized that relationship as at an all-time high, but are worried that our relationship could be at a high-water mark, with the impending change in the office of president.

Mr. Nieto does not emphasize stopping drug shipments or capturing kingpins. He recently told the "New York Times" that while Mexico would continue to work with the United States, it, quote, Should not subordinate to the strategies of other countries. He fur-

ther emphasized that his priority would be reduction in violence, not a dismantling of criminal organizations.

By all accounts, this sounds like a reversion to the pre-policies of old. We, of course, have no vote in the upcoming Mexican election, and our only hope for the outcome is that it is free and fair, but we do have a deep-seated interest in minimizing drug trafficking and organized crime south of the border. I believe that these goals are also in Mexico's long-term interest, and I urge you to press this truth with the incoming Mexican president and his administration, regardless of who it is.

I would also like to raise a few troubling incidents within the DEA. The DEA has long been a model in the law enforcement community, but today this Subcommittee will need answers about a few recent incidents that are both troubling and unacceptable. If not addressed swiftly and effectively, I fear these events will become a stain on the DEA's reputation, and ultimately undermine its law enforcement mission.

The Secret Service has been the focal point of the Cartagena prostitution scandal, but I understand that at least three DEA agents also hired prostitutes during the preparation for the President's visit to Columbia. I further understand that this was not an isolated event for the DEA. The Secret Service has moved quickly to address the scandal and has already removed 8 of the 12 employees who have been implicated in this incident from their jobs. Another is in the process of losing his security clearance. To my knowledge, the DEA has not taken similar action.

Similarly, while the ATF was a major factor in Fast and Furious, the DEA was also involved. Tony Coulson, the DEA's agent in charge of Southern Arizona during Fast and Furious, said that many DEA field agents knew that ATF was walking guns to Mexico, but supervisors told the agents to back off when they objected. Mr. Coulson was among the first senior public officials to admit knowing about this botched operation. He claims he raised objections to then DEA Chief Elizabeth Kempshall, and was told it was taken care of.

After attending a meeting with the ATF agent in charge, Bill Newell, Coulson said he knew Fast and Furious was not some sort of benign pie-in-the-sky publicity stunt. Guns were actually getting in the hands of criminals, closed quotes. As with the Columbian prostitution incidents, I am not aware of any investigation or discipline from within the DEA.

Most recently, this last April, a DEA office in San Diego literally forgot about a 23-year-old in a holding cell. DEA agents arrested Daniel Chong during a raid on a party in the San Diego area, where there were illegal drugs. After questioning him, the agents apparently told Mr. Chong that he would not be charged before they placed him back into a holding cell. The agents then forgot he was there. Mr. Chong remained locked in the holding cell for 5 days without access to food, water, or a toilet. He said he heard voices and yelled for help, but no one heard him. After 48 hours, he started hallucinating and to survive he drank his own urine. At some point during this neglect, he broke his glasses and attempted to kill himself.

It goes without saying that this incident is extremely unacceptable, and I look forward to hearing what steps the DEA is taking to address each of the incidents discussed, and to ensure that nothing similar happens in the future. I hope that these events are anomalies in the DEA's record and not an indication of things to come.

And I now yield to the gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I am pleased to join you in convening this oversight hearing on our Nation's Drug Enforcement Agency, and I want to thank Director Leonhart for years of dedicated service and for appearing before us today.

I am also mindful that there are thousands of dedicated DEA employees who enforce our drug laws and directives every day, many of whom are putting their lives on the line to do so. Therefore, I consider it our responsibility in supporting and directing their efforts to ensure that their dedication and sacrifices are put to the most effective as well as productive use.

The DEA is involved in drug enforcement activities all over the world; however, it is not clear that all of these activities are as effective or important as others in stopping or reducing the scourge of drug abuse. In general, there are supply-side strategies and demand-side strategies to reduce drug abuse. Research indicates the demand reduction through prevention, education, and treatment is much more effective than supply reduction through interdiction and law enforcement efforts.

One study showed that the cost of reducing cocaine consumption in the United States by 1 percent, reducing cocaine consumption in the United States by 1 percent, the cost is \$783 million for source country control, \$366 million for general interdiction activities, about \$250 million for domestic law enforcement, or only \$34 million for treatment of heavy users. Thus, the least costly supply control, that is domestic law enforcement, costs over 7 times as much as treatment to achieve the same consumption reduction.

Another study showed that drug treatment saved an average of \$7 in later prison and medical costs for every dollar spent on treatment. But, one of the big problems we have in this country with illegal drugs, as well as with illegal prescriptive drugs, is that there is a huge demand. The history on the war on drugs shows us that when there is a demand for the product suppliers will provide a way to provide it, no matter what the cost. History also shows that no matter how many tons of drugs we interdict or capture, it represents only a small fraction of drugs being trafficked. Therefore, while the evidence suggests that our efforts to reduce drug abuse have intensified in this country, the street price for some of the most dangerous drugs has actually gone down, while the quality has gone up, and drug use has increased or stayed the same during that time.

Other evidence suggests that the massive drug enforcement effort in this country is the result of legions of users and street-level dealers being imprisoned for long periods of time, with huge strains in State and local budgets, with no discernible impact on the drug trade. Still other evidence suggests that while drug use in all major abuse categories among White Americans is as high or higher than

drug use among Black and Hispanic Americans, a vast majority of those imprisoned for drug law violations are Black and Hispanic.

For example, drug use data indicates that some 60 percent of crack cocaine users are White, while 94 percent of those imprisoned for crack are Black. Black Americans make up about 12 percent of the population, but almost 50 percent of those incarcerated for illegal drugs. Moreover, drug penalties are so draconian that many are serving life sentences or the equivalent in years, even for first-time offenders, and mandatory minimum sentencing is a major contributing factor to the situation.

When we consider the unfairness of so much of the burden of drug abuse being heaped upon African-Americans, the harshness of drug sentences, and the life consequences for drug conviction, such as loss of voting rights and subjection to employment discrimination, drastically lower employment prospects, we can see why Michelle Alexander considers the war on drugs to have ushered in a new era of Jim Crow, as she outlined in her book, "The New Jim Crow Mass Incarceration." And we consider the effectiveness and the much higher cost of punitive supply reduction strategies compared to many times more effective and much cheaper demand reduction strategies, such as treatment, it is not hard to wonder whether there is a motive beyond drug abuse reduction in our strategy choices.

Recently, I saw a news article of young drug offenders in their twenties, in Virginia, two of whom got sentences of 50 and 35 years, respectively. No one seemed concerned about the average cost at \$30,000 a year that this represented, \$2.5 million, to warehouse the drug abusers. And I was left to wonder whether or not that \$2.5 million, some of that should have been spent on Boys and Girls Clubs, where they were cutting spending in that same area.

So, Mr. Chairman, I look forward to hearing the Director's views on public policy implications of our agency's operations with respect to these grave concerns.

Mr. SENSENBRENNER. Thank you. The Chairman Emeritus, the gentleman from Michigan, Mr. Conyers, for an opening statement.

Mr. CONYERS. Thank you, Chairman Sensenbrenner. My first comment is to congratulate Ranking Member Bobby Scott on an excellent opening statement that tracks much of what I have been doing in preparing for this. I think the beginning of this discussion on the part of the Subcommittee on Crime can be one of the most important contributions that the House Judiciary Committee can make on the subject of the American criminal justice system.

But, before I go any further, Chairman Sensenbrenner, I noted 14 issues that you raised with our distinguished witness, and I stopped counting after that. The question that I have, sir, is: Are we going to have an additional hearing to give Ms. Leonhart an opportunity to respond to each and every one of those?

Mr. SENSENBRENNER. Will the gentleman yield?

Mr. CONYERS. With pleasure.

Mr. SENSENBRENNER. That depends upon how responsive she is to the issues that I have raised. I think we all would like to get this wrapped up in one hearing, including Ms. Leonhart.

Mr. CONYERS. Well, thank you, sir. It was my impression that we could devote the rest of the next couple hours to a discussion be-

tween you and her about what you raised in your opening statement. So, I don't understand with a two, four, five, six——

Mr. SENSENBRENNER. Would the gentleman yield again?

Mr. CONYERS. Yes, sir.

Mr. SENSENBRENNER. The Chair knows from years and years that the current Chair enforces the 5-minute rule on himself as well as on everybody else.

Mr. CONYERS. Well, that is what makes it more difficult. I mean that is the problem that I am raising. With six Members here, and probably more to come, under the 5-minute rule, there is no way she can ever get to any kind of a cogent response to the issues that were raised, some of which are very serious. So, I leave that for us to discuss further, as we go on.

I am very interested in this subject, because I started off my career on the Subcommittee on Crime when I first was able to get on the House Judiciary Committee. And this subject about drugs is extremely critical, and I am looking forward to a discussion. I have no problem with holding another hearing or as many hearings as necessary. We don't get any brownie points for having one hearing and no more. The question is how deeply, and thoroughly, and accurately do we go into these very important social and criminal justice questions.

And so I would say to my colleagues and to our distinguished witness that the cost of the war on drugs is more than \$1 trillion to date, astronomical, and yet, the same proportion of drug usage, illegal drug usage, continues at the same rate. And what I am looking for, in addition to the distinguished witness giving us a review of what goes on at DEA and what you are doing about it, is what kind of changes or what kind of creative, even imaginative ideas can we come up with to really do something about this? It seems to me that there are policies that might actually reduce consumption that may not have been tried yet, and I am hopeful that we can examine that.

Another issue that we may or may not get to today——

Mr. SENSENBRENNER. The gentleman's time has expired.

Mr. CONYERS. Can I finish this sentence?

Mr. SENSENBRENNER. Certainly. Without objection.

Mr. CONYERS. It is important to figure out how we can minimize this criminalization and punishment concept by replacing it with health and treatment services. I mean if this is only lock them up and throw away the key, it doesn't, I don't think, shed much information, or light, or work in a substantively important way that this hearing this morning could bring to this subject.

And I thank the Chairman for the additional time.

Mr. SENSENBRENNER. Without objection, all Members' opening statements will appear in the record.

Before introducing Ms. Leonhart, I am going to get into a lock them up and throw away the key and decide not to charge them situation during the questioning and answer, so maybe that will address some of your concerns.

It is now my pleasure to introduce today's witness. Michele Leonhart was unanimously confirmed as the Administrator of the Drug Enforcement Administration in December. She had been Acting Administrator since November of 2007, and served as the

DEA's Deputy Administrator since 2004. Prior to becoming DEA Administrator and Deputy Administrator, she held several positions within DEA's Senior Executive Service. She was the special agent in charge of the DEA's Los Angeles field division from 1998 through 2003. She previously held the position as special agent in charge of the DEA San Francisco field division in 1997 and 1998.

As a career DEA special agent, Ms. Leonhart held several key positions as she moved through the ranks of the DEA. In 1995, she was promoted to the position of Assistant Special Agent in charge of the LA field division. Between 1993 and 1995, she held management positions within DEA headquarters to include Career Board Executive Secretary, Office of Professional Responsibility Inspector, and Staff Coordinator in the Operation Division. She has been more than 30 years in law enforcement, beginning her career as a Baltimore City Police Officer, after graduating from college in Minnesota, with a bachelor of science in criminal justice in 1978.

Without objection, Ms. Leonhart, your witness statement will be entered into the record in its entirety.

I ask that you summarize your testimony in 5 minutes. And you know all about the green, yellow, and red lights in front of you.

Ms. Leonhart.

**TESTIMONY OF THE HONORABLE MICHELE M. LEONHART, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, UNITED STATES DEPARTMENT OF JUSTICE**

Ms. LEONHART. Thank you. Chairman Sensenbrenner, Ranking Member Scott.

Mr. SENSENBRENNER. Could you please pull the microphone a little bit closer to you.

Ms. LEONHART. Chairman Sensenbrenner, Ranking Member Scott, and Members of the Subcommittee, it is my honor to appear before you to discuss your oversight of the DEA and our role in reducing crime, protecting the American public from drugs, and increasing our Nation's security. Before highlighting DEA's programs and recent accomplishments, I want to first thank you for your continued support of our essential law enforcement mission. Your partnership is especially appreciated in light of the ever-changing challenges we face.

Today, a hallmark of our many drug trafficking organizations is the increasingly global nature of their operations. Traffickers are using the latest technology to conduct their daily business from sophisticated communication devices and services, to laundering money through electronic value transfers, and they use innovative transportation methods, moving drugs in everything from planes, to tunnels, from wooden canoes, to fully submersible submarines, and we cannot let up or we will never catch up.

DEA and our partners are successfully disrupting, dismantling, and destroying major drug trafficking networks. Our enforcement actions are reducing the availability of drugs and the harm they cause, and our efforts are integral to our Nation's comprehensive drug control strategy.

One of the highest priorities for DEA today is stopping the diversion of prescription drugs and precursor chemicals from legitimate use. Today, more people abuse prescription drugs than those that

abuse heroin, cocaine, and methamphetamine, combined. In response, the DEA has dedicated more agents to investigate criminal prosecution of prescription drug diversion than ever before, and our regulatory arm is dedicated to ensuring compliance with the law for those who manufacture, distribute, prescribe, or sell controlled substances.

We have also helped the public help us reduce the supply of prescription drugs through our national prescription drug take-back events, with assistance for more than 3,000 law enforcement partners in all 50 States. Our four take-back days have collected almost 800 tons of prescription medications that would have languished in medicine cabinets, where they could have been diverted. Soon, we will be implementing the Secure and Responsible Drug Disposal Act, which you passed into law. Through this law, DEA will be providing the Nation with a permanent solution to the problem of proper prescription disposal.

DEA is also at the forefront of another emerging trend: Synthetic Drugs. And I want to thank you for the Committee's leadership in scheduling 26 substances used in products like K2 and Spice, which will help us control and prevent these dangerous drugs from doing more damage. Unlike controlled prescription drug diversion, which is principally a domestic drug challenge, the majority of the organizations responsible for other drug threats operate internationally. The most immediate of these threats comes from Mexico-based criminal organizations and drug cartels. They are responsible for the vast majority of violence there, and increasingly in many countries, including Central America.

In our operations there and elsewhere, DEA relies on our close ties with our brave international partners, and these relationships extend beyond on-the-ground operations and involve training, and intelligence, and resource sharing. DEA has close deep ties with Mexico relationships that will have an impact in turning what is a threat to their national security and rule of law into a law enforcement challenge. Indeed, our cooperation with the government of Mexico is at an all-time high.

In addition to training, operational, and intelligence bonds, DEA and the Department of Justice have a judicial partnership with the government of Mexico that has resulted in nearly 250 extraditions since 2010. And this includes high-Ranking Members from all the Mexico-based cartels, such as Jose Antonio Acosta Hernandez, who was sentenced to life in Federal prison in April, after admitting his role in 1,500 murders since 2008, including the triple homicide of a U.S. Consulate employee and two Consulate workers' family members.

We share Mexico's responsibility and commitment to confront, fight, and defeat these poly-drug trafficking organizations, and take away the drugs, money, power, and freedom of their leaders. DEA is also working with the government of Afghanistan to counter the drug trafficking threat there. For example, just last week, Haji Bagcho, a notorious Afghan drug trafficker, with ties to the Taliban, was sentenced to life in prison on narco-terrorism charges in the U.S. His heroin was traced to 20 countries in 1 year. It is estimated that he supplied about 20 percent of the world's heroin

supply. Thanks to the work of extraordinary DEA law enforcement personnel, supported by you, he will never be free.

I have great confidence that DEA, with your support, will continue to meet and overcome these challenges and those that lie ahead, and they are not insignificant. From the growing list of designer synthetic drugs, to the reemergence of methamphetamine, from the increasing presence of drug traffickers in West Africa, to the emerging financial and communication tools being used by criminal organizations, and so many more, we have our work cut out for us. But, just because the mission is difficult does not mean we should give up or surrender. And some argue that legalization and regulation, even at the cost of untold human suffering and misery, would strip the traffickers of their enormous profits. Both common sense and history have taught us that those who are displaced from the drug trade migrate into other areas of criminality, and we have a responsibility, in a Nation of laws to enforce the law. And I have devoted my life to this duty, and all the people at DEA are committed to this goal and to this fight, a fight in which, with your support, we shall prevail.

Thank you for the opportunity to speak to you today, and I ask that my written statement be added to the record—

Mr. SENSENBRENNER. Without objection.

Ms. LEONHART [continuing]. Before taking your questions.

[The prepared statement of Ms. Leonhart follows:]



# Department of Justice

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STATEMENT FOR THE RECORD OF  
MICHELE M. LEONHART  
ADMINISTRATOR  
DRUG ENFORCEMENT ADMINISTRATION

BEFORE THE  
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

ENTITLED  
"OVERSIGHT OF THE DRUG ENFORCEMENT ADMINISTRATION"

JUNE 20, 2012

**Statement for the Record  
Michele M. Leonhart  
Administrator  
Drug Enforcement Administration  
U.S. Department of Justice**

**Subcommittee on Crime, Terrorism, and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives**

**“Oversight of the Drug Enforcement Administration”  
June 20, 2012**

Chairman Sensenbrenner, Ranking Member Scott, and Members of the Subcommittee: Good morning, and thank you for inviting me to testify regarding oversight of the Drug Enforcement Administration (DEA). I am honored to be appearing before you once again and I am proud to be doing so in my official capacity as DEA’s Administrator. As the leader of DEA, an organization of almost 10,000 employees dedicated to a vital mission, I would like to express our collective appreciation for the support that this Subcommittee has shown us over the years. Furthermore, I welcome the opportunity to continue our partnership and to share DEA’s recent accomplishments with you and the American people.

The mission of the Drug Enforcement Administration is to enforce the controlled substances laws and regulations of the United States and bring to justice those organizations and principal members of organizations, involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for illicit traffic in the United States.

DEA has the largest permanent U.S. investigative law enforcement presence overseas, and since its formation in 1973, has been assigned a global drug enforcement mission that extends far beyond our Nation’s borders. Currently, DEA has 85 offices in 65 countries. Today’s drug traffickers exploit new and evolving technologies to communicate, launder ill-gotten gains, and facilitate the smuggling of drugs and weapons. The nexus between drugs and terrorism is well established, and illicit drug proceeds are the primary source for funding transnational organized crime.

I am happy to report that DEA continues to have significant success disrupting and dismantling the world’s major drug trafficking organizations and I am proud of our many recent accomplishments. Our investigations range from those that target the world’s “Most Wanted” drug traffickers and national security threats who manage sophisticated criminal organizations with operations that span the globe, to those that focus on local or regional traffickers who significantly impact the surrounding community, frequently bringing with them associated gang activity and violence. Due to the very nature of the threat, it is clear that the antidrug mission this agency carries out is an essential element to the national health and security of the U.S. and interests abroad.

DEA has achieved remarkable results on behalf of the American people, and will continue to improve on this success by concentrating our efforts on international enforcement, domestic enforcement, state and local assistance, and diversion control.

#### **Domestic Enforcement**

Drug trafficking and abuse exacts a significant toll on the American public. Over 39,000 Americans died in 2009—the latest year for which data are available—as a direct result of drug abuse. In 2010, an estimated 22 million Americans were classified with substance dependence or abuse. Today, more Americans are dying from drug-induced deaths than from any other form of injury death, including traffic crashes and gunshot wounds. Apart from its impact on health and safety, our Nation's drug problem also continues to place obstacles in the way of economic prosperity. Just last year, the Department of Justice released data that the health, workplace, and criminal justice costs of drug abuse to American society totaled \$193 billion in 2007. Contributing to this immense cost are the millions of drug offenders who are under the supervision of the criminal justice system.

Through effective enforcement efforts and associated support functions, DEA disrupts and dismantles the leadership, command and control, and financial infrastructure of priority target organizations threatening the United States. This strategic focus area contains most of DEA's resources, including domestic enforcement groups, state and local law enforcement officer training, and other federal, state, and local task forces, intelligence groups, diversion control groups, and demand reduction efforts.

#### ***Prescription Drug and Precursor Chemical Diversion***

As highlighted in the President's *2012 National Drug Control Strategy*, the diversion and abuse of controlled prescription drugs are among the greatest concerns we face today. The latest survey data show that approximately seven million Americans currently abuse prescription drugs. In 2010 alone, 2.4 million Americans aged 12 or older used prescription drugs non-medically for the first time, which equates to nearly 6,600 new users per day. To address these troubling trends, DEA's Diversion Control Program is tasked with preventing, detecting, and investigating the diversion of pharmaceutical controlled substances and listed chemicals from legitimate channels, while simultaneously ensuring an adequate and uninterrupted supply of these substances is available to meet legitimate medical, commercial, and scientific needs. Through its Diversion Control Program, DEA regulates more than 1.4 million registrants, a population that grows at a rate of more than two percent per year.

In 2010, DEA launched an innovative campaign to address the increased abuse and theft of controlled prescription drugs. On September 25, 2010, DEA, together with more than 3,000 government, community, public health, and law enforcement partners across the country, hosted the first ever nationwide prescription drug "Take-Back" initiative. This campaign addressed a vital public safety and health issue because medicines that languish in homes are highly susceptible to diversion, misuse, and abuse. More than 4,000 sites in all 50 states were established to collect potentially dangerous expired, unused, or unwanted prescription drugs for destruction; the service was free and anonymous.

Since the first “Take-Back” initiative, DEA has hosted three more. The most recent, held on May 3, 2012, collected a record 276 tons. Through these take-back days, we have cumulatively collected and disposed of more than 770 tons of unwanted or expired medications. Most importantly, these take-back days have alerted the public to the important issue of prescription drug abuse. DEA will be holding the next National Prescription Drug Take-Back Day on Friday, September 29, 2012.

I want to thank Congress for its role in recognizing the importance of this effort by passing the Secure and Responsible Drug Disposal Act of 2010. This law is intended to provide Americans with additional safe, environmentally sound ways to dispose of unused or expired prescription drugs. We are working on a rulemaking to implement the Act’s regulatory provisions.

Furthermore, to enhance our diversion control efforts, DEA has expanded the use of Tactical Diversion Squads (TDS), which combine Special Agents, Diversion Investigators, and state and local task force officers to focus on the law enforcement activities of the Diversion Control Program. As of June 1, 2012, DEA has 48 TDSs dispersed among the domestic divisions, with a total of 286 authorized task force officer positions. We are also increasing our focus on regulatory oversight, including the modification of chemical and regulatory work plans to increase the frequency of scheduled investigations and broaden the pool of registrants that are subject to scheduled regulatory investigations.

#### ***Working with our State, Local, and Tribal Law Enforcement Counterparts***

DEA supports activities to advise, assist, train, and partner with state, local, and tribal law enforcement and local community groups to ensure a consistent national approach to drug law enforcement. DEA’s assistance to state and local communities includes the Hazardous Waste Program (Clandestine Drug Laboratory Cleanup), State and Local Law Enforcement Clandestine Laboratory Training, and Domestic Cannabis Eradication/Suppression Program (DCE/SP). By teaching and assisting state and local law enforcement officials in these areas, DEA is able to create a cohesive drug enforcement strategy, across the United States.

We work many of our biggest cases hand-in-hand with our state and local counterparts, and we share a portion of this revenue with these partners. In FY 2011 alone, the Department of Justice Equitable Sharing Program shared \$387.5 million in seized assets with state, local, and tribal law enforcement for their participation in joint investigations with DEA.

#### **International Enforcement**

A 2011 report by the United Nations Office on Drugs and Crime (UNODC) affirms that the global illicit drug trade is as lucrative as it is poisonous. This global illicit drug trade generates an estimated \$200-\$400 billion a year in revenue, far more than the estimated profits from international human trafficking, arms trafficking, and diamond smuggling combined. To make a significant impact on the drug trade in the United States and internationally, DEA is tracking and targeting illicit drug proceeds back to the sources of supply before they can be used to finance the next production cycle of illegal drugs. DEA’s financial investigations are driven by

strategies designed to inflict permanent damage against Drug Trafficking Organizations (DTOs). By denying DTOs the revenue from the distribution of illegal drugs, the drug traffickers' capability to acquire or produce additional drugs and support their organizations is hampered. DEA's perspective on the money laundering threat is two-fold: first, DEA is focused on proceeds generated by the illegal drug industry; second, DEA is addressing the threat that drug proceeds represent as a means of financing international terrorist organizations.

Some argue that legalization and regulation would strip the traffickers of these enormous profits. Both common sense and history have taught that those who are displaced from the drug trade migrate into other areas of criminality. We face an ongoing effort to mitigate the damage done by criminals who put personal profit above all else. In order to calculate the true cost of this threat, we must go further and examine the impact that drug crime plays in corrupting government institutions, undermining public confidence in the rule of law, fostering violence, and fueling instability. To this end, DEA continues to strengthen partnerships with our foreign law enforcement counterparts to maximize the impact of our worldwide operations.

### *Afghanistan*

There is a clear and direct link between the illicit drug trade and insurgent groups in Afghanistan. The Taliban and other anti-government elements exploit the illicit drug trade to facilitate their financial, logistical, and political objectives and thereby jeopardize the prospect of long-term security and stability, reconstruction, and effective governance. Drug trafficking in Afghanistan has provided over 90 percent of the world's opium, has helped to fuel an insurgency characterized by death and destruction, corrupted public officials, undermined political stability, and diminished respect for the rule of law. Due to the significant role that the trafficking of opium, morphine, heroin, and hashish play in destabilizing Afghanistan, the DEA is in a unique position to assist the Government of the Islamic Republic of Afghanistan (GIROA), the United States mission in Afghanistan, the entire region, and the international community.

DEA supports the U.S. policy goals in Afghanistan and helps carry out the U.S. Counternarcotics Strategy through close partnerships with the Departments of State and Defense. DEA's presence in Afghanistan helps to reduce the amount of illicit drugs that are trafficked from the country, primarily to Europe, and helps develop and increase the capacity of the Afghans to effectively conduct counterdrug operations. DEA continues to work bilaterally with our Afghan law enforcement counterparts to identify, investigate, and bring to justice the most significant drug traffickers in Afghanistan and the region.

### *Mexico*

Key to DEA's success and efforts along the Southwest border is our close relationship with the Government of Mexico. Without reservation, I would characterize the cooperation between United States and Mexico at an all-time high. In particular, we are grateful for the extradition partnership the United States has developed with Mexico. Extraditions are an important tool that can be used to ensure criminals are brought to justice in this country. In 2010 and 2011, Mexican authorities extradited 94 and 93 individuals, respectively, to the United States,

including several high ranking cartel members. As of June 1, 2012, 43 individuals have been extradited.

The United States and Mexico are committed to cooperative action to reduce the drug threat from which both nations suffer. Drugs are produced and consumed in Mexico and are also transited through Mexico as a result of its strategic location between South America and the United States. The Government of Mexico is confronting the entrenched, cross-border smuggling operations and the diversified, poly-drug, profit-minded DTOs within that country. The single objective of those who ply the drug trade is profit. For these reasons, the U.S. and Mexican governments share the responsibility to defeat the threat of drug trafficking.

#### *Central America*

Central America is a key transit route for cocaine, heroin, and methamphetamine precursors heading to Mexico and the United States, and powerful Mexican cartels battle with one another and local drug traffickers for control over the valuable smuggling corridors along the isthmus. According to 2010 UNODC information, Honduras, Guatemala, Belize, and El Salvador currently rank in the top ten countries with the highest homicide rates in the world. In both Guatemala and El Salvador, the rate of killing is now higher than during their civil wars, and Guatemala's government estimates that at least two-fifths of murders are linked to drug trafficking. The presence of Mexican cartels and DTO facilitators in the region has also undermined much of the political and judicial stability that emerged following the resolution of the region's civil wars, and is known to have increased corruption levels in already shaky criminal justice systems. Additionally, insecurity caused by gangs and cartels also has a negative economic influence. According to an April 2011 report by the World Bank, dealing with crime and violence costs Central America around eight percent of its gross domestic product.

Through DEA's Central America Regional Counternarcotics Attack Strategy we are working with each of the Central American governments to synchronize efforts with the interagency and focus counternarcotics efforts from a regional perspective. This Strategy was created with the Central America Regional Security Initiative (CARSI) and the Central American Integration System (SICA) Initiative in mind, and it puts an emphasis on fiscal responsibility through maximizing each participant's resources. These efforts have laid the groundwork for increased interagency coordination in Central America.

#### *Andean Region*

The world's three largest cocaine producing countries are Peru, Bolivia, and Colombia, all located in the Andean region, which produces the global supply of cocaine. Colombia is also a major regional producer of opium and marijuana. DTOs imported opium poppies to the region in the late 1990s, and have made the region a significant supplier of heroin to the United States. The area's temperate climate, strategic location, abundance of lightly governed territory, and close proximity to major drug consumption countries have contributed to the rise of a major illicit economy centered on the global drug trade.

Although Colombia remains the world's largest cultivator of coca, for the first time in over a decade, the U.S. government estimates that Peru has surpassed Colombia in potential pure cocaine production. Colombia has made great progress in combating the drug trade and improving security and stability throughout the country and the region. Due to aggressive, intelligence-driven investigations of international drug trafficking and money laundering and our extradition relationship with Colombia, never before has U.S. drug law enforcement been better positioned to rapidly and effectively identify, disrupt, and dismantle major DTOs around the globe.

### *Caribbean*

DEA has a unique and challenging problem set in the Caribbean with both foreign and domestic offices covering thousands of square miles with hundreds of islands that speak multiple languages. Given their geographic locations, the Caribbean Islands are extremely vulnerable to drug trafficking. Historically, significant quantities of cocaine destined for the United States transited the Caribbean. Counterdrug successes in the region, coupled with a changing dynamic between Colombian and Mexican DTOs, led traffickers to shift transit routes increasingly toward Mexico and Central America. While the vast majority of drugs destined for the United States still transit Mexico/Central America, enforcement action and rising violence in Mexico have begun to lure some traffickers back to the Caribbean. The illegal drug trade remains a menace to the public welfare and represents a serious threat to the rule of law in many Caribbean island nations.

### *Africa*

DEA investigative efforts and those of other law enforcement agencies have chronicled the significant increase in the use of Africa as a trans-shipment, storage, cultivation, and manufacturing point for narcotics destined for Europe, and, to a lesser extent, other consumer markets, including the U.S. The versatility of transnational criminal organizations is well-known, as is their penchant for finding and exploiting vulnerable regions of the world to further their illicit activities. Unfortunately, Africa is such a place, with its strategic geographic location, and, in many instances, weak governments, endemic corruption, and ill-equipped law enforcement agencies.

The cocaine, heroin, methamphetamine, precursor chemical, money laundering, and narcoterrorism threats in Africa have an impact on the United States, particularly since some of the DTOs that smuggle illicit drugs in the United States are the same as those using Africa as a base of operations for smuggling drugs into Europe and the Middle East. By expanding DEA's operational capabilities into Africa, DTOs will find it increasingly difficult to operate in Africa with continued relative impunity. While DEA is increasing its presence in Africa, a critical part of DEA's overall Africa strategy calls for broad interagency support from U.S. government partners as well as international organizations such as the European Union and the United Nations for assistance in capacity building and mentoring programs with African law enforcement counterparts. In collaboration with the interagency, DEA also is engaging foreign law enforcement agencies and governments in an effort to coordinate counternarcotics strategies

in Africa. DEA will continue to work cooperatively to leverage the resources and expertise of our interagency and international partners.

### **Information Sharing**

Intelligence sharing and cooperation between relevant agencies is the key to combating transnational organized crime. DEA leads and participates in such sharing through a variety of mechanisms. For example, DEA leads the multi-agency El Paso Intelligence Center (EPIC), a national law enforcement intelligence center, currently houses employees from 28 federal, state, local, and foreign agencies, directly supporting the efforts of the Departments of Justice and Homeland Security and the Joint Interagency Task Force-South. EPIC also has information sharing agreements with police agencies in 49 states that give state and local police access to real-time intelligence from 14 databases. Through its 24-hour Watch function, EPIC provides immediate access to participating agencies' databases to law enforcement agents, investigators, and analysts. This function is critical in the dissemination of relevant information in support of tactical and investigative activities, de-confliction and officer safety. As its customer base has grown over the years, EPIC has experienced significant increases in intelligence contributions, database queries, system users, and on-board staffing commitments from partner agencies.

Another example of DEA's commitment to information sharing is the role played by its Special Operations Division (SOD): a multi-agency operational coordination center with the mission to establish seamless law enforcement strategies and operations aimed at dismantling national and international trafficking organizations by attacking their command and control communications. SOD facilitates coordination, deconfliction, and communication among DEA divisions and over 20 participating agencies identifying overlapping investigations and helping to ensure intelligence is shared between DEA and SOD's participating agencies. SOD has coordinated several of law enforcement's largest strikes against the cartels in recent years, bringing together federal law enforcement agencies, state and local law enforcement, and our foreign law enforcement counterparts to effect massive, coordinated enforcement action against the cartels to deliver maximum impact.

SOD's Counter-Narcoterrorism Operations Center (CNTOC) is the central hub for addressing the increase in narcoterrorism related issues and investigations. The CNTOC also supports SOD's two field enforcement groups on all terrorist-related investigations. The groups have demonstrated unparalleled success in targeting and prosecuting the highest level narcoterrorism targets in the world. These successes have led to the disruption and dismantling of major international narcoterrorism organizations and national security targets.

Furthermore, DEA participates in the OCDETF Fusion Center (OFC), an operational intelligence center that provides federal law enforcement agencies with a complete intelligence picture of targeted DTOs and their financial infrastructure. This intelligence picture includes any links between the targets DTOs and other transnational organized crime groups, including those criminal organizations that are not primarily focused upon drug trafficking. The OFC accomplishes this through enhanced technical capabilities and analysis, working in support of the OCDETF Program and the *Strategy to Combat Transnational Organized Crime*.

**Summary**

I am extremely proud of our close, cooperative relationships with our foreign counterparts, as well as our Federal, State and Local law enforcement counterparts. We understand the importance of establishing relationships of trust with these partners in order to accomplish our mission, and it is through these collaborative relationships that we have been able to disrupt and dismantle the organizations that profit from the global drug trade and that use those profits to fuel terrorist activity.

The challenges are serious, but as the world's premier drug enforcement organization, we approach them with confidence and with an unwavering commitment to keeping our Nation safe from the harmful effects of dangerous drugs. With your support and the backing of the American people I know we cannot fail.

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the activities of the DEA. I would be pleased to answer any questions you may have.

Mr. SENSENBRENNER. Thank you very much, Ms. Leonhart, for a very comprehensive statement. Let me use my 5 minutes to try to pack in as much as I can.

First, let's get the issue of Daniel Chong, who was the 23 year old who apparently was forgotten in a holding cell in San Diego after a decision was made not to charge him. Has anybody been disciplined as a result of this?

Ms. LEONHART. Well, thank you for asking about that incident, Mr. Chairman. I am deeply troubled by the incident. DEA is deeply troubled by the incident. The incident was a mistake. It wasn't malicious, and it wasn't intentional. And during our 39-year history as an agency, we are not aware that anything like that has ever happened. And like you, the entire agency was shocked by what happened. And no one's more shocked than the agents and taskforce officers that were involved in the incident.

Immediately upon learning about the incident, I ordered a review of our detention policies. We are currently fully cooperating with the Office of the Inspector General for Department of Justice, and they are conducting the investigation. But, in the interim, I ordered the assessment. I felt compelled to send a management team from a neighboring field division, Los Angeles, down to review what had happened, and I have personally spoken with all 21 of our Field Division SACs. We have entered into a discussion about how to make sure this doesn't happen any place else. We have put many different procedures in place already, and all 21 SACs have reviewed their policies and their procedures. They have initiated changes to ensure that this never happens again.

Mr. SENSENBRENNER. Well, that is nice to know.

Now, let's talk about Cartagena. The Secret Service has been very public in disciplining, and, in fact, dismissing many of the agents who were involved in the prostitution scandal there. Have any of the DEA agents who were involved there been disciplined?

Ms. LEONHART. Well, let me say that I am extremely disappointed by the conduct allegations in Columbia. These allegations are not representative of the 10,000 men and women that work for the DEA.

Mr. SENSENBRENNER. Well, I will stipulate that. And, you know, nor were the Secret Service Agents who were involved in their end of the scandal indicative of the people who work for the Secret Service. Most of them are dedicated. But, the Secret Service moved quickly. I have not noticed that the DEA has moved quickly at all to deal with this.

Ms. LEONHART. Well, I can assure you, we moved immediately, very quickly. As soon as information was given to me by the director of the Secret Service, I brought the agents in question out of country and made them available to the OIG. Now, it is not being investigated by DEA, because the OIG has taken on the investigation. We are cooperating with them and making everybody available, all witnesses, and are assisting them wherever possible.

The action that I could take, however, was I curtailed their tours in Columbia. They are presently on limited duty while the investigation is taking place. OIG is still completing interviews. So, it is not really appropriate for me to prejudge the results.

Mr. SENSENBRENNER. Okay.

Ms. LEONHART. But, I guarantee you that if there was misconduct they will face our disciplinary process.

Mr. SENSENBRENNER. Okay. Now, have you investigated Mr. Colson's allegations relating to Fast and Furious, and if so, what has been the result there?

Ms. LEONHART. Well, I could tell you that that, too, is still under review by the OIG. We're all interested in resolution there, so we

can find out who knew what, when, and where. As far as Mr. Colson, you should know that we understand that he retracted his statement, and so we are waiting for the OIG review.

Mr. SENSENBRENNER. Now, was the part of the statement that Mr. Colson said, quote, Guns were actually getting in the hands of criminals, unquote, part of what he retracted?

Ms. LEONHART. I believe he retracted all his statement. He said he was misquoted and retracted it. Beyond that, I am not aware.

Mr. SENSENBRENNER. Well, I think we know that guns have been getting in the hands of criminals. Well, you know, let me say, Ms. Leonhart, I think your answers have been inadequate in all three. There has been no discipline. The OIG works at its own pace. The Secret Service did take very, very quick action when the scandal came to light. And I will accept the suggestion that the Ranking Member of the full Committee, Mr. Conyers, has made to have another hearing.

The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Ms. Leonhart, Pew Research Center has estimated that any incarceration rate over 350 per 100,000 starts creating diminishing returns, and over 500 per 100,000 becomes actually counter-productive. You are adding to the crime rather than detracting from it. That is at 500 per 100,000. Our incarceration rate in the United States is over 700-and-some per 100,000. In minority communities in some States, it is as high as 4,000 per 100,000.

What role does DEA policy play in over-incarceration in the ratio disparity, and what is DEA doing about it?

Ms. LEONHART. Thank you, Ranking Member. I can tell you that the Drug Enforcement Administration, our mission is really to go after the world's biggest and baddest drug traffickers. We spend our resources, our work hours going after the largest drug traffickers, the sources of supply, the heads of organizations, and the heads of drug cartels, the heads of trafficking organizations, transportation organizations, those that most impact the drug supply on the United States.

Mr. SCOTT. Well, has any DEA policy contributed to over-incarceration and the racial disparity?

Ms. LEONHART. Well, there are Federal drug laws that DEA enforces. You, as Congress, set the laws. We enforce the Federal laws. We go where our intelligence takes us. We go where the evidence takes us.

Mr. SCOTT. Well, what is the policy of the DEA on mandatory minimums? They have been studied and found to be discriminatory and ineffective in reducing crime. What is the DEA policy on mandatory minimums?

Ms. LEONHART. There is no policy for DEA on minimum mandatories. We go where the evidence is. If someone is trafficking drugs, we investigate that. We investigate their organization.

Mr. SCOTT. You don't have a position supporting mandatory minimums as a crime-fighting tool, since they have been found to be discriminatory, and a waste of money, and ineffective in reducing crime? You don't have a position on mandatory minimums?

Ms. LEONHART. We do our investigations, we conduct our operations without regard to the sentencing. But, the Department was very—

Mr. SCOTT. Well, in terms of sentencing, when you are dealing with local, State, and Federal taskforces, there are allegations that some of the taskforce results have been referred to Federal court and some have been referred to State court. Federal court, where you have the draconian mandatory minimums, have been shown to have a discriminatory impact, because all the crack cases get sent to Federal court, where you can get 5 years mandatory minimum. And meth cases tend to be tried in State court, where they are not subject to those kinds of mandatory minimums. Is that DEA policy?

Ms. LEONHART. That is not DEA policy. Again, we bring our most significant cases to Federal court. We bring the sources of supply and those responsible for the drug supply on the streets of the United States and much of the violence.

Mr. SCOTT. Are you aware of that allegation?

Ms. LEONHART. I am aware, and the Department of Justice has taken a position on the fair sentencing and the recent change with crack versus powder. The Department has been very supportive of that. Our role as investigators, though, is to investigate, follow the evidence, go after the most extreme traffickers, and that is what we do.

Mr. SCOTT. Are you aware of the study that showed that you can reduce drug abuse by 1 percent with \$35 million in treatment, and 250 and up for law enforcement side? Are you familiar with that study, and, if so, how does that affect the strategy of the DEA?

Ms. LEONHART. Well, I don't know if it is the same study. I am familiar with studies that show the savings, you know, every dollar put into demand reduction, every dollar put into treatment. And that is why we are very supportive of the very balanced drug strategy that we currently have in the United States.

The President's drug strategy is very clear, that you need demand reduction and prevention.

Mr. SCOTT. And you are putting the same amount of resources in both?

Ms. LEONHART. I am sorry, sir?

Mr. SCOTT. You are putting similar resources in both?

Ms. LEONHART. Well, actually, this past year there was more money spent on prevention and treatment than there was on domestic law enforcement.

Mr. SENSENBRENNER. The gentleman's time is expired. The gentlewoman from Florida, Mrs. Adams.

Mrs. ADAMS. Thank you, Mr. Chairman.

I want to go back over a couple of things earlier on. The issue with the San Diego holding cell, where this person was held, as you know, no need in rehashing it all, but, I just have a question. I listened to your answer.

What was your current policy at the time this happened?

Ms. LEONHART. The policies are different in the different field divisions. Some don't even have a holding cell. But, in San Diego, the standard policy is that anybody that is detained, and they are only detained in our field division for interviewing and processing, that the agents and taskforce officers in the group that brought that de-

fendant in is responsible for him while he is there being processed, and is responsible until he is either brought to jail or released.

Since this incident, that San Diego field division moved very quickly to put in a divisional order and policies and procedures that actually spell out what everyone's duty is. And we shared that with the 20 other field divisions, who have also put these in place.

Mrs. ADAMS. So, in other words, there was no one assigned to make sure that that holding cell, or whatever you want to call it, was empty at the end of the day, so that no one was left behind.

Ms. LEONHART. It is unwritten that it is always the responsibility of the group supervisors of the group responsible for the—

Mrs. ADAMS. That is a no then. It is not written down, so, therefore, they didn't follow that type of procedure, because it is very apparent by what happened, which is, you know, as a former law enforcement officer, I am just so astounded and baffled by how this could happen.

I know you have 226 domestic offices and 21 field divisions throughout the U.S., and 85 foreign offices in 65 countries, and they are all led by special agents in charge called SACs. 7 out of 21 DEA field divisions are leaderless and have been for several months, and some for well over 1 year. These divisions include Boston, New York, Philadelphia, St. Louis, San Diego, Los Angeles, and the Caribbean. The New York post reported in April that the New York SAC vacancy is having a significant impact on agent morale. Although, there are acting SACs in these divisions, they may or may not feel empowered to make the decisions needed or policy changes needed, due to their acting status.

And again, I am a former deputy sheriff, and knowing how important a stable chain of command is, knowing that your rank and file need to have the leadership, knowing that they need to have the direction, knowing that there should be policies and procedures in place, why are so many SAC positions vacant, and are you doing anything to fill these? And when will they be filled?

Ms. LEONHART. Thank you for asking the question. In filling SAC vacancies, some are open for extended periods of time, but when a SAC leaves, retires, or is transferred, there is someone put in charge. It has only recently been that we have had a confirmed administrator, myself, who rose up through the ranks, and a confirmed deputy that causes this domino effect. And so, as we move our chief of operations into the deputy position, now we are moving the pieces, we are putting people in place. All of the field divisions that have been vacant have had very, very strong and good leadership.

Mrs. ADAMS. So, you are working to fill them. because I have a lot more questions, and I want to get my time in.

I have a question: Was the impact of there being an acting SAC in San Diego an issue with what happened?

Ms. LEONHART. Not at all.

Mrs. ADAMS. Okay. I know you said you have different policies for different areas. Wouldn't it be easier to set up a major streamlined policy for every one of your divisions to follow, and then those that have other things, like if you have a holding cell, you will make sure that before you close that office every day that you go through that holding cell. One, you sweep for people. Two, you

sweep for any contraband. I would say that every time you put someone in, before you put them in, you make sure there is no contraband in, and every time you take them out, you do the exact same thing. But, when you leave every day, there should not be anybody in there to be left behind.

One other question I have before I run out of time is: Is it still the policy of not allowing any of our agents that are working with Mexico, let's say, to be armed when across the border, and if so, why? Because as we know, we have lost one of our agents that did not and was not armed, and was murdered. I just want to know if it is still the policy. Are you still promoting that policy? Or are you trying to change that policy, so our men and women can protect themselves while on detail?

Ms. LEONHART. Having been a former law enforcement officer, you know that the safety of our agents is more important than anything. And I would say because of their safety, I would be glad to talk to you not in this forum, to discuss those safety issues. And I am hoping that you respect that, and I would be glad to come and see you myself.

Mrs. ADAMS. I look forward to discussing that. I yield back.

Mr. SENSENBRENNER. The gentlewoman's time is expired. The gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Sensenbrenner. I appreciate your announcing that there will be continued hearings about DEA and its role. You will note Madam Director that I originally pointed out in my remarks that we spend huge amounts of resources, and the rate of illegal drug activity continues at about the same pace. Have you been able to reflect on that in terms of how this keeps going on, and what we might be able to do about it?

Ms. LEONHART. Thank you for the question, sir. I think there is a lot of misinformation and misperceptions about actually the drug situation, and especially when it comes to teens. So, I do want to tell you that 650,000 fewer teenagers are using drugs today than a decade earlier. And that is a 15 percent decline. The balanced drug strategy that we have has played a role. Marijuana used by teens has dropped 7 percent. Methamphetamine has plummeted 67 percent. Ecstasy use has been slashed 42 percent. And cocaine use is down 40 percent since 2006. Meth has dropped even more, and that is 50 percent since 2006.

So, we do see these drops in teen drug use. We also see the same corresponding drops in adult drug use. So, we are doing something correct with our drug strategy. And we believe that it is the three: The prevention, the treatment, the enforcement. You need all three. And that is one of the causes that we are seeing changes in drug use.

Obviously, we are concerned with the uptick in prescription drugs, legal drugs, but we have been able to change the drug use. We have also been able to change availability of drugs on the streets, especially cocaine. And since 2006, since partnering with the Calderon Administration in Mexico, we actually have had sustained increases in the price of cocaine, and we have seen the purity plummet.

Mr. CONYERS. Well, this goes contrary, your statement, which is, I am happy to hear it, and, of course, you know, you are coming

back before us, so I will have a chance to check what you are telling me against information that I have not validated yet. But, the statement that bothered me here was that the drug addiction rates, currently 1.3 percent in this country, are the same ratio as in 1971, and that we have spent over \$1 trillion in appropriations fighting this war, and it is pretty stagnated.

Are we just citing different pieces of information to support our positions, or is there some correctness in the citation that I just gave you?

Ms. LEONHART. The figures that I am using are from the Monitoring the Future study, which has been used to look at and to track trends in teen drug use. It also comes from the statistics from Quest, on workplace drug testing. And if you are using the year 1971, and comparing it with this year, you have to remember that the highest rates of drug use, those years were 1974, 1975, and 1976. They spiked significantly after 1971. It is undisputed that we actually are having the lowest rate of cocaine use in this country in 30 years.

Mr. SENSENBRENNER. The gentleman's time has expired.

Mr. CONYERS. Thank you.

Mr. SENSENBRENNER. The gentleman from Puerto Rico.

Mr. CONYERS. Mr. Chairman, can I just point out that I want to continue this discussion outside of the hearing room between now and the next time we have the distinguished witness in.

Mr. SENSENBRENNER. Okay. The statement will be in the record.

The gentleman from Puerto Rico, Mr. Pierluisi.

Mr. PIERLUISI. Good morning, Administrator. Thank you again for meeting with me in February to go over the public safety crisis we are facing in Puerto Rico and the U.S. Virgin Islands. You, as much as any other Federal official, have an intimate understanding of how serious this problem is. The number of drug-related homicides in Puerto Rico in recent years would be considered a national emergency if it were occurring in any State. That is not just my opinion. That is what Senator Rubio also stated during a hearing in December.

Since our meeting, there have been several important developments. First, the House approved a CJS appropriations bill that notes that Federal efforts along the Southwest border have affected trafficking routes and crime rates in the Caribbean, and directed the attorney general to address these trends by allocating the necessary resources to U.S. jurisdictions in the Caribbean, and reporting back to Congress on the specific steps that have been taken.

Second, about 2 weeks ago, Attorney General Holder was sitting where you are now. I asked him why it would not be appropriate for DOJ to increase the resources it devotes to Puerto Rico, even if it is only a temporary surge, just as the Federal Government did when there was a spike in violence on the U.S. side of the Southwest border. I acknowledged current budget constraints, but said that this is a matter of prioritizing limited resources, and making sure they are being allocated to the U.S. jurisdictions where the need is the greatest.

The AG responded that DOJ is starting to embrace this surge concept, injecting agents and resources into what he called hot spots. That is areas that have seen a rise in violent crime. The at-

torney general said that Puerto Rico would certainly be a candidate for such a surge, because of the island's violent crime rate. I just hope that action follows those words.

Third, the Appropriations just approved a bill today basically saying that we should have a counter-narcotic strategy for the Caribbean border, just along the same lines as the ones we have for the southwest and the northern border areas. That is great. I have been fighting for that, and it is about to happen. ONDCP will be told to do this, and to do it within 180 days from the time this appropriations bill becomes law.

Now, your men and women in Puerto Rico are doing terrific work, Administrator. You know several weeks ago your agency led an operation that resulted in the arrest of dozens of airline workers in Puerto Rico who were smuggling drugs on flights to the mainland U.S. However, despite the recent staffing increases that you briefed me on when we met, I remain absolutely convinced that the DEA does not have enough agents in Puerto Rico.

According to data provided to my office, there are nearly three times as many agents assigned to the Miami field office as there are to Puerto Rico, even though the island's population is 7.5 times greater than metropolitan Miami's, and our drug-related violence is off the charts. I want to be clear. I am not saying Miami doesn't have significant problems that you need to deal with. I am just providing this comparison, because you realize how under-resourced Puerto Rico is when you see this stat. So, I would like to hear your view, in terms of what you can do or not in staffing our office in Puerto Rico and the VI.

Ms. LEONHART. Thank you, sir. We have met, and you know that the whole Caribbean region is of concern to the DEA. When we moved resources in 2002 from our other field divisions down to the Southwest border, we left the Caribbean alone, because we knew if we were successful on the Southwest border that we would start seeing impact in the Caribbean. So, San Juan, that field division has been very important to us, and I actually have increased the resources there. So, let me talk about those increases.

In 2009, there were 83 agents assigned to San Juan and Ponce. I increased it to 95. In fact, I have done what we can to make sure that agents graduating from the academy and senior agents rotating in from foreign offices are assigned there. We will continue to try to give as many resources to Puerto Rico as possible.

On the surge, know before your discussion with the attorney general about surges that DEA actually was surging in Puerto Rico a couple years back when you needed help with housing projects on the drug trafficking, and the murder rate, and the violence there. We responded by sending agents from MET Teams around the country into Puerto Rico for periods of time to help with that. And we will continue, even though we no longer have the MET program. We will look for ways to assist our agents and our fellow law enforcement officers in Puerto Rico with additional resources.

Mr. PIERLUISI. Thank you.

Mr. SENSENBRENNER. The gentleman's time is expired. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman. Ms. Leonhart, welcome.

I wanted to ask you about reports that DEA field agents in Southern Arizona were aware of the gun walking being done by ATF. Tony Coulson, the DEA's agent in charge of Southern Arizona during Fast and Furious, said that many DEA field agents knew that the ATF was walking guns to Mexico, but their supervisors told them to back off when they objected.

Have you investigated who within the DEA knew what about Fast and Furious and why they did so little to stop gun walking to Mexico?

Ms. LEONHART. Thank you, sir. As I mentioned earlier, those statements, as I understand it from Mr. Coulson, were actually recanted. He said he was misquoted and he has recanted that. We are very excited and we are waiting on these results from the OIG, because prior to Mr. Coulson's statements, we were not aware that DEA agents in Arizona were aware of the tactics that ATF was using.

So, the investigation is being done by OIG. That should answer. We have made all our people available. That should answer the question about who knew what from my agency.

Mr. GOODLATTE. Did Mr. Coulson explain why he made the statements in the first place, if he later recanted them?

Ms. LEONHART. I have not had any discussions with Mr. Coulson. I just know that right after there was a reporting of what he had said, he called our headquarters to say he did not say those things, and that he recanted his statements.

Mr. GOODLATTE. So he denied saying them. He didn't say them and then take them back, is what you are telling us?

Ms. LEONHART. I heard both. But, hopefully, the OIG is going to interview him.

Mr. GOODLATTE. So you are relying on the Office of the Inspector General to investigate his statements and whether or not it is true that agents working under him were aware of the fact that gun running was taking place. Because, in fact, we know it was taking place, so it is not all that surprising that some DEA agents might know what was going on with regard to ATF activities in the same region. But, at the same time, our greater concern is why supervisors might have told the agents to, quote, back off, when they raised concerns about the wisdom of sending guns to drug dealers and others in Mexico that ultimately resulted in the death of a border patrol agent.

So, you will report back to this Committee once you hear from the OIG, and let us know what actions have been taken to make sure that when people find out that wrongdoing is taking place that they are freely able to report it to their superiors and then have some interagency discussions between ATF and DEA to say, "Hey, guys. What are you doing here, giving guns to people that we are trying to stop from smuggling drugs in the United States. It is not a good idea."

Ms. LEONHART. The OIG report will answer the questions about what our folks knew. The OIG was given the unilateral authority to investigate.

Mr. GOODLATTE. Well, we will welcome that. In my last minute here, I want to get in another area of interest.

What assistance does the DEA give to State and local law enforcement to combat synthetic drugs?

Ms. LEONHART. Thank you for that question. Since synthetic drugs is a new emerging, very troubling problem, I personally have been working with the chiefs and sheriffs, both of the National Sheriffs Association, but also of the IACP. They are the ones that first brought it to my attention that synthetics was a problem, and so we have given them considerable assistance, both in training classes. We have also offered our chemists.

Mr. GOODLATTE. What additional tools do you need that would make the DEA better able to combat synthetic drug abuse?

Ms. LEONHART. Actually, this Committee just helped, and that was the scheduling of so many of those chemicals. That was number one.

Number two, you have given us, you know, the support, our funding, our agent workforce that has allowed us to teach our agent workforce about this new and emerging trend. It has also allowed us to teach our State and local counterparts about the emerging trend. And we have been able to expand our investigations now internationally to go after the sources of supply that are actually supplying the chemicals showing up in our neighborhoods and then eventually being sold as Spice and K2.

Mr. GOODLATTE. Thank you very much. Thank you, Mr. Chairman.

Mr. SENSENBRENNER. The gentleman's time is expired. The gentleman from Tennessee, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Ms., is it Lean-hart?

Ms. LEONHART. It is Lin-hart.

Mr. COHEN. Lin-hart.

Ms. LEONHART. Think of the "O" being silent.

Mr. COHEN. Thank you. Thank you, Ms. Leonhart. What is your budget?

Ms. LEONHART. Well, currently—

Mr. COHEN. Approximately.

Ms. LEONHART. \$2 million.

Mr. COHEN. \$2 million?

Ms. LEONHART. I am sorry. \$2 billion—

Mr. COHEN. Yes. So about \$2 billion.

Ms. LEONHART [continuing]. Is salary and expenses. And then we have additional, with a fee account for our diversion program. So, total budget is—

Mr. COHEN. It is over \$2 billion.

Ms. LEONHART. Yes.

Mr. COHEN. Do you get any confiscation money? Do you get any monies from confiscations?

Ms. LEONHART. I am sorry?

Mr. COHEN. Do you get any money from confiscations of properties?

Ms. LEONHART. You are talking about asset forfeiture.

Mr. COHEN. Yes.

Ms. LEONHART. There is money that the Department of Justice gives us from the asset forfeiture fund.

Mr. COHEN. How much do you get from that?

Ms. LEONHART. I would have to—

Mr. COHEN. Do you have any idea at all?

Ms. LEONHART. If you would give me a moment, I could—

Mr. COHEN. I would rather not take the time for you to research your files. You don't know. Maybe one of your staff members can give it to you.

Let me ask you this. What is your number one drug you are fighting? What is your priority?

Ms. LEONHART. Well, our priority right now is pharmaceutical drugs.

Mr. COHEN. All right. And what is your second priority?

Ms. LEONHART. We don't prioritize specific drugs, because the organizations that we are going after are poly-drug.

Mr. COHEN. So, you are not going after the drugs for the harm they do. You are going after the drugs, because of the effect it has on these organizations, and you are going after the organizations. Is that right?

Ms. LEONHART. We are going after the organizations that are having the most impact on our communities, supplying the most drugs, and the most violence.

Mr. COHEN. Right. So, it is the fact that meth, or crack, or heroin is causing the most damage to individuals. If that is not the number one choice of the crime syndicate, it is not your number one choice. Your number one choice is the crime syndicate, not the fact that heroin, and meth, and crack are destroying people's lives.

Ms. LEONHART. No. Not correct. The organizations now have their poly-drug. So, for instance, the Columbian cartels, which are a priority—

Mr. COHEN. Right. They have all these drugs, right?

Ms. LEONHART [continuing]. Are the primary source for methamphetamine, cocaine, and a good amount of the heroin on the streets.

Mr. COHEN. Right.

Ms. LEONHART. They are a priority.

Mr. COHEN. So, that is your number one priority, is going after that cartel.

Ms. LEONHART. Our number one priority is going after those that most impact the United States.

Mr. COHEN. Do most of those cartels, what are the drugs they emphasize in their arsenal?

Ms. LEONHART. The Mexican cartels, poly-drug. It is cocaine, meth, heroin, marijuana.

Mr. COHEN. Right. Marijuana is fourth. Would you agree that marijuana causes less harm to individuals than meth, crack, cocaine, and heroin?

Ms. LEONHART. As a former police officer, as a 32-year DEA agent, I can tell you that I think marijuana is an insidious drug.

Mr. COHEN. That is not the question I asked you, ma'am. Does it cause less damage to the American society and to individuals than meth, crack, cocaine, and heroin? Does it make people have to kill to get their fix?

Ms. LEONHART. I can tell you that more teens enter treatment for marijuana.

Mr. COHEN. Can you answer my question? Answer my question, please.

Ms. LEONHART. I am trying to. It causes harm, because it is young people that are using it, if you are talking about the violence.

Mr. COHEN. It is not just young people. But, you are trying to answer the question like I am Jeff Sessions. I am not Senator Sessions. I am asking you a question. Does meth, does crack, heroin cause more damage to society? Does meth and heroin cause more deaths than marijuana?

Ms. LEONHART. All drug trafficking causes deaths. I don't have a breakdown of how many.

Mr. COHEN. Does aspirin cause deaths?

Ms. LEONHART. I am talking about the illegal drugs. I don't have a breakdown for you of how many deaths are caused by cocaine, and how many are caused by meth.

Mr. COHEN. Let me ask you this. Have you ever seen a person who had cancer and used marijuana to help them eat or to relieve their condition of suffering from terminal cancer?

Ms. LEONHART. No, I have not.

Mr. COHEN. And if you had, and I have, and seen that it helps them with their appetite, and makes them smile, would you agree that it has some benefit to society for somebody who is dying, maybe a Navy Seal, who spent his life working and defending this country, and is emaciated to 120 pounds, and that marijuana is the only thing that makes him eat, and makes him smile, according to his 80-year-old mother. Is there not an efficacious situation there?

Ms. LEONHART. I think that is between him and his doctor.

Mr. COHEN. Well, if it is between him and his doctor, why does the DEA take a position that medical marijuana is wrong, which you have taken. You have taken the position it is not between him and his doctor. You have a publication, which on page 6 of your publication, in 2011, has the most insane and banal paragraph. The legalization movement is not simply a harmless academic exercise. The moral danger of thinking marijuana is—

Mr. SENSENBRENNER. The gentleman's time has expired. The gentlewoman from California, Ms. Chu.

Ms. CHU. Thank you, Mr. Chair. Ms. Leonhart, I represent a district in Los Angeles County, where 3 years ago a young rising star, an elected official in my district, Bobby Salcedo, was murdered by the Mexican drug cartel, when he was simply visiting relatives there. This tragedy is why my colleague, Mr. Poe, and I worked on legislation that would allow U.S. law enforcement to more easily freeze the illicit proceeds of international criminal organizations in U.S. financial institutions, in hopes of preserving those assets for future seizure.

It corrected the situation, where the U.S. could only freeze assets of those engaged in criminal activity, once a final decision was made, and our legislation, which was signed into law, allowed U.S. courts to freeze assets once there was evidence of criminal activity.

So, what role has this law, the Preserving Foreign Criminal Assets for Forfeiture Act, played in assisting DEA's financial investigations in interdicting the foreign criminals' money or laundering operations?

Ms. LEONHART. First, let me thank you for bringing us that legislation. It has helped already. I am aware that more than \$50 million has been frozen, because of that. So, we want to thank you for it, and know that with DEA, especially our international investigations that regularly are conducted, it is essential to our efforts that we have a way to freeze those assets in the middle of an investigation and during an investigation. We must be able to freeze the money for these foreign countries, and this has allowed us to do it.

Ms. CHU. Thank you for that. I wanted to follow-up on your statement that cooperation between the United States and Mexico is at an all time high, and that, in particular, the DEA is grateful for the extradition relationship that you have with Mexico, because it is important, too, that criminals are brought to justice in this country.

I wanted to know what you mean by the relationship is at an all-time high, and also, you talked about the extradition of 94 and 93 individuals from Mexico in 2010 and 2011, respectively. I wanted to know, also, what the status is of those who have been extradited.

Ms. LEONHART. Okay. The relationship with Mexico is at an all-time high, and I say that, because we now are working investigations jointly. We are able to develop partners in Mexico that we can share intelligence with, and they can actually take action on that, and vice-versa. They develop intelligence and are sharing it with us.

We have representatives from the Mexican Federal Police, the SSP, and from the PGR, that are even sitting in our El Paso intelligence center. So that is a true partnership. Especially working the violators the cartel heads that are most important to Mexico, working with them, we have doubled the number of high-value targets that they have been able to arrest in Mexico by sharing this intelligence.

On the extraditions, a number of these extraditions, the folks have already been prosecuted, and are serving sentences in the United States, many significant sentences.

The other thing that Mexico has done by extraditing them to us is those that cooperate after being incarcerated are really giving us a clear picture as to how the Mexican cartels are operating, and that has helped us and Mexico, because we share that information, determine the best way to go after those cartels and those traffickers.

Ms. CHU. How many have been convicted and sentenced?

Ms. LEONHART. I can get you those numbers. I don't know. Many have pled guilty. So a good number of them have pled guilty and many have been convicted.\*

Ms. CHU. And how has it impacted the drug trafficking and violence along the border?

Ms. LEONHART. Well, especially of the high-value targets, who are the heads or lieutenants of the cartels that we have been able to incarcerate. It has helped Mexico, because they have been able to take the people that have been able to have the power to corrupt

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\*The Subcommittee had not received this information by the time this hearing record was submitted for printing on February 19, 2013.

Mexican officials. They now are in jail cells in the United States, no longer able to run their operations. So, it has affected the drug supply as well.

Together, we have done such damage to the cartels that that is why you see these drops in availability of cocaine on the streets of the United States, and the price up and the purity down.

Mr. SENSENBRENNER. The gentlewoman's time has expired. The gentleman from Colorado, Mr. Polis.

Mr. POLIS. Thank you, Mr. Chair. I would like to begin by following-up on my colleague Mr. Cohen's questions, and I want to try to get a clear answer, to make sure the Drug Enforcement Administration is aware of some of the evidence.

Is crack worse for a person than marijuana?

Ms. LEONHART. I believe all illegal drugs are bad.

Mr. POLIS. Is methamphetamine worse for somebody's health than marijuana?

Ms. LEONHART. I don't think any illegal drug is good.

Mr. POLIS. Is heroin worse for someone's health than marijuana?

Ms. LEONHART. Again, all drugs—

Mr. POLIS. I mean either yes, no, or I don't know. I mean if you don't know, you can look this up. You should know this as the chief administrator for the Drug Enforcement Agency. I am asking you a very straightforward question.

Is heroin worse for someone's health than marijuana?

Ms. LEONHART. All illegal drugs are bad.

Mr. POLIS. Does this mean you don't know?

Ms. LEONHART. Heroin causes an addiction.

Mr. POLIS. Okay.

Ms. LEONHART. It causes many problems, so it is very hard to kick.

Mr. POLIS. So, does that mean that the health impact of heroin is worse than marijuana? Is that what you are telling me?

Ms. LEONHART. I think you are asking a subjective question.

Mr. POLIS. No. It is objective. Just looking at the science. This is your expertise. I am a lay person, but I have read some of the studies and aware of it. I am just asking you as an expert in the subject area, is heroin worse for someone's health than marijuana?

Ms. LEONHART. I am answering as a police officer and as a DEA agent that these drugs are illegal, because they are dangerous, because they are addictive, because they do hurt a person's health.

Mr. POLIS. So, heroin is more addictive than marijuana. Is heroin more addictive than marijuana, in your experience?

Ms. LEONHART. Generally, the properties of heroin, yes, it is more addictive.

Mr. POLIS. Is methamphetamine more addictive than marijuana?

Ms. LEONHART. Well, both are addictive.

Mr. POLIS. Well, is methamphetamine more highly addictive than marijuana?

Ms. LEONHART. I think some people become addicted to marijuana and some people become addicted to methamphetamine.

Mr. POLIS. You mentioned that your top priority, I believe you indicated to us, is abuse of prescription drugs. Is one of the main classifications of prescription drugs painkillers that you are concerned about?

Ms. LEONHART. That is correct.

Mr. POLIS. And are those painkillers addictive?

Ms. LEONHART. Yes, they are very addictive.

Mr. POLIS. Are those painkillers more addictive than marijuana?

Ms. LEONHART. All illegal drugs in schedule one are addictive.

Mr. POLIS. Well, again, this is a health-based question, and I know you obviously have a law enforcement background, but I am sure you are also familiar, given your position with the science of the matter, and I am asking, you know, again, clearly, your agency has established abuse of prescription drugs as the top priority. Is that, therefore, an indication that prescription drugs are more addictive than marijuana?

Ms. LEONHART. All illegal drugs are addictive.

Mr. POLIS. Okay. Your agency has established abusive prescription drugs as its top priority. You have indicated as much to us. Does that mean that abuse of prescription drugs is a greater threat to the public health than marijuana?

Ms. LEONHART. Because it is an emerging threat, because people are turning to prescription drugs faster than any other drug, that is why we prioritized it.

Mr. POLIS. Well, in many States, including my home State of Colorado, we have a legalized and regulated regime of medical marijuana, and we have found some great degree of success in combating the abuse of prescription drugs by making sure the patients have access to medical marijuana, which the science indicates, and I would certainly encourage you to look at the science is less addictive and less harmful to human health than some of the narcotic prescription drugs that are abused, and also, when they are used on label, they can be very harmful to health as well.

Would your agency consider supporting medical marijuana provisions when that can be used in pursuit of your top priority, which is reduce the abuse of prescription drugs. If it can be documented that the use of medical marijuana helps reduce the abuse of prescription drugs, is that something you are willing to pursue?

Ms. LEONHART. Well, Congress has determined that marijuana is a controlled substance, and DEA's tasked with enforcing Federal law.

Mr. POLIS. You mentioned priorities, though, and you said top priority, reducing abuse of prescription drugs. One tactic to do that would be use of medical marijuana, and I wanted to make sure again, top priority, in pursuit of your top priority, are you willing to look at the use of medical marijuana as a way of reducing abuse of prescription drugs?

Ms. LEONHART. We will look at any options for reducing drug addiction.

Mr. POLIS. Thank you.

Mr. SENSENBRENNER. The time of the gentleman has expired.

The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. I thank the Chairman and the Ranking Member.

Administrator Leonhart, thank you for your appearance here today. And having been in Phoenix a couple of weeks ago, let me express my appreciation for the service of the Drug Enforcement Agency officers, their professionalism, and as well, the work that

is done in Houston, Texas, where we are the center point, if you will, for a number of issues dealing with gun trafficking, and, as well, the confluence, if you will, of money, drugs, and guns. And so, we are well aware of the importance of collaboration.

I am going to ask a series of quick questions, and appreciate helping me get as much on the record as I possibly can. What is the importance of collaboration between the major Federal law enforcement? I use as an example, FBI, DEA, ATF, and others, along with those that I represent on Homeland Security. What is the importance of that?

Ms. LEONHART. Well, ma'am, let me start by saying that State and local participation has been DEA's bread and butter for the 39 years we have been an agency. And you combine that partnership with the partnerships that we have developed with other Federal agencies, I don't think there is anything stronger, anything more effective at attacking violent crime, attacking drug trafficking than having taskforces.

So, to answer that, especially in the Houston—

Ms. JACKSON LEE. My question is: Is the collaboration strong, positive, continuing, and do the administrators of the respective agencies encourage that collaboration?

Ms. LEONHART. Yes.

Ms. JACKSON LEE. Okay.

Ms. LEONHART. We are probably collaborating now more than before.

Ms. JACKSON LEE. Great. Let me move to Fast and Furious for a very brief question. Has there been a thorough investigation of DEA's contact or involvement by the OIG?

Ms. LEONHART. Yes. We made all of our employees in the Phoenixville division and—

Ms. JACKSON LEE. So, any questions regarding supervisor directions to don't say anything, all of that has been investigated. Is that correct?

Ms. LEONHART. It is being investigated. Yes.

Ms. JACKSON LEE. Being investigated, and all documents will be able to be accessed, or the final report will be able to be accessed on that issue.

Ms. LEONHART. Yes. We are all awaiting the OIG finalizing the investigation, and the report.

Ms. JACKSON LEE. And would you be able to submit that to this Committee once it is finalized?

Ms. LEONHART. Yes. I would have to defer to the inspector general, but usually the OIG reports are made public.\*

Ms. JACKSON LEE. Let me move forward and as I said, quick questions. What is the extent of drug trafficking on tribal land? Can I just get brief answers, because I have a series here?

Ms. LEONHART. Yes. There is a serious substance abuse problem on tribal land, especially in the last 5 years, with prescription drugs. Their big problem used to be alcohol and methamphetamine, but more recently—

\*The Subcommittee had not received this information by the time this hearing record was submitted for printing on February 19, 2013.

Ms. JACKSON LEE. And so, what are we doing? The DEA has a focus on that? I want to know that we have a problem, and I believe it is, and do we have focus in some of your—

Ms. LEONHART. Absolutely. We have established very good relationships with the other law enforcement agencies, both the FBI and Bureau of Indian Affairs, and other tribal law enforcement, and have done joint investigations. We depend on them to tell us, you know, who are the traffickers, who are those most impacting the supply on Indian lands, and then jointly work with them, sharing intelligence, and we have had many successes on those lands.

Ms. JACKSON LEE. Right. Let me ask you, there have been many requests by members, how is the Ryan Republican budget, the budget that would cut resources, how devastating would that be? And let me follow-up, so you can answer these questions. I am very concerned about bath salts. I know we talked about synthetic, but focused on bath salts, and particularly the impact that it just had in Houston, Texas. A story I refer you to, KHOU, Channel 11, specifically talked about a heinous incident with bath salts, and an individual, David Peterson, who died on a Galveston street. He was found disoriented, and in extreme physical deterioration. And then I would appreciate your comment about DEA officers and physician officers, and pain pills, and whether or not the response is excessive, whether you think we are being fair to doctors on those investigations.

Mr. SENSENBRENNER. Do you have all points of that multifaceted question?

Ms. LEONHART. The last question I had a hard time hearing.

Ms. JACKSON LEE. Thank you, Mr. Chairman. The efforts with DEA officers dealing with physicians and pain pills, there has been sort of a surge of closing physician offices, arresting them. I am wondering, are we being excessive, are we being careful, because you are literally shutting down professionals, who may be legitimately issuing—

Mr. SENSENBRENNER. Okay. The witness will answer.

Ms. LEONHART. Okay. I will start with the, you asked about the budget.

Ms. JACKSON LEE. Yes.

Ms. LEONHART. You know, these are austere budget times, and we will work within what money is given to us, and we will prioritize accordingly. As to the synthetic drugs, and I am glad you bring that up, an emerging problem that concerns us, this Committee has just helped give us the biggest tool we can, and that is controlling some of those chemicals, those substances.

In your area, for instance, our agents have opened a number of investigations, both on bath salts and on K2 and Spice. And they have been pretty successful in assisting State and local officers on those types of investigations as well.

Your third question about, you know, physicians, and pill mills, and pain clinics, Houston is very troubling, because they have a pill mill problem. And it is not like in Florida, with OxyContin. It is Hydrocodone that is the problem there. And we have many investigations, successful investigations, and we have arrested and prosecuted some very egregious doctors. And let me say that the doctors that are affiliated and operating these pill mills, and work-

ing within these pill mills, they are not practicing medicine. They are not giving examinations to patients. These pill mills are just open for pill distribution, and those are the physicians, those are the clinics that we have targeted, using our intelligence or using undercover investigations, and we have been very successful in the Houston area.

Mr. SENSENBRENNER. The time of the gentlewoman has expired.

Ms. JACKSON LEE. Mr. Chairman, let me thank you for your courtesies. Could I put a question on the record to be answered in writing, please?

Mr. SENSENBRENNER. Yes, you can. And that will be taken care of with the UCs that I am about ready to propound. Thank you, Ms. Leonhart, for coming. We look forward to seeing you come back here. You might look forward to seeing us again, might not do that, but thank you for your testimony today. I think it has been helpful to all of the Members.

Without objection, all Members will have 5 legislative days to submit to the Chair additional questions for the witnesses, which we will forward and ask the witness to respond as promptly as they can, so that their answers may be made a part of the record.

Without objection, all Members will have 5 legislative days to submit additional materials for inclusion into the record.

And with that, again, I thank Ms. Leonhart. And without objection, this hearing is adjourned.

[Whereupon, at 11:26 a.m., the Subcommittee was adjourned.]

# APPENDIX

## MATERIAL SUBMITTED FOR THE HEARING RECORD

### Questions for the Record\*

LAMAR S. SMITH, Texas  
CHAIRMAN

I. JAMES SICHERMUNDEL, JR., Wisconsin  
HOWARD COBLE, North Carolina  
BLUFON GALLAGHY, California  
ROB GOODLATTE, Virginia  
LARRY L. LUNDGRIN, California  
STEVE CHABOT, Ohio  
DARRIEL E. ISSA, California  
MIKE PENCE, Indiana  
J. ROBERT FORD, Virginia  
STEVE K. JOHNSON, Iowa  
TRENT FRANKS, Arizona  
LOUIE GOMBERG, Texas  
JIM JORDAN, Ohio  
TED YOE, Texas  
JASON CHAFFETZ, Utah  
TIM WIRTH, Arkansas  
TOM MARINO, Pennsylvania  
TERRY GONZALEZ, South Carolina  
DENNIS ROUSE, Florida  
SANDY ALBANESE, Florida  
BEN LUATILE, Arizona  
MARK AMODEO, Nevada

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JUDY CRU, California  
TED DEUTSCH, Florida  
LINDA L. BANCHEZ, California  
JANIS PUGH, Colorado

June 29, 2012

The Honorable Michele M. Leonhart  
Administrator  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22152

Dear Ms. Leonhart,

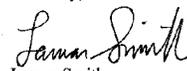
The Judiciary Committee's Subcommittee on Crime, Terrorism and Homeland Security held a hearing on DEA Oversight on Wednesday, June 20, 2012 at 10:00 a.m. in room 2141 of the Rayburn House Office Building. Thank you for your testimony.

Questions for the record have been submitted to the subcommittee within five legislative days of the hearing. The questions addressed to you are attached. We will appreciate a full and complete response as they will be included in the official hearing record.

Please submit your written answers to Lindsay Hamilton at [Lindsay.Hamilton2@mail.house.gov](mailto:Lindsay.Hamilton2@mail.house.gov) by Friday, July 13. If you have any further questions or concerns, please contact Bart Forsyth, at [Bart.Forsyth@mail.house.gov](mailto:Bart.Forsyth@mail.house.gov).

Thank you again for your participation in the hearing.

Sincerely,

  
Lamar Smith  
Chairman

\*The Subcommittee had not received a response to its questions by the time this hearing record was submitted for printing on February 19, 2013.

**Congressman F. James Sensenbrenner, Jr.**  
**Chairman, Crime Subcommittee**  
**Oversight Hearing on the DEA**  
**Questions for the Record**

1. Do you believe that shrinking the supply of prescription painkillers is the best method of combating abuse? Doesn't shrinking the supply do as much to prevent legitimate use as it does abuse?
2. Does the DEA offer clear guidance to industry as to what constitutes suspicious behavior that should be reported? "Suspicious Orders" are not defined in the DEA regulations. The regulations give three examples of circumstances that constitute "suspicious orders." Specifically, 21 C.F.R. § 30.74(b) states:

The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Field Division Office of the Administration in his area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

Do you believe this guidance is sufficient?

3. Have members of industry asked for additional guidance on how to determine when a particular order is suspicious? If so, how have you responded?
4. Can you provide additional guidance beyond what is currently available?

**Congressman Robert C. "Bobby" Scott**  
**Oversight Hearing on the DEA**  
**Questions for the Record**

1. In your testimony, you described the elaborate, and no doubt expensive, efforts by DEA to combat drug cartels all over the world. Please tell me how these efforts impact domestic use of illegal drugs?
  2. If you were to significantly reduce the amount of money DEA now spends on combating drug cartels such as those operating in Colombia and Mexico and instead reallocate those funds to proven drug treatment programs in the United States, would you or would you not cause a greater reduction in domestic drug use?
  3. In my opening statement, I detailed how evidence suggests that, while drug use in all the major abuse categories among White Americans is as high as or higher than drug use among Black and Hispanic Americans, the vast majority of those imprisoned for drug law violations are Black and Hispanic. For example, drug use data indicates that some 60% of crack cocaine users are White while 94% of those imprisoned for crack cocaine violations are Black - 89% or Hispanic - 5%.  
<http://www.oas.samhsa.gov/nsduh/2k4nsduh/2k4tabs/Sect1peTabs43to47.pdf>  
Overall, Black Americans make up 12% of the U.S population, but almost 50% of those incarcerated for illegal drug violations. Please tell me if DEA's policies and practices contribute to these racial disparities. Is DEA making any effort to address this disparate treatment of minorities? I note that, during our discussion in the question period, you did not acknowledge the problem nor indicate that DEA is doing anything to address it.
  4. In response to one of my questions, you said that, in this past year, there was more money spent on prevention and treatment than there was on domestic law enforcement. Please explain what expenditures you are counting for "prevention and treatment" and for "domestic law enforcement."
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**Congressman John Conyers, Jr.**  
**Questions for the Record**  
**DEA Oversight Hearing**  
**June 20, 2012**

**Drug Scheduling**

- The Controlled Substances Act provides that the DEA has the authority to emergency schedule any drug. The emergence of synthetic drugs (i.e. "bath salts" and "spice") has led to legislation in both the House and Senate that would place a number of chemical compounds found in synthetic drugs under Schedule I. The House and Senate bills contain a total of 42 unique chemical compounds that would be placed under Schedule I, but only 9 of these have been emergency scheduled by the DEA. The DEA requested Congress schedule compounds through the legislative process, even some that are not known to be present in the United States. Many of these compounds are new and very little is known about them. In fact, when this legislation was pending before the House Judiciary Committee last year, a number of researchers and scientists contacted this panel urging that these compounds not be placed under Schedule I because this designation would create significant red tape for researchers who want to study potential medical, scientific and even industrial applications for these compounds. We don't know what potential uses they may have. The emergency scheduling process involves some scientific review and consideration, which would be appropriate given that there is a significant amount of anecdotal evidence about the effects of these synthetic drugs but very little scientific data. The DEA has the authority to take administrative action to temporarily schedule drugs while legislation is pending in Congress. Yet, the DEA has failed to emergency schedule more than 30 compounds. Why has the DEA advocated that compounds be placed under Schedule I through legislation, which takes time, and not move to emergency schedule all of these compounds? Was the DEA's decision to not emergency schedule influenced by evidence that emergency scheduling has failed to stop access to drugs like bath salts?
- The DEA has emergency scheduled compounds found in "bath salts," and yet reports of these substances being seized continue to come in around the nation. Why are bath salts still available around the US even though they have been emergency scheduled by the DEA since October 21, 2011?

**Prescription Pain Medications**

- There has been much attention paid to certain store front pain clinics, known as "pill mills," that allegedly are visited by patients from other states and are allegedly inappropriately prescribing opioid pain medications to patients, prescribing to patients who travel as far as one or more states away, and prescribe opioid

medications in high volumes. How does the DEA determine what is an appropriate volume of prescriptions for a clinic and a physician?

- In recent years, we have seen an alarming increase in fatal overdoses from use and misuse of opioid pain medications such as oxycodone. The focus in Congress has been to crack down on doctor shoppers and irresponsible physicians who are clearly prescribing opioid medications without regard for patient safety or federal law. Most doctors who prescribe scheduled opioid medications are law-abiding. However, there is concern about the extent to which legitimate and law-abiding doctors who regularly prescribe scheduled medications are facing undue and inappropriate scrutiny from the DEA. Prominently featured on the DEA website are "Cases against doctors," and there is concern that the level of scrutiny and fear of prosecution for what the DEA determines is an inappropriate volume of prescribing, or "over-prescribing" is having a chilling effect on the prescription of medications for the relief of pain. What is the DEA doing to police the prescribing practices of physicians and should a general practitioner whose practice sees a large number of elderly or chronically ill patients be afraid?

### **Marijuana**

- The Bush Administration estimated that the Mexican drug cartels receive up to 60% of their revenue from illegal marijuana sales in the United States. The Rand Corporation has given a more conservative estimate, estimating that Mexican drug cartels receive 20% of their income from marijuana sales in the United States. How much money are drug cartels making off of marijuana? How much of that is from smuggling marijuana into the U.S? How much is from growing marijuana inside the U.S?
- Of the 1.6 million arrests for drug law violations in 2010, approximately 854,000 were for marijuana (about about half), and of the 854,000 marijuana arrests in 2010, about 750,000 were for simple possession of small amounts for personal use. Put another way, 88% of all marijuana arrests were for simple possession – not sales, not trafficking. And that is just one year. Since President Nixon declared a war on drugs in 1971, tens of millions of Americans have been arrested for marijuana. Even if someone is incarcerated for just one day, that can be enough for them to lose their job. And in today's economy losing a job can lead to months of unemployment, undermining families and costing taxpayer money. A marijuana conviction can follow you for life, making it harder for you to get a job and leading to reduce earnings potential. Depending on the state and the nature of the offense, a marijuana arrest can make someone ineligible for TANF benefits and other public assistance for life. This doesn't just hurt the person arrested; it hurts their partners and children. A marijuana arrest, even for a minor offense, is enough to get a person kicked out of

public housing and onto the streets. In fact, entire families can be kicked out of public housing for the violation of one member, even if the marijuana offense occurred on the other side of the city. And depending on the state and the nature of the offense, a marijuana conviction can even make someone ineligible to vote, in some cases for life. Shouldn't we at least debate and consider reforms to our marijuana laws and enforcement policies?

- We regularly discuss racial profiling in our criminal justice system, and there are particular policies, similar to the crack disparity, which should be eliminated given the racially biased nature in which they are enforced, such as marijuana prohibition. SAMHSA research has shown that whites consistently outpace African Americans and Latinos in marijuana use in their lifetime, in the past year, and in the past month. Yet despite this fact, for instance, in the seven largest counties in Georgia from 2003-2007, black residents were anywhere from 1.6 to nearly 10.4 times more likely to be arrested for marijuana possession than white residents. This is not unique to Georgia: in states all over the country, African Americans and Latinos are significantly more likely to be arrested for marijuana possession than whites. Does the enforcement of marijuana prohibition fuel racial profiling?

#### **Medical Marijuana**

- In 2009, the Department of Justice issued a memorandum to U.S. Attorneys urging them not to waste taxpayer dollars and law enforcement resources arresting and prosecuting people following their state's medical marijuana law. In the last year, however, it appears the Department has reversed course. Notably, a number of medical marijuana providers that have been targeted by the DEA are state-licensed and regulated. DEA has conducted high profile raids of dispensaries that are not only state-licensed, and in compliance with state law, but have enjoyed a working relationship with state and local officials. The public continues to support – by an overwhelming margin and across socioeconomic, regional, and political divides – the provision of medical marijuana to people who benefit from its many therapeutic applications. Why has there been an escalation in the enforcement of federal law against medical marijuana providers?
- For decades, the federal government has been the only legal producer of marijuana for medical research. In fact, NIDA has controlled the quality and distribution of marijuana for scientific research since 1968. Interestingly, NIDA does not have a monopoly on the production or cultivation of any other Schedule I drug, such as MDMA, LSD, or psilocybin. Many researchers contend that the government

marijuana is low in quality and potency and that the monopoly has paralyzed medical marijuana research. I have been advised that, Lyle E. Craker, Professor in the Department of Plant, Soil, and Insect Sciences at the University of Massachusetts Amherst, has been trying to obtain a permit from the DEA to grow marijuana for research since 2001. In August and December of 2005, DEA Administrative Law Judge (ALJ) Mary Ellen Bittner conducted a hearing for Prof. Craker's request and on February 12, 2007, ALJ Bittner recommended the DEA grant a license to Prof. Craker. But, on January 14, 2009, Director Leonhart rejected the recommendation of ALJ Bittner and denied Prof. Craker's application. Please explain the grounds for this rejection.

### **Racial Profiling**

- A study conducted by the U.S. Department of Justice in 2006 found that officers searched more than ten percent of African Americans and eleven percent of Latinos, but less than four percent of white drivers were searched following a traffic stop. The report found that three percent of African American searches, 13% of Hispanic searches, and nearly 14% of white searches yielded prosecutable results. In the cases of the vehicles belonging to white drivers it is more likely that the search was precipitated by suspicious behavior, which thus led to a higher success rate. In 1998 the U.S. Customs service eliminated the use of race, ethnicity, and gender in deciding which individuals to search and focused only on suspect behavior. According to a study conducted by Lamberth Consulting, this shift in policy led to an almost 300% increase in searches that discovered illegal contraband or activity. Given these statistics what is the justification to continue a policy that many conclude is based on racial profiling?
- There have been a number of civil rights scandals involving racial profiling and drug task forces in recent years, including the case in Tulia, Texas, in which roughly fifteen percent of the town's African American population was arrested based on uncorroborated evidence presented by a member of a Drug Task Force who was later indicted on three counts of felony perjury. All of those convicted in the Tulia incident were later pardoned and the case gained national attention as a gross abuse of civil rights. A similar case occurred in Hearne, Texas, and resulted in the arrest of 15 percent of the town's African American men between the ages of 18 and 34, again based on the uncorroborated word of an informant. The District Attorney ultimately dismissed the charges following the filing of an ACLU lawsuit against the Drug Task force and the District Attorney. Yet another scandal occurred in Dallas in 2002, when police officers and a confidential informant targeted a number of mainly

Mexican immigrants in drug busts over three years. As these cases were investigated it was revealed that the officers had planted pounds of sheetrock mix on defendants who could not speak English, or afford effective legal counsel. Is the DEA troubled that federal dollars are going to fund drug task forces that have such a documented history of civil rights abuses, and is there concern that the federal grants from the Department of Justice may actually encourage racial profiling by allocating money based on arrest numbers and not requiring proper oversight? Are there reforms or safeguards that the DEA can suggest to these programs to remove these incentives?

#### **Global Commission on Drug Policy**

- While the recent news about drug policy reform in Latin America has focused on the entrance of sitting presidents into the debate, this conversation builds on a foundation set by other drug reform advocates, including a number of former presidents. For example, former presidents Zedillo (Mexico), Cardoso (Brazil) and Gaviria (Colombia), served on the Latin American Commission on Drugs and Democracy, which recommended that reform be seriously considered. This led to the Global Commission on Drug Policy, which increased the list of leaders advocating reform with figures like former UN Secretary General Kofi Annan, former US Federal Reserve Chairman Paul Volcker, and former Republican Secretary of Treasury and State George Shultz. The Global Commission on Drug Policy recommended that policymakers “[e]nd the criminalization, marginalization and stigmatization of people who use drugs but do no harm to others,” and “[e]ncourage the experimentation by governments with models of legal regulation of drugs to undermine the power of organized crime and safeguard the health and security of their citizens.” “This recommendation,” they say, “applies especially to cannabis,” more commonly known as marijuana. What is your reaction to the Commission’s recommendations?

#### **Honduras**

- Honduras is a country with serious problems with regard to human rights, rule of law, and democratic legitimacy in the wake of the coup against the elected president in June of 2009. The most recent State Department human rights report on Honduras noted that “Impunity persisted for human rights violations by the military and police, including those committed during the 2009 coup d’état. Human rights defenders continued to be subjected to intimidation.” The Executive Summary for the

**Congressman Steve Cohen**  
**Questions for the Record for**  
**Drug Enforcement Agency Administrator Michele Leonhart**  
**June 28, 2012**

**Medical Marijuana**

Administrator Leonhart, I have been very concerned about the high-profile raids your Agency has conducted against medical marijuana dispensaries that are operating legally under state law.

Attorney General Holder recently appeared before the Judiciary Committee and he stated that the Justice Department limits its “enforcement efforts to those individuals [or] organizations that are acting out of conformity with State laws, or, in the case of instances in Colorado, where distribution centers were placed within close proximity to schools.”

1. Can you confirm that the DEA has not taken action against any individuals or businesses that are acting in full compliance with their state laws?
2. I understand there was a raid recently of the El Camino Wellness Center in Sacramento. According to press reports, this was one of the most prominent dispensaries with a reputation for transparency and operating in full compliance with state guidelines. What state laws were they violating?
3. How is the determination made to target a particular dispensary? Who conducts an analysis into whether they are complying with state laws? What other criteria do you use? Can we get a copy of those reports?
4. Your Agency issued a document called *The DEA Position on Marijuana*. On page 6, this document tries to illustrate “the fallacy of marijuana for medicinal use” with a story about a teenager who had a bad reaction to the drug Ecstasy and whose friends attempted to cure her with marijuana because they had heard it could be used to treat cancer. Isn't this just the story of a few dumb teenagers? I'm sure they heard that Lipitor treats heart patients. If they had convinced their friend to take a few pills of Lipitor, would you be arguing for its prohibition? Why should thousands of patients who could benefit from smoking marijuana be denied just because a few dumb teenagers are misinformed?
5. This same document goes to great length to argue that while there may be some medical benefits in THC, smoked marijuana is particularly dangerous and should continue to be prohibited. Is this because of its effects on the lungs? If so, isn't it less harmful than smoking tobacco because it does not contain the harmful additives that cigarettes contain? If we are concerned about the harmful effects of smoking, why don't we

prohibit tobacco, which is responsible for the deaths of hundreds of thousands of people every year?

6. Please provide a list of any people you know of who have died in the last five years directly as a result of smoking marijuana. I am not referring to people who died and were found to have had marijuana in their system. I am asking about people whose deaths were directly caused by having smoked marijuana.

### **Prescription Drug Disposal**

I understand that in order to prevent diversion of pharmaceutical controlled substances in the health care setting, the DEA requires that unused or partially administered controlled substances be “wasted” in front of a witness so that they are rendered “unusable and unrecoverable”. You also require documentation of this process to insure tracking and compliance. In practice, and as a matter of convenience, I understand that this leads to healthcare practitioners flushing these substances down the toilet or other drains. These substances wind up in the wastewater systems of the local municipalities, who may not have effective treatment technologies.

Due to recent studies showing that wasted pharmaceuticals are appearing in our waterways, many state and local agencies and local wastewater municipalities have prohibited the flushing of these materials. Because of this conflict between the mandates of local governments and the DEA, I understand that many health care facilities have resorted to wasting these unused drugs into other containers such as red sharps bins (which are supposed to be used for medical waste other than controlled substances) or even trash bins, neither of which are appropriate for the disposal of controlled substances and are not secure disposal methods.

The conflict between Federal and local laws and a lack of clarity about what to do has, as I understand it, resulted in creating a situation which lends itself to greater risk for drug diversion. I am confident that the DEA wants to prevent such situations, given that you have testified that your top priority is preventing the diversion of controlled substances.

1. Has this issue come to your attention?
  2. If so, what is the DEA doing to address it and to provide guidance and clarity to health care facilities?
  3. Are there new technologies available which can provide for the proper disposal of controlled substances without flushing them down the drain and into the municipal wastewater system?
  4. Would officials at the DEA be willing to meet with my constituents and other affected parties who have taken the time to outline this problem to me?
-

**Congresswoman Judy Chu  
Oversight Hearing on the DEA  
Questions for the Record**

1. **Question:** What factors does the DEA take into account when determining which pharmacies are receiving excessive orders of controlled substances?
2. **Question:** Does the DEA have guidelines for wholesalers and/or pharmacies regarding what constitutes excessive orders? Does the DEA use metrics such as dosage units per month?
3. **Question:** When determining which pharmacies to target, does the DEA take into account mail order pharmacies? Mail order pharmacies dispense large quantities of controlled substances to patients they do not have a personal relationship with nor do they have a relationship with the prescribers whose prescriptions they fill.
4. **Question:** There are examples of independent community pharmacies being targeted by wholesalers/DEA for no transparent or stated reason, oftentimes resulting in all controlled substance orders being completely halted. This is causing hardships for independents who are primarily located in and serve more rural populations. Is the DEA targeting independent community pharmacies to a higher degree than chain pharmacies? There is a perception that independents are being targeted for reasons beyond their control such as a lack of ability to self ware house, perceived less stringent internal controls, and/or decreased legal capabilities, among others.





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**Statement for the Record Submitted by the National Community Pharmacists Association**

**To the Subcommittee on Crime, Terrorism, and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives**

**For a Hearing on  
"Oversight of the Drug Enforcement Administration"**

**June 20, 2012**

Chairman Sensenbrenner, Ranking Member Scott, and Members of the Subcommittee, the National Community Pharmacists Association (NCPA) appreciates the opportunity to provide the community pharmacy perspectives regarding oversight of the Drug Enforcement Administration (DEA).

NCPA would like to specifically comment on issues relating to the dangers of prescription drug diversion and disposal of controlled substances. NCPA represents America's community pharmacists, including the owners of more than 23,000 community pharmacies, pharmacy franchises and chains. Together, they employ over 300,000 individuals including 62,400 pharmacists, and dispense nearly half of the nation's retail prescription medications.

**Importance of Access to Effective Pain Treatments for Appropriate Patients**

Community pharmacists recognize the importance of addressing the serious problem of prescription drug diversion and abuse. According to the Drug Enforcement Administration (DEA), more than 6 million Americans are currently abusing prescription drugs, which is more than the number of Americans abusing cocaine, heroin, hallucinogens and inhalants combined.

NCPA encourages community pharmacists to commit themselves to supporting national and local efforts to prevent the abuse of both prescription and non-prescription drugs, at the same time recognizing that access to effective pain treatments for people who need them should not be diminished.

According to statistics from the Centers for Disease Control and Prevention, pain is a serious and costly public health issue, impacting 76.5 million Americans. Community pharmacists play an integral role in assuring that these patients have timely access to controlled substances and in the process provide vital counseling to ensure that these medications are not misused, abused or diverted.

The fact that nearly 70 percent of prescription drug abusers obtain unused prescription drugs from the family medicine cabinet or friends, should serve as a vital reminder that efforts to curb abuse and diversion must be focused in part on proper disposal of these products.

THE VOICE OF THE COMMUNITY PHARMACIST

100 Daingerfield Road  
Alexandria, VA 22314-2888  
(703) 683-8200 PHONE  
(703) 683-5619 FAX

NCPA eagerly awaits regulations from the DEA that will pave the pathway for increased opportunities for patients to dispose of unused controlled substances. Many of our pharmacies serve as drop off points for patients for unused or unwanted medications – however, we cannot by law take back controlled substances.

#### **Role of the Community Pharmacist and Prescribers in Efforts to Prevent Drug Diversion**

Community pharmacists hold in high regard their corresponding responsibility, per the Controlled Substances Act, to exercise sound professional judgment when making a determination about the legitimacy of a controlled substance prescription. We are proud of the fact that most independent community pharmacies have strong, long-lasting, face-to-face, personal relationships with their patients. This in fact serves as a deterrent to abuse because we know our patients, making it easier for us to detect a doctor shopper just looking for more controlled substances.

Accordingly, we support efforts to educate pharmacists regarding how to effectively fulfill their role in decreasing prescription drug misuse, abuse and diversion. At the same time, we support a more systems-based approach to controlling abuse and diversion. Everyone needs to be involved: patient, pharmacist, pharmacy benefit manager (PBM), wholesaler, manufacturer, and prescriber.

For example, there are proposals that would require prescribers to obtain additional education or certification on understanding addiction to and abuse of controlled substances and their appropriate and safe use by tying such education to the prescribers DEA registration number. NCPA supports such proposals. In addition, we think that fewer large quantities of pain medications should be prescribed and dispensed in the first place. Patients should be encouraged to take advantage of periodic programs that allow them to return controlled substances to law enforcement.

We support efforts to decrease prescription drug misuse, abuse and diversion including appropriately structured FDA Risk Evaluation and Mitigation Strategies (REMS), prescription drug monitoring programs (PDMPs), and electronic prescribing, which can help to alleviate some of the problems with drug diversion once systems are in compliance with DEA requirements.

#### **Proper PBM Edits Needed to Assist with Prevention of Diversion and Abuse**

In addition to efforts to better educate prescribers, pharmacy benefit managers (PBMs) should be more accountable for monitoring patient use of controlled substances and preventing drug diversion. Even though many prescriptions that may be associated with efforts to divert are paid for in cash, there are many that go through the third party insurance adjudication process. From the time the prescriber chooses a medication to the time that it is dispensed, PBMs should provide more information to health care professionals that can help us make better decisions, such as providing the complete patient medication profile, and when or where other prescriptions for these products have been filled. There might even be a way to connect PBM systems into PDMP systems to allow such information to be available to the prescriber and the pharmacist in real time.

PBMs should also be held accountable for the fact that they dispense large quantities of controlled substances through the mail. Oftentimes, certain medications that are prescribed will not work for a patient, the patient only needs a few doses or the patient expires, which can mean these large quantities

can go to waste. Having these large quantities of controlled substances sitting around patients' homes does not serve the public interest.

In fact, a recent report from the U.S. Government Accountability Office found evidence of significant "doctor shopping" in Medicare Part D, with 170,000 beneficiaries receiving prescription drugs prescribed by five or more medical practitioners for frequently abused classes of drugs. PBMs, through their claim processing role, are potentially in a better position to detect and prevent doctor shopping through claim level edits.

NCPA members are very aware of controls currently in place to address overutilization of drug therapies, as pharmacists address a multitude of these edits in their daily practice. Regarding these claim-level edits, NCPA encourages efforts to ensure that existing PBM edits in place are improved. For example, refill-too-soon edit logic should be expanded consistently by all PBMs to include review of claims for multiple prescribers and pharmacies, as this will give the pharmacist a better picture of where patients may be filling other prescriptions.

In sum, PBM's should provide more robust information to both pharmacists as well as prescribers, which is made more possible with the expanded use of electronic prescribing, but should not be the deciding factor in whether a prescription is ultimately dispensed or not.

#### **The Unintended Patient Care Consequences of DEA's Increased Efforts to Block Diversion of Prescription Drugs**

The DEA states that their increased efforts to block the diversion of prescription drugs to the black market by using many of the techniques it employs to combat illegal drug use have resulted in a substantial dismantling of "pill mills". NCPA appreciates these efforts as we believe that inappropriate and oftentimes blatant illegal prescribing is a primary culprit of the overall problem. However, NCPA has serious concerns with the fact that the DEA is now using the same tactics to prosecute the legitimate pharmaceutical supply chain, including increased inspections and fines against drug wholesalers, which ultimately leads to severe consequences for independent community pharmacies. These consequences include wholesalers cutting off all controlled substance supplies to certain legitimate independent pharmacies, with prescription orders of controlled substances going unfilled. Many independent pharmacies cannot obtain medications for their patients, and are fearful and reluctant to service legitimate patients in pain.

The wholesalers are being targeted for failure to detect "suspicious" order volume from several pharmacy customers. For example, over the past five years, Cardinal has publicly stated they have cut supplies of controlled substances to more than 375 customers nationwide, including 180 pharmacies in Florida. Every one of these customers is an independent pharmacy and nearly 70 percent still have active DEA registration numbers. NCPA contends the fact that so many of these pharmacies still have their registrations means that more clarity is needed from the DEA as to what constitutes excessive orders.

Independent pharmacies that have had controlled substance orders halted by their wholesaler have relayed to NCPA that there is no consistent reasoning behind what constitutes excessive orders. Some wholesalers refer to reasons such as dosage units per month, specific spikes in volume, and dollar amount of orders.

These wholesaler actions have put many independent pharmacies in the untenable position of having to find a back-up wholesaler quickly, oftentimes while having to legally challenge their wholesaler decision to halt controlled substance deliveries. Unfortunately this is causing hardships for independent pharmacies that are primarily located in and serve more rural populations. There is a perception that independents are being targeted for reasons beyond their control such as a lack of ability to self-warehouse, perceived less stringent internal controls, and/or decreased legal capabilities, among others. The DEA must recognize that their actions on wholesalers are having detrimental impacts on legitimate small-business independent community pharmacy owners who are practicing pharmacy to the full extent authorized under the law.

Lastly, NCPA questions if the DEA and/or wholesalers take into account mail order pharmacies when determining which pharmacies to target to combat prescription drug abuse? Mail order pharmacies dispense large quantities of controlled substances to patients they do not have a personal relationship with nor do they have a relationship with the prescribers whose prescriptions they fill. Many of our pharmacies report that the majority of controlled substances that patients seek to return to pharmacies (which we cannot take back) are from mail order outlets that shipped excessive controlled substances to patients that did not need them simply because they were on 'automatic' shipment.

#### **In conclusion**

NCPA is committed to working with Members of Congress, the DEA, and state and local law enforcement officials to combat the inappropriate use and diversion of prescription drugs and is committed to working towards sensible solutions. We need a system-wide approach to address this issue. Thank you for the opportunity for us to share the viewpoints of independent community pharmacy.

