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The Facts

Letter to Senator Shelby

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THE FACTS

January 21, 1997

Before getting to the merits of the underlying matter that took place in Burma, I would like to provide you with a brief introduction of me and my long time friend and client, Special Agent Richard Horn. Mr. Horn has a distinguished twenty-five year career in Federal drug law enforcement and has been the recipient of many awards and letters of commendation. While faithfully serving his country, he has undergone six domestic and foreign transfers. Please know that I am a former Assistant United States Attorney (AUSA) (almost seven years) and served as an Organized Crime Drug Enforcement Task Force Attorney for five and one-half years until 1986 when I resigned and went into private practice. As an AUSA, I accomplished many Federal convictions (many hundreds), one of which involved traffickers convicted of operating the largest P-2-P/methamphetamine laboratory ever seized -- 2600 pounds of drugs. The case also resulted in the forfeiture of over five million dollars in currency and other assets. The case agent on this investigation was DEA Special Agent Richard Horn, whom I now represent. From June 1992 to September 1993, Mr. Horn served as the DEA Country Attache to Burma, the largest opium producing country in the world. That is until he was improperly, unfairly and illegally removed by State Department Charge, Franklin "Pancho" HUDDLE.

THE official United States policy toward Burma during this time was that the Burmese were not cooperating with the American government on narcotic matters. The State Department Charge, Franklin "Pancho" HUDDLE, and Arthur M. BROWN, the CIA Chief of Station (COS), were determined to adhere to that policy to the point of mistating, contorting and misrepresenting facts to conform with the "policy." Together, they even sabotaged DEA's congressionally-mandated mission in an effort to "control" the facts. By doing so, they created a self fulfilling prophesy that the Burmese were not achieving any success in their anti drug efforts. To more effectively neutralize DEA's operations, Mr. Horn's living room was "wired up" so they could listen to the frequent liaison and enforcement meetings that took place there. This intrusion was also a desperate and decidedly unsuccessful effort to obtain "dirt" on Mr. Horn to justify his removal. Over the strenuous objections of DEA Headquarters, Mr. Horn was ultimately removed from Burma by Charge HUDDLE on a "trumped up" bureaucratic technicality. But before he left Burma, Mr. Horn happened to see a cable drafted by HUDDLE that contained an exact quote of Mr. Horn's side of a conversation that he had on the telephone in his living room just days before. The cable was complete with quotation marks, ellipsis and a chillingly accurate synopsis of additional conversation that took place during this telephone call.

When DEA and other agencies failed to resolve these matters in Mr. Horn's behalf, I filed a lawsuit in the U.S. District Court in the District of Columbia. The defendants are Franklin "Pancho" HUDDLE, Jr. and Arthur M. BROWN. Months later Mr. Horn learned from a friend in the intelligence community (now retired) who served with him in Burma, how the intercept was likely accomplished. Among other things, he was told where the transmitter and receiver were probably located along with the exact number of pieces of said equipment that were specifically designed for use against other American diplomats -- not foreigners. After a secret declaration by the CIA, this case has been resting quietly in the court for over two years with but one ruling -- to seal the record. The Department of Justice legal position as set forth in its court briefs is that DEA agents - indeed no American -- has a Fourth Amendment privilege from his own government while overseas.

It is important to know that Mr. Horn also called for an Inspector General investigation of the eavesdropping and sabotage of DEA's programs. A joint investigation was conducted by the CIA and the State Department under case # 94-104. My client and I are firmly convinced that to "protect the flanks" and "hide the secrets", senior managers of the CIA and State Department impeded, controlled and manipulated their own investigators. I filed allegations to that effect with the State Department, the CIA and the Senate Select Committee on Intelligence. All of these allegations are still undergoing review.

Even though the IG investigators were not allowed to conduct a full and impartial investigation, they did prove that HUDDLE lied to the investigators on numerous critical points. Most importantly, HUDDLE could not justify to the investigators, in any believable way, how he gained "legal" access to the information he quoted and summarized in his cable to DOS in Washington.

There are many matters still pending against HUDDLE and BROWN. Criminal charges could -- and indeed should -- be filed against HUDDLE and BROWN. Moreover, the civil case is still pending, the IG investigation lies unresolved and the Senate Select Committee has not completed its inquiry. In the face of all of this, the careers of HUDDLE and BROWN continue to prosper. After a brief tour in Washington, HUDDLE was sent to Bombay, India as the Consul General and there is now a strong movement within the "Black Dragon Society" to make him an Ambassador to a small Asian or African nation. BROWN also came back to the United States briefly where he was quickly exonerated by the CIA and promoted to a larger and more strategic embassy, closer to Japan where he really wants to be.

When, I ask you, will measures be taken to ensure that DEA can perform its noble Mission without being sabotaged by the State Department and the CIA?

When, I ask you, does the accountability process begin for criminal conduct and other bad acts perpetrated by State Department and CIA employees?

Is it really true, as it appears to be so far, that the commission of felony violations and other egregious conduct by employees of the State Department and the CIA are actually considered career-enhancing within their respective agencies?

DETAILS

Now to Agent Horn's saga: In Mr. Horn's case and by merit of being a DEA Agent, he has no grievance rights, no appeal rights, and no rights to due process when serving overseas -- a fact we later learned. In what I perceive to be a prime example of arbitrary and capricious conduct, Mr. Horn was merely told by DOS to go home -- case closed. In contrast, State Department employees have a well defined procedure that protects their rights and allows them to challenge and litigate virtually any action taken against them.

It is important to note that throughout his ordeal, Mr. Horn was vigorously defended by his immediate supervisors Michael Campbell, and Mr. Matthew Maher, the Chief of DEA International Operations.

The centerpiece of the problems that befell Mr. Horn concerns national policy -- and U.S. Government lawlessness to preserve it. As you know, the United States is sharply critical of Burma's human rights record. Notwithstanding this fact, Burma has made substantial progress in its anti-drug programs when Mr. Horn was in Burma, as set forth below. And herein lies the problem: The Department of State simply did not tell United States Congress and the public the real truth about Burma's efforts and successes. Of importance, Burma is the largest opium producing country in the world -- an item not lost on some investigative mainstream media network hounds who are hot on the trail but looking for "documentation".

For example, please examine the following list of GOB (Government of Burma) actions on behalf of their anti-narcotic program while Mr. Horn was in Burma:

1. The GOB inspired greater performance from drug task force operations located throughout the country. According to official GOB statistics for 1992, seizures of heroin rose by almost 50% while opium seizures jumped by more than 35% over the previous year's totals.
2. The GOB's 1992 seizure statistics for heroin were nearly the same as those reported for Thailand. It is important to recognize that there is a substantial difference in personnel resources (little to Burma, much to Thailand) and financial aid (none to Burma, much to Thailand) given to the two respective countries.
3. The GOB has steadily increased the number of drug task forces in the Country from five in 1988 to sixteen in 1993 with one additional task force in its formative stage.
4. In response to a DEA request, the GOB agreed to and completed an opium yield study based upon samples taken from representative areas of the country. This is the first study of its kind in Burma.
5. In January of 1993 the GOB enacted new drug laws that bring their statutes much closer to conformance to the major international treaties to which they are signatory. The new statutes close several gaps in its previous laws with respect to corruption, asset seizure and conspiracy. Moreover, the new law allows for the death penalty to be imposed upon drug violators under certain circumstances.
6. In a cooperative investigation with DEA, the GOB arrested traffickers on a "no dope" conspiracy under its new statute. It is important to recognize that this is a major accomplishment and that many countries far more developed than Burma lack the will to arrest traffickers under these circumstances.
7. The GOB fully responded to a long backlog of DEA requests for investigative assistance, e.g., telephone subscriber requests, background information and other investigative inquiry. In some instances the GOB provided more information than was actually requested in the first place.
8. The GOB signed drug agreements with Thailand and UNDCP and also with China and UNDCP regarding crop substitution, demand reduction, and law enforcement.
9. The GOB signed a drug agreement with India, and a drug agreement with LAOS is in the works.
10. The Burmese have sought help from the Thai experience in the implementation of crop substitution programs.

Nearly all of the points above were given in letter form to a CODEL and STAFFDEI when Mr. Horn served in Burma. Mr. Horn prepared these letters at the request of the U.S. government officials and then only after consulting with ranking Department of State figures at the American Embassy in Rangoon. In fact in one instance, the acting Charge, Donald Jamison, actually added substance to Mr. Horn's initial draft. Several months later these letters were used to contrast the International Narcotics Strategy Report (the official Department of State position regarding Burma) with the DEA's perception. The inconsistency is very apparent. The Department of State's concern over this inconsistency and related issues is well documented in its own cable traffic. As a consequence of Mr. Horn's letters, he was sharply criticized by the Department of State for having written them. Of particular significance is the fact that no one, including Charge "Pancho" HUDDLE, ever challenged the facts contained in the two letters prepared by Mr. Horn. The issue was simply that the letters clashed violently with the official policy regarding Burma.

Incredibly enough, Charge "Pancho" HUDDLE intended to prepare the International Narcotics Strategy Report concerning Burma, the leading opium producing country in the world, without any DEA input whatsoever -- somewhat like the State Department interpreting Department of Justice crime statistics. The reason, Mr. Horn later concluded, was because the Department of State simply did not want to accurately report the facts concerning Burma's efforts to attack the drug trade. Although Mr. Horn was finally able to play a role in the document's preparation, he was not able to make it entirely credible because of HUDDLE's word-smithing. Mr. Horn pressed the Charge at the American Embassy in Rangoon to include facts, statistics and other points that would create a more balanced document. Exasperated by Mr. Horn's efforts to advance the truth, Charge "Pancho" HUDDLE, once exclaimed, "You've got to understand, this document is driven by policy, not by facts!". During yet another conversation between Mr. Horn and "Pancho" HUDDLE, the latter stated he would not jeopardize his State Department career to merely advance the cause of truthful reporting about the drug situation in Burma. Mr. Horn has cable numbers and diary entries as supporting documents.

Charge "Pancho" HUDDLE, whose own efforts to instill integrity into the INCSR were well restrained, still managed to express displeasure over the final State Department's version. Mr. HUDDLE claimed that it ignored both facts and important editorial points he had earlier brought to their attention. He stated that the State Department produced an International Narcotics Strategy Report that was slanted more by our poor bilateral relationship with the S.LORC than by our assessment of the narcotics situation. In writing, Charge HUDDLE also took exception to the State Department having characterized Burmese narcotic law enforcement efforts as "minimal", as set forth in the previous year's INCSR. Charge HUDDLE openly doubted that similar efforts by a country with a better human rights record and bilateral relationship with the U.S. would still be called "minimal".

In March/April 1993 the USG had what ranking DEA managers considered a unique and pivotal opportunity to advance drug law enforcement in Burma. After the Burmese enacted their new drug laws in January, 1993, high level Burmese officials indicated to Mr. Horn that they needed assistance creating implementation manuals for the prosecutors and police. In effect, the USG would have been able to put its "fingerprints" all over the criminal justice system of a major opium and heroin source country. It should be recognized that it is the laws and the implementation of the same that are at the core and serve as the foundation of both democracy and human rights issues. For literally months, Charge HUDDLE refused to consider even asking the State Department for the assistance from U.S. legal experts. After Mr. Horn finally convinced him to at least make the request, Charge HUDDLE received a "stinging" reply that removed all prospects of giving them the needed training. This training was never given to the Burmese.

In stark contrast, Mr. HUDDLE allowed the CIA to send Burmese military officers to Langley, Virginia for training put on by the CIA. HUDDLE made this decision unilaterally without ever consulting the State Department in Washington. In other words, when DEA wanted to offer training to the Burmese on drug law enforcement, HUDDLE sought a DOS blessing, but when the CIA wanted to provide training to the Burmese military, HUDDLE granted permission on his own without even consulting DOS. Somehow the importance of upgrading drug law enforcement in a major heroin source country has been lost.

Similar to other DEA offices worldwide, DEA Rangoon found that the CIA often lacked the will to work with them in cooperation and harmony. In Burma, the CIA mounted two massive campaigns to undermine DEA in order to advance its own interests and agenda. The facts concerning the first incident are that the CIA Chief of Station, Arthur M. BROWN (an openly declared CIA employee), approached DEA regarding the prospects of completing the first ever opium yield study in Burma. BROWN confided to Mr. Horn that the CIA did not enjoy a good relationship with the government of Burma. BROWN noted that DEA had developed the best working relationship with the GOB of any U.S. element. BROWN then suggested that the CIA and DEA together might be able to cause the opium yield study to be completed. BROWN offered to secretly fund the opium yield study if DEA could generate GOB interest. BROWN gave his word that his agency would never "jump out of the closet and assume credit" and thereby make DEA a "front" for the CIA. When queried, BROWN stated his agency was altruistic and that he (BROWN) would personally receive credit for accomplishing this study even though the GOB did not know it was CIA funded. Although DEA had historically pressed the GOB to conduct this study, DEA was never able to offer government funds to offset the expense involved and so this offer of secret CIA funding was most provocative.

With a blessing from his headquarters, Mr. Horn and his agents were ultimately able to convince the GOB Officials to conduct the survey "using DEA financial support". Shortly thereafter, in early December, after Mr. Horn's temporary departure to attend a DEA school, Arthur BROWN, went to DEA's primary liaison contacts, told them the opium yield study was funded by the CIA and then proceeded to commandeer the entire project. In one swift, underhanded maneuver, the CIA advanced their own cause at the expense of DEA's relationship with the GOB.

Mr. BROWN's actions were egregious from yet another perspective. When BROWN first came to post, he quickly learned that his liaison contact in the foreign government was dwarfed in power and influence by DEA's liaison contact. He asked Mr. Horn to introduce him to DEA's liaison contacts, but after consulting with his headquarters, Mr. Horn declined. It was, after all, the officials from the Government of Burma who selected the liaison contacts, not Arthur BROWN. So BROWN accomplished this objective too -- also at DEA's expense.

In response to a high level complaint by DEA, a ranking CIA manager later admitted CIA culpability and apologized to DEA's head of International Operations, Matthew Maher, admitting that BROWN'S version of the facts lacked credibility. Nevertheless, the damage was long since done.

As to yet another anecdotal example of DOS and CIA attempt to sabotage another significantly valuable program: DEA and its agents recognized that law enforcement is but a partial answer to the drug problem. In that regard, Horn developed an opportunity to reduce the amount of opium cultivated in Burma that was far afield from a pure law enforcement activity. If successful, the overall effect would be a reduction in the heroin produced in Southeast Asia and a decline in the amount of heroin entering the United States from the Golden Triangle.

DEA Rangoon had a well placed contact living in the area of Burma where most of the opium was produced. Over several months, Horn and his agents convinced this group to upgrade their efforts to withdraw from the opium cultivation, modify their proposal to make it acceptable to the Central Government of Burma and UNDCP, and then move toward a crop substitution program. From DEA's perspective the goal was for DEA to serve as a mere facilitator for meetings between the leaders of the opium producers, ranking figures of the Central Government of Burma and a representative of UNDCP. Significantly, DEA had strong credibility with all three entities (while CIA and the State Department had none and little respectively). In response to Horn's plan, Charge HUDDLE and Chief of Station BROWN mounted a joint effort to sabotage his efforts. Charge HUDDLE and his second in command, Donald Jamison, erected near impossible impediments and preconditions and generally demonstrated disdain for the entire project.

HUDDLE demanded that a State Department representative be present at all informant debriefings of members of this group. This fact is corroborated in cable traffic in possession of both DEA and DOS. Further, HUDDLE insisted that DOS be present at any proposed meeting between the opium cultivators, the GOB and UNDCP. The problem here was that DOS was bent upon derailing the project and could add nothing to the meeting but a catalyst for argument and disagreement. DEA Headquarters objected to HUDDLE's order and never agreed to comply with it. (These are facts corroborated by memos and cable traffic that are still available for review at DEA and DOS.)

COS BROWN, on the other hand, assured Horn he was strongly supportive of the program, but behind Horn's back assisted HUDDLE in deriding the program and sent messages to his Washington headquarters that the project was unworthy of support or consideration. The local UNDCP rep and his headquarters were cautiously optimistic. They viewed it as a unique opportunity to begin a program to phase the opium producers out of narcotics. The government of Burma was suspicious of the plan but, in the end, was willing to give it a fair hearing. They viewed the proposal as an opportunity to finally gain access to an area of the country previously closed to them. It should be noted that the areas where the most opium is cultivated and the heroin produced are parts of the country not under the control of the Central Government of Burma. This has been the case for at least 50 years and would likely be the case regardless of who was running the government. In fact, these particular areas of the country have been seeking their independence from Burma since at least 1947.)

Meanwhile, DEA put its shoulder firmly behind the initiative. The Chief of DEA's International Operations, Matthew Maher, made numerous calls and contacts within the State Department and UNDCP to advance the program. Certainly Horn, Maher and all of DEA knew there were many problems to be overcome, but they wanted to give the proposal a chance to develop, particularly in the absence of any better ideas. DEA simply wanted the meetings to take place and for the initiative to rise or fall on its own merits, without negative interference from the State Department or the CIA. DEA believed the project would be self validating; it either worked or it didn't.

It is nearly impossible to isolate the reasons why DOS and the CIA sabotaged DEA's progress. There was probably a blend of reasons. First and foremost there was the matter of "policy". Neither DOS nor CIA wanted the government of Burma to accrue any credit for its anti-drug efforts. In point of fact, neither agency wanted to report anything positive about the country's anti-drug contributions. The "official policy" was that Burma was not cooperating on narcotic matters and its efforts were minimal. To now report that Burma, the single largest opium producing country in the world, had promoted a crop substitution program was inconceivable for that would be totally at odds with "policy." But more than that, if the project took hold, it would be an event that the "spin doctors" of DOS and CIA could not put into a bad light in their official reporting. Some facts just can not be twisted, contorted or shaped to fit policy. This was one of them.

As to the CIA, its Chief of Station in Rangoon (BROWN) was mercilessly ambitious. Newly appointed to COS of his first office, he did not want Horn or his agency to draw the spotlight or receive any accolades. COS BROWN was concerned with holding onto CIA positions at the American Embassy in Rangoon and decidedly did not want CIA contributions overshadowed by a DEA success of this magnitude. Not only did Horn's personal observations support this, but it was confirmed by another CIA employee and by two other members of the Rangoon Embassy intelligence community. It was within this context that COS BROWN shared what is called a "proprietary document", a DEA informant statement, with the government of Burma.

DEA's well placed contact from the largest opium producing area in Burma, provided DEA with a proposal to withdraw from opium production. The document was even signed by DEA's informant. It represented the opium producers', initial position regarding withdrawal from opium cultivation. If released, its contents would be highly inflammatory to the Central Government of Burma.

Over several months Horn and other DEA agents caused the opium producers to amend their proposal so that it would be acceptable to the deciding bodies, i.e., the GOB and UNDCP. It is relevant to note that DEA, the CIA, DOS, and not even the United States of America, were "Deciding Bodies".

It was well known to COS BROWN that this document was signed by a DEA informant and that its contents would generate the ire of the Central Government of Burma and was an obsolete proposal, because COS BROWN knew that the position of the opium producers had changed considerably since the drafting of this initial paper with said changes to be much more palatable to the GOB. Nevertheless, COS BROWN chose to deliver a signed copy of this document (which he surreptitiously obtained without Horn's permission or knowledge) to a ranking figure of the Central Government of Burma knowing full well the outcome could be disastrous. It held the overall potential of causing the death of the informant, depreciating DEA's credibility with the GOB and derailing the entire project -- all at once. These actions also constitute a violation of 18 U.S.C. 372 and various Executive Orders.

It seemed a near miracle that BROWN'S plan failed. Horn and his agents still managed (after much work) to convince the Central Government of Burma not to arrest DEA's informant and to give the crop substitution program a chance to succeed.

Notwithstanding HUDDLE and BROWN'S best efforts to scuttle the project, it has become a reality. A crop substitution program did begin in the largest opium producing country in the world. What is really incredible, is that it was accomplished in the face of constant criticism, skepticism and sabotage from representatives of the same country that had the very most to gain from a reduction in opium cultivation and heroin manufacture.

In the face of the facts concerning these two incidents between DEA and the CIA, Charge "Pancho" HUDDLE steadfastly sided with the CIA. In this regard, it should be known that Charge HUDDLE had courted the CIA with respect to securing employment with that agency. In happier times, the CIA Chief of Station confided this fact to Mr. Horn early on in their relationship before the CIA Chief of Station began to undermine DEA's programs. The CIA Chief of Station revealed to Mr. Horn that he intended to use this overture by Charge HUDDLE as an enticement to "control" him and ensure strong support for CIA programs. BROWN'S tactic worked as planned.

But the marriage between HUDDLE and BROWN was not always a happy one. At one point BROWN became so angry at HUDDLE he no longer allowed him full access to sensitive intelligence (SCI). According to BROWN and his colleagues, HUDDLE did not know that he was considered a security risk and had been denied access to certain intelligence. BROWN boasted that since HUDDLE did not know his access had been denied, he could not challenge the decision. BROWN claimed that CIA headquarters concurred with his decision to discreetly withhold the intelligence from HUDDLE.

Turning to another matter, the Department of State dispensed to Mr. Horn and the DEA a full measure of duplicity in July of 1993. In that month, the American Embassy Rangoon, the American Embassy Bangkok, the American Consul Chang Mai and the Department of State in Washington came to an important agreement concerning a DEA initiative. Then unbeknownst to DEA, these elements agreed that DEA could meet with a WA "message carrier" (the WA is a major group of opium cultivators and heroin manufacturers), who was identified in the cables specifically by name, without the presence of a State Department Representative. DEA Headquarters gleaned copies of the State Department cables that memorialize this agreement.

Subsequently and on the first day of his return to post from R&R; without ever conferring with Mr. Horn, Charge "Pancho" HUDDLE asked the State Department to PNG Mr. Horn from Burma for attempting to meet the very same person that internally, the State Department elements had already given authority for DEA to meet without State presence. Equally important, Mr. Matthew Maher, Chief of DEA's International Operations, convinced the meeting was not a breach of any DOS mandate, had advised Mr. Horn to go ahead and meet the "message carrier" without State presence. Mr. Horn was merely carrying out orders given not by his supervisor, but by his supervisor's, supervisor's, supervisor, - the head of all DEA's foreign offices. DEA Headquarters clearly confirmed this fact in its cable traffic. But beyond all of that, Mr. Horn did have the State Department present at the meeting, which was, as advertised, a meeting with a mere message carrier.

There is yet another undercurrent concerning these matters that I need to convey to you. Matthew Daley, the DCM at the American Embassy in Bangkok, is known to have encouraged Charge "Pancho" HUDDLE to remove Mr. Horn from Rangoon. Ordinarily, it would not seem that the American Embassy in Bangkok would have a substantial interest in the matter. But this is not the case with respect to Mr. Daley. Similar to Charge HUDDLE, Mr. Daley is unconditionally a strong CIA supporter. Mr. Daley would most certainly have known that Mr. Horn twice reported the CIA for its unethical and inconspicuous conduct to his supervisors and that DEA's complaints had sparked an Inspector General's investigation. Mr. Daley may well have encouraged Charge HUDDLE to PNG Mr. Horn from Burma to advance the career objectives of his girlfriend, Ms. Jacqueline Rinn, (second in command with CIA, Burma, under BROWN) and coincidentally remove a voice that spoke for more honest reporting on the drug situation in Burma.

Even to this point in my narrative I suggest to you that the chronicle of Mr. Horn's experience in Burma is truly amazing. But there is an even greater outrage to report here. Before leaving Burma, Horn happened to see a teletype which had quotes, ellipsis, and summary of a private telephone conversation Horn had from the telephone in his living room. This cable, clearly demonstrates, that an electronic intercept had been planted -- probably by BROWN --.

From my knowledge as a federal prosecutor, I know that conducting an illegal wiretap and then subsequently conveying any knowledge obtained from an illegal wiretap is a violation of federal statute. More than that, it is an outrage that one U.S. Government Agency would eavesdrop, without any legal authority, on a member of yet another U.S. Government Agency and that another U.S. Government Agency would unlawfully expand the unlawfulness by distributing the contents of the unlawfully intercepted conversation like HUDDLE did. Of particular significance, is the fact that those who received the subject teletype in Washington, by merit of their lack of action, must have considered an illegal wiretap of American citizens (in this case a DEA Agent) as a standard operating procedure.

As if that is not enough, Mr. Horn then learned about the technology used to conduct the intercept. While the IG investigation was ongoing, my client learned from a friend in the intelligence community (now retired), who served with him in Burma, how the intercept was likely accomplished and where the transmitter and receiver were likely located. My client immediately told one of the IG investigators all of the information he learned. Armed with this then-secret revelation, the IG investigators never traveled to Burma to locate the receiver, the transmitter or examine property or equipment usage records in Burma or the agency's headquarters. Meanwhile, my client and I were threatened with prosecution if we told anyone details about this technology (designed specifically for use against other American diplomats) while at the same time, the government claimed it did not eavesdrop on my client.

In the last few months my client has learned that many DEA agents have been the subject of electronic eavesdropping by the State Department and its intelligence agencies. As a consequence, I filed a Class Action lawsuit regarding at least six examples of electronic eavesdropping on DEA agents. Since the suit was filed and with the attendant publicity, these numbers have steadily increased, notwithstanding the lack of DEA support given these agents by their own agency.

Please recognize this eavesdropping of DEA agents is not typically done on a lark just for amusement, although my client does know of examples of it. Rather, there are policy considerations, which was a part of the reason in Mr. Horn's case. But far more often it is done so the recipient agencies (DOS, CIA, etc.) can capitalize on it in some sinister way, e.g., steal a powerful informant, rip-off interesting intelligence, or otherwise sabotage a DEA program for one reason or another.

There are, no doubt, countless times when DEA's operation plans were foiled by "the listeners", without DEA even knowing what happened. There are other occasions when DEA agents were ordered to give an informant to the CIA (sharing is not allowed by the CIA) or more commonly, incidences when an informant was simply commandeered by the CIA, and DEA never learned why the informant suddenly refused to work with them, failed to return telephone calls or disappeared. There is even a built-in facilitator for the CIA to undermine DEA. In response to a CIA demand, all DEA foreign offices must tell the CIA COS who his informants are and where they live. CIA does not -- of course -- reciprocate.

These problems have been going on for years, but have increased since the break-up of the Communist block. They seriously undermine and handicap America's best effort to reduce the amount of drugs entering our country. A careful examination of these problems will be a useful first step in improving America's anti-drug performance.

As to Messrs. HUDDLE and BROWN, they have proven themselves to be "major league" saboteurs of DEA's programs in Burma, the largest opium cultivating country in the world. Is it right, proper and clear thinking to allow their respective agencies to promote them to even higher positions of trust in the face of their past treachery and felonious bad conduct?

Please, I urge you to carefully examine the problems and issues I have raised. The fate of America's anti-drug programs -- indeed, the future of America's youth -- is at stake here. The integrity of DEA's programs must be protected from the institutional sabotage inflicted upon it by the CIA and State Department and other intelligence agencies. Moreover, faith must be restored in the integrity of the CIA and DOS Inspectors General Offices.

My client and I stand ready to assist you in any way possible.

Sincerely,
BRIAN C. LEIGHTON

Email:leighton@cybergate.com

DEA

WATCH

January 21, 1997

Senator Richard C. Shelby
110 SHOB
Washington, D.C. 20510

Re: TONY LAKE CONFIRMATION HEARINGS

Dear Senator Shelby:

Four months ago my client and I filed a Class Action lawsuit in which Tony Lake, if confirmed, will become a defendant by merit of being Director of the CIA. My client, Richard Horn, a twenty-five year veteran DEA Agent, is the named Plaintiff in our suit. With compelling evidence our suit will show that the intelligence agencies (CIA and NSA), along with the State Department have established a pattern and practice of electronically eavesdropping on DEA agents, their families, DEA safehomes (places where DEA agents meet with their informants) and other locations including the United States Embassy compound and government-provided residences. The number of these examples is steadily increasing.

In early December 1996 my client and I met with Ms. Pat Hanback of the Senate Select Intelligence Oversight Committee. A few days later, Mr. Matthew Maher, the former head of all DEA's foreign offices (now retired), met with Ms. Hanback. All of us identified for Ms. Hanback a number of problem areas that urgently cry out for policy change and correction. Among the many problems concern the illegal eavesdropping of DEA employees. Not only are the rights of hardworking DEA agents and their families being violated by these audio intercepts, but the congressionally-mandated Drug Mission of this country is being undermined and sabotaged as the result of them. For a variety of sinister reasons, these agencies use the intelligence gained from these illegal intercepts to advance their personal or their agency's agenda -- all at the expense of the CIA Mission.

Accordingly, and on behalf of the DEA Special Agents who are most vulnerable to intercepts (by merit of serving overseas), I would respectfully ask you and members of your committee to pose certain topic-related questions to Mr. Lake. Such questions, designed to determine his predisposition on these matters, would likely facilitate your final assessment of Mr. Lake's suitability as Director of the CIA. For additional background on these matters, I refer you to the attached letter dated December 9, 1996, which serves as a call for Congressional intervention to end the abuses to the DEA Mission and to the Agents who so loyally serve their country. (This letter was sent to a number of congresspersons, DOJ and others.)

POTENTIAL QUESTIONS

- 1) In your opinion do DEA Agents and other Americans enjoy a Fourth Amendment privilege from their own government when overseas?
- 2) If confirmed, would you agree to implement a system of strict inventory, property accountability and reporting concerning use of technical equipment throughout the CIA and one that complies with the Congressional mandate? (Background: My client has talked with a senior CIA employee whose career was derailed by the CIA when he tried to do just that. The CIA employee appealed to the Senate Select Committee on Intelligence to help restore his career. As a direct consequence, the CIA agreed to retrain his pay grade, but still, significantly, the agency reportedly does not comply with the Congressional mandate. In part it is the institutional reluctance to follow Congressional mandate that allows CIA employees the opportunity to commit eavesdropping abuses on Americans without fear of getting caught and facing criminal charges.)
- 3) How do you intend to address problems in the Inspector General's office of the CIA? (Background: Mr. Frederick Hitz, the Inspector General of the CIA, has come under serious attack (Jeanine Bruckner case et al), but he has neither been replaced nor has his office been ordered to upgrade its performance and conduct its investigations with thoroughness and integrity. Just last year an FBI investigation of these matters was apparently derailed for lack of CIA cooperation. As a result, confidence in the CIA's Inspector General and his office are found wanting.)
- 4) At present there is no Memorandum of Understanding between the CIA and DEA. There is an urgent need for jurisdiction, mission objectives, and inter agency disputes to be resolved in favor of what is right and proper, instead of immediate default to the more powerful CIA, as it is now. What would be your recommendations on these matters?
- 5) In your opinion should DEA be a single purpose, stand alone agency or should it be subjected to cross fertilization, with CIA people literally "posing" as DEA Agents or intelligence analysts? Would such a cross fertilization program hinder drug law enforcement in any way or confound enforcement decisions?
- 6) Speaking primarily to third world countries which are often drug source countries, do you recognize a conflict of interests between the collection of high level drug related intelligence and, for example, the CIA collection of political intelligence and at the same time trying to influence a foreign government to become democratic, cease human rights abuses or modify some agreement or policy?
- 7) What would you do if a leader in a third world country, coincidentally a CIA informant (agent, in CIA vernacular) and known to be involved in drug trafficking, but who is making strides toward democracy or in meeting some other United States Government (USG's) objective, is on the verge of arrest by the DEA? Do you want the CIA "protect" the trafficker? Similarly, what would you have the CIA do if the DEA asks technical help to collect evidence against a CIA informant who is coincidentally a drug trafficker involved in sending drugs to the United States? (Background: At present, anti drug interests are almost automatically deferred to the CIA mission, sometimes officially, but more often by sabotage of the DEA operation by the CIA. The use of audio intercepts plays a role here.)
- 8) Who, in your opinion, should be the ultimate decision maker(s) when an opportunity to cause the arrest of a major international drug trafficker may interfere with a CIA intelligence operation?
- 9) Do you endorse the opinion of many CIA Chiefs of Station that the CIA should have access to all of the intelligence generated by CIA overseas? (Background: In at least two cases, the CIA and/or NSA surreptitiously arranged access to all of DEA's cable transmissions at foreign posts without DEA's knowledge or permission. NSA had a program to act on, or otherwise coordinate various types of action, without any consultation with DEA whatsoever.)
- 10) What do you believe should be the intelligence exchange relationship between the respective data banks of the CIA's Crime and Narcotic Center and that of DEA's NADDIS?
- 11) In recent years each Director of the CIA in succession has pressed Congress to allow the CIA into the field of drug law enforcement. What is your position and why?
- 12) At present, all DEA Country Attaches at foreign posts must provide the local CIA Chief of Station with the names, addresses and other identifying information concerning all of the DEA informants in its jurisdiction. Is it critical to the CIA Mission that each Chief of Station worldwide have at hand the name of all DEA's informants, or is it enough for the CIA to be able to query a name to its headquarters as needed during the context of an operation? Would you be willing to examine this policy with a view to modifying it so that these names and dates of birth (only) are reported to the CIA at the headquarters level -- not in the field? (Background: The suggested procedure was implemented by joint agency agreement for a short time in 1993. Then the CIA Chiefs of Station worldwide viewed a mass of complaints to their headquarters. In response to a high level request, senior DEA management "sold out" and "caved in" to the CIA. DEA restored the CIA's right to a "free peek" at DEA's informants. The informants of the CIA are required to allow this procedure to continue needs a close look in the view of the CIA's apparent inability to work in cooperation and harmony with DEA. But even if you would prefer to believe that such harmony exists, the prospect should be still examined.)

My client and his colleagues in DEA believe that Congressional hearings on the matters set forth in this letter and the attachment would be an important first step in resolving the problems we have identified. Be assured that we will always be available to assist you in bringing forth solutions.

Finally, please know that the many DEA Agents I know feel strongly about these matters, notwithstanding the silence emanating from their own headquarters. Please do not construe that silence as meaning that these issues are not critical to DEA Agents, their agency, indeed DEA's very survival -- they really are. I suggest to you the silence should, however, be considered symptomatic of yet other problems, ones that should be of concern to all Americans.

Sincerely,
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DEA

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