

Congress of the United States

Washington, DC 20515

June 8, 2020

William Barr
Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Attorney General Barr,

We are concerned that the Drug Enforcement Administration (DEA) has recently received temporary approval for an expansion of their scope of enforcement priorities far beyond their designations under Title 21 pertaining to the Controlled Substance Act. We urge you to rescind this temporary authorization permitting the DEA to conduct covert surveillance on protesters, share intelligence with federal, state, local, and tribal counterparts, intervene as Federal law enforcement officers for non-drug related activity, and make arrests of protesters.

In a memo requesting this vast expansion, Acting DEA Administrator Timothy Shea wrote: “In order for DEA to assist to the maximum extent possible in the federal law enforcement response to protests which devolve into violations of federal law, DEA requests that it be designated to enforce **any federal crime** committed as a result of protests over the death of George Floyd.” [emphasis added]

It is our belief that this expansion of powers is inconsistent with the intents and purposes of the accessible temporary emergency powers that the agency was granted under [21 U.S.C. § 878\(a\)\(5\)](#).

Currently, tens-of-thousands, if not hundreds-of-thousands of Americans in all 50 states are exercising their rights granted under the First Amendment of the United States Constitution. At a minimum, it is inappropriate that the vast surveillance equipment the DEA has procured be utilized to discourage, monitor, and suppress those rights.

It is our concern that the use of these surveillance technologies and the tactical support of the DEA will at a minimum, further inflame the ongoing civil unrest and possibly lead to further infringements of Americans’ protected First Amendment rights by violating their Fourth Amendment rights.

Furthermore, this action makes it abundantly clear that Congress must reevaluate the policies of which the DEA is intended to enforce and the technologies that it has obtained to do so.

For example, under the Controlled Substances Act, the mere first offense related to possession of any amount of cannabis can result in a year of incarceration and a fine of \$1,000. This is

despite the fact that 25% of American citizens live in a jurisdiction that has legalized its adult-use and 33 states have implemented medical marijuana marketplaces. The conflict between these laws creates circumstances in which DEA may perform vast arrest sweeps for an activity that is legal under state law where protest activity is taking place. While marijuana use is illegal under federal law, there is no rational connection between violations of marijuana law and endangering the public through protest activity. Moreover, it is not lost on us that the enforcement of federal marijuana laws is rooted in racial discrimination. The Nixon Administration also used drug enforcement as a mechanism to criminalize and suppress the civil rights movement quell civil unrest including protests in favor of civil rights. The DOJ must not make the same mistake as Americans take to the streets demanding justice for Black communities and an end to unconstitutional policing.

Additionally, the scope of the memo is incredibly broad. The memo purports to limit the DEA's role to conduct related to protests over the death of George Floyd; however, there is nothing to prevent the DEA from making arrests for conduct not related to protest activity if they suspect "any violation of federal law." It should go without saying that 21 USC § 878(a)(5) was not passed by Congress to create an end-run around the Fourth Amendment for people expressing their First Amendment right to free speech and assembly. And yet, that is precisely what this memo does. Notably, the DOJ did not seek such broad surveillance power to investigate the protest activities of armed groups of mostly white protestors storming several state capitols earlier this year.

Furthermore, we caution against expanding the powers of the DEA. The DEA has a history of poor coordination with local enforcement and endangering the public in pursuit of violations of federal law. For example, the April 2, 2012, bungled raids upon businesses operating in compliance with California law in Oakland prevented local law enforcement from responding swiftly to the Oikos University shooting.

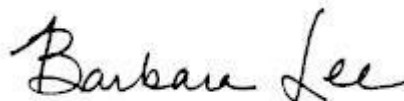
Now is a time that we reevaluate the policies, procedures, and limiting the scope of the mandate that Congress has assigned to the DEA. Instead, this memo gives the DEA a free pass to run roughshod over the fundamental protections of the Bill of Rights.

We strongly denounce these actions and urge you to rescind the temporary authorization permitting the DEA to conduct covert surveillance on protesters.

Respectfully,



Earl Blumenauer
Member of Congress



Barbara Lee
Member of Congress

cc: Timothy Shea, Acting Administrator of Drug Enforcement Administration