

April 4, 2017

The Honorable Trey Gowdy, Chair
The Honorable Sheila Jackson Lee, Ranking Member
House Committee on the Judiciary
Subcommittee on Crime, Terrorism, Homeland Security, and Investigations
2138 Rayburn House Office Building
Washington, DC 20515

RE: Hearing on “Oversight of the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms, and Explosives”

Dear Chairman Gowdy and Ranking Member Jackson Lee:

We write to you regarding the hearing “Oversight of the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.”¹ The DEA has a troubling history on civil liberties issues and has failed to comply with privacy laws passed by Congress.

In 2014, EPIC sued the DEA for information about the agency’s use of “Hemisphere.”² The Hemisphere program is a massive telephone record collection database maintained by AT&T for use by law enforcement.³ Four billion call records are added to the Hemisphere database daily, and some of the records date back to 1987. The DEA and other law enforcement agencies do not obtain a warrant before gaining access to the call detail records in the Hemisphere database, but only need a subpoena.⁴ EPIC’s Freedom of Information Act case against the DEA is still pending before the D.C. District Court.

¹ *Oversight of the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 115th Cong. (2017), H. Comm. the Judiciary, <https://judiciary.house.gov/hearing/oversight-drug-enforcement-administration-bureau-alcohol-tobacco-firearms-explosives/> (April 4, 2017).

² *EPIC v. DEA*, 1:14-cv-00317 (D.D.C. filed Feb. 26, 2014); *EPIC Files FOIA Lawsuit for Information About Massive Telco Database “Hemisphere”*, EPIC, <https://epic.org/2014/02/epic-files-foia-lawsuit-for-in.html>; *EPIC v. DEA – Hemisphere*, EPIC, <https://epic.org/foia/dea/hemisphere/>.

³ Scott Shane and Colin Moynihan, *Drug Agents Use Vast Phone Trove, Eclipsing N.S.A.’s*, N.Y. Times (Sept. 1, 2013), <http://www.nytimes.com/2013/09/02/us/drug-agents-use-vast-phone-trove-eclipsing-nsas.html>.

⁴ *Id.*

More recently, EPIC prevailed in a Freedom of Information Act lawsuit against the DEA for the agency's privacy assessments required by the E-Government Act of 2002.⁵ EPIC's lawsuit revealed the DEA's failure to conduct privacy assessments for agency surveillance programs, including for the DEA's massive license plate reader database.⁶

The DEA's use of a massive call records database, containing records on American of American telephone customer, raises serious privacy and civil liberties issues, particularly for the First Amendment right of association. Additionally, the DEA's failure to conduct privacy assessments of the agency's surveillance programs is troubling and undermines public confidence in the federal agency. EPIC urges the Committee to ask the DEA how the agency is using the Hemisphere database and what privacy and civil liberties protections are in place. We also urge the Committee to ask about the DEA's commitment to perform privacy impact assessments for surveillance programs that collect personal information as required by the E-Government Act of 2002.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Subcommittee on these issues of vital importance to the American public.

Sincerely,

/s/ Marc Rotenberg
Marc Rotenberg
EPIC President

/s/ Caitriona Fitzgerald
Caitriona Fitzgerald
EPIC Policy Director

/s/ Jeramie Scott
Jeramie Scott
EPIC National Security Counsel

⁵ *EPIC FOIA Lawsuit Reveals Failure to Conduct Privacy Assessments for DEA Surveillance Programs*, EPIC, <https://epic.org/2016/11/epic-foia-lawsuit-reveals-fail.html>.

⁶ *EPIC v. DEA - Privacy Impact Assessments*, EPIC, <https://epic.org/foia/dea/pia/>.