

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Sixteenth Congress

June 5, 2020

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Timothy J. Shea
Acting Administrator
U.S. Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Dear Attorney General Barr and Acting Administrator Shea:

We are deeply concerned with reports that on May 31, 2020, Deputy Attorney General Jeffrey A. Rosen signed a request by Acting U.S. Drug Enforcement Administration (DEA) Administrator Timothy J. Shea to temporarily expand the law enforcement authority to DEA employees and agents to extend beyond enforcement of Title 21.¹ While there have been instances of unrest, the overwhelmingly peaceful nature of the protests that have taken place around the country do not warrant this expansion of DEA authority, even if it is temporary in nature, especially given the Agency's past record.

The DEA's narcotics interdiction tactics are not appropriate measures to address the limited violence that has taken place over the past few days or to monitor peaceful protests. The DEA's rigid refusal to consider, let alone adopt, even minor reform of the way it carries out business portends a further unnecessary escalation of this week's protests. In the past five years alone, the DEA has suffered from a mounting crisis that includes corruption and firearms offenses.² This is hardly a record that commands confidence that the DEA will appropriately and constitutionally implement its expanded authority, particularly when First Amendment rights are at stake.

Furthermore, the DEA has a history and practice of disproportionately targeting people of color. A 2009 evaluation by the Department of Justice's Bureau of Justice Statistics found that Latino suspects constituted 46% of arrestees although they make up only 16 percent of the general U.S.

¹ Jason Leopold & Anthony Carter, *The DEA Has Been Given Permission to Investigate People Protesting George Floyd's Death*, BuzzFeed, June 2, 2020.

² Assoc. Press, *Very Unprepared: DEA Shakeup Followed Mounting Criticism*, May 21, 2020.

population.³ Of the total arrests of male suspects by the DEA, 25% were marijuana related.⁴ This Administration's counterproductive focus on non-violent drug offenses is a plain reminder that the DEA is out of touch with the Nation's shift from the drug war model to policies of substance abuse treatment, rescheduling drugs, legalizing marijuana, and reducing harsh drug sentences. To the extent the DEA mirrors the views of this Administration, it is out of sync with more evidence-based drug policy trends in the country. Wider deployment of the DEA may only continue the disproportionate arrest trends that, in part, motivate the expressions of outrage that we are witnessing.

The expansion of the DEA's law enforcement authority, including the use of "covert surveillance" and collection of intelligence, is unwarranted and antithetical to the American people's right to peacefully assemble and to exercise their Constitutional rights without undue intrusion. The House Judiciary Committee has a duty to ensure that the administration of justice in our country is fair and that individuals can freely exercise their constitutionally protected rights. For these reasons, we ask that you immediately rescind the expanded authorities Mr. Rosen has granted to the DEA. We also ask that you provide us a briefing detailing the timeline and rationale for the expansion of authority. Please reach out to committee staff to schedule the briefing by no later than June 11, 2020.

Sincerely,



Jerrold Nadler
Chairman



Karen Bass
Chair, Subcommittee on Crime,
Terrorism, and Homeland Security

cc: The Honorable Jim Jordan, Ranking Member, House Committee on the Judiciary

³ Mark Motivans, *Federal Justice Statistics, 2009*, U.S. Dep't of Justice Bureau of Justice Stats., Dec. 2011, <https://www.bjs.gov/content/pub/pdf/fjs09.pdf>; Sharon Ennis, et al., 2010 Census Briefs: The Hispanic Population: 2010, U.S. Dep't of Commerce, May 2011, <https://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf>.

⁴ Motivans, *Federal Justice Statistics, 2009*.