EMPOWER OVERSIGHT
Whistleblowers & Research

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November 17, 2026

VIA ELECTRONIC TRANSMISSION

The Honorable James Comer, Chairman
Committee on Oversight and Government Reform
United States House of Representatives

The Honorable Robert Garcia, Ranking Member
Committee on Oversight and Government Reform
United States House of Representatives

The Honorable Rand Paul, Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Gary Peters, Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Jim Jordan, Chairman
Committee on the Judiciary
United States House of Representatives

The Honorable Jamie Raskin, Ranking Member
Committee on the Judiciary
United States House of Representatives

The Honorable Chuck Grassley, Chairman
Committee on the Judiciary
United States Senate

The Honorable Dick Durbin, Ranking Member
Committee on the Judiciary
United States Senate

Dear Chairmen and Ranking Members:

I write to request that you exercise your oversight authority over the Drug Enforcement Administration (DEA) to help protect our clients, Special Agents (SA) David Howell and Emmett Fritz, against its illegal whistleblower retaliation.

On May 12, 2026, I wrote to your committees to inform you of protected whistleblower disclosures to the Department of Justice (DOJ) Office of Inspector General (OIG) regarding the DEA and U.S. Attorney's Office for the District of New Mexico (USAO-NM) intentionally failing to seize known fentanyl shipments, a practice known as "walking." Those disclosures became

public on June 21, 2026 when the *Associated Press*[1] and *Albuquerque Journal*[2] wrote stories regarding the whistleblowing.

Response to the reporting was swift and dramatic. On June 22, 2026, the President posted a link to my interview with one media outlet on the issue.[3] On June 23, 2026, the *Associated Press* article was printed in newspapers around the country. On June 24, 2026, the Governor of New Mexico wrote to the Attorney General of New Mexico requesting that he investigate whether any federal agents broke state law, and to prosecute anyone responsible.[4] On June 25, 2026, the Administrator of the DEA joined us in requesting that the DOJ OIG conduct an independent review of the DEA's actions.[5] On June 26, 2026, the Attorney General of New Mexico opened an investigation into the issue.[6] And on July 6, 2026, the entire New Mexico congressional delegation wrote a letter to DEA Administrator Terry Cole to make a number of document requests and to "unequivocally assert that allowing fentanyl to go unseized creates an unconscionable risk to New Mexicans."[7]

The DEA also had a swift response to the reporting. DEA Assistant Special Agent in Charge (ASAC) Jeffrey Armijo, the highest-ranking official in the Albuquerque District Office, asked SA Howell over a month before the publication if he had spoken to the media about his disclosures.[8] ASAC Armijo indicated the question had originated with Special Agent in Charge (SAC) Omar Arellano. Almost immediately, SA Howell and SA Emmett Fritz began experiencing new and severe retaliation.[9]

Then, following the June 21, 2026, publication of the stories, ASAC Armijo called DEA contractor Kevin Small to his office, and stopping him at the door with the story in his hand, said, "If you support David Howell, we're through." ASAC Armijo threatened an investigation of Mr. Small for giving the *Associated Press* reporter SA Howell's contact information. Then the DEA began removing duties and responsibilities from Mr. Small, forcing him to resign.[10] This was especially problematic because of Mr. Small's decades of work combating trafficking in

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[1] https://apnews.com/article/dea-fentanyl-unseized-drugs-new-mexico-8f5b546e668e5007c64078da74b90903.
[2] https://www.abqjournal.com/news/feds-allow-deadly-drugs-to-walk-onto-albuquerque-streets/3067409.
[3] *See* https://x.com/TrumpTruthOnX/status/2069264656917729566.
[4] https://www.governor.state.nm.us/newsroom/release-governor-issues-statement-on-dea-s-failure-to-seize-thousands--100004388
[5] https://www.dea.gov/documents/2026/2026-06/2026-06-25/statement-dea-administrator-terrance-c-cole-regarding-request-for.
[6] https://nmdoj.gov/press-release/attorney-general-torrez-launches-investigation-into-dea-fentanyl-operations-demands-federal-accountability; *see also* https://nmdoj.gov/press-release/statement-nmdoj-responds-to-shocking-reports-on-dea-operations-in-new-mexico.
[7] https://www.heinrich.senate.gov/imo/media/doc/dea_fentanyl_investigations_nm_delegation_ltr_070626final.pdf.
[8] ASAC Armijo called SA Howell on May 19, 2026, asking SA Howell if he had spoken to the media about his fentanyl disclosures. SA Howell confirmed to ASAC Armijo he had made protected disclosures to the media.
[9] SA Fritz was transferred from Albuquerque Group 2 to Group 4, which resulted in SA Fritz losing cases as well as operational responsibilities. SA Fritz's supervisor subsequently acknowledged ASAC Armijo directed the transfer due to SA Howell returning to Group 2, and ASAC Armijo not wanting SA Fritz and SA Howell working together.
[10] *See* https://empowr.us/addition-info-on-fentanyl-scandal-asks-doj-watchdog-to-investigate-new-retaliation-against-whistleblower-ally.

support of DEA's mission, and it represents a significant loss of capability in an urgent fight against illegal drugs that threaten public health and safety.

In the ensuing five months since the fentanyl walking allegations became public, the DEA has continued to ostracize and retaliate against SA Howell and SA Fritz. They have been belittled in the office; denied training and travel opportunities; excluded from operations and experienced other significant changes in duties, responsibilities, and working conditions; had their appraisals repeatedly rejected and delayed; and been encouraged to consider retiring. SA Howell's initial whistleblower complaint with the U.S. Office of Special Counsel (OSC) was thoroughly investigated through 2024 and 2025 but closed in September 2025 when the DEA purported to reassign SA Howell back to law enforcement operations. However, in light of additional retaliation, Empower Oversight is now in the process of filing a new complaint with OSC. And on August 3, 2026, we filed an OSC complaint on behalf of SA Fritz, which we also shared with various congressional offices.[11]

Around this time, outside scrutiny of the DEA increased from both the DOJ OIG and Congress. On July 30, 2026, we sent DOJ OIG and your committees a detailed letter that shows how contemporaneous documents directly contradict DEA agent testimony cited in the September 2024 DOJ Office of Professional Responsibility report defending one fentanyl case, clearly undermining the report's conclusions about that case. On August 17, 2026, the DOJ OIG announced it was opening a review into DOJ's actions in fentanyl investigations, and would specifically examine (among other things) the DEA's "policies, protocols, guidance, instructions, and training regarding risk assessment and mitigation."[12] On August 31, 2026, the House Committee on Oversight and Government Reform announced it was opening an investigation into the issue.[13] On September 4, 2026, the New Mexico congressional delegation sent a letter to the DOJ OIG requesting that it expanded its review to cover DEA decisions made in 2023 and before, examine whether DEA's decisions led to increased overdose deaths in the state, and bring some measure of accountability to the DEA.[14]

Subsequently, on October 14, 2026, Bernalillo County commissioners voted to declare a state of emergency over the fentanyl crisis, with the declaration's order tracing the opioid crisis timeline and citing the reports that DEA agents had allowed potentially millions of fentanyl pills to reach New Mexico streets.[15] Just two weeks ago, on October 29, 2026, both national CBS News affiliates and local Albuquerque station KOB 4 aired interviews with SA Howell—his first on-camera interviews.[16]

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[11] *See* https://empowr.us/third-dea-agent-comes-forward-in-fentanyl-walking-case-with-evidence-of-retaliation.
[12] https://oig.justice.gov/ongoing-work/review-department-justice-actions-fentanyl-related-investigations.
[13] https://oversight.house.gov/release/chairman-comer-investigates-biden-administrations-dea-for-allowing-fentanyl-to-hit-u-s-streets.
[14] https://www.lujan.senate.gov/wp-content/uploads/2026/09/DEA-OIG-Letter-Final-2.pdf.
[15] https://www.abqjournal.com/news/bernalillo-county-declares-state-of-emergency-over-fentanyl-crisis/3142221.
[16] https://www.cbsnews.com/news/dea-whistleblower-fentanyl-pills; https://www.kob.com/new-mexico/4-investigates-exclusive-interview-with-the-dea-whistleblower.

This public pressure appears to have renewed DEA's motivation to retaliate and prompted not one but *two* retaliatory investigations of our clients. These investigations are outrageous, and Congress needs to make clear to the DEA retaliation is an unacceptable response and that it must stop immediately. The proper response to the public pressure would be reform and accountability, improving policies and compliance to safeguard against fentanyl walking—not retaliating against the whistleblowers.

First Retaliatory Investigation

On August 25, 2026, OSC conducted a telephonic interview of SA Fritz regarding his August 3 complaint. Following the interview, OSC requested additional documentation. SA Fritz's OSC complaint quoted significantly from two sections of the DEA Agents Manual: Section 6628, "Non-Seizure of Controlled Substances," and Section 6683, "Risk Assessment and Mitigation." These were policies the New Mexico congressional delegation directly requested from the DEA in its July 6, 2026, letter,[17] and the August 31, 2026, letter from House Oversight and Government Reform Chairman James Comer made a similar request.[18] Thus, near the end of the workday on August 31, SA Fritz downloaded these two one-page policies in their entirety.

Because agents have no expectation of privacy on their DEA email account, SA Fritz has consistently used his personal Gmail account for his privileged communications with counsel. Accordingly, SA Fritz emailed the two pages from his work computer to his private Gmail account. That evening, he assembled the policies along with other documents in answer to OSC's request. The next morning, on September 1, 2026, SA Fritz emailed his proposed OSC response from his Gmail account to counsel for review. Later that morning, he sent it directly to OSC. And the materials were the subject of ongoing communications SA Fritz's counsel had with Congress in early September.

On September 9, 2026, SA Fritz was summoned to the office of his former Group Supervisor (GS) Billy Baker—one of the officials named in SA Fritz's OSC complaint, which was publicly posted on Empower Oversight's website on August 3, 2026 and reposted on a local Albuquerque news station that same night.[19] There, with an Acting GS as witness, GS Baker told SA Fritz his email to his Gmail account had been flagged, and asked why he had forwarded material from the DEA Agents Manual to his Gmail account. ***GS Baker clearly knew that both SA Howell and SA Fritz had been citing those policies since 2023 as part of their protected disclosures regarding the failure to seize fentanyl.*** And given the local coverage SA Fritz's OSC

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[17] https://www.heinrich.senate.gov/imo/media/doc/dea_fentanyl_investigations_nm_delegation_ltr_070626final.pdf ("What are DEA's current internal directives and guidelines dictating how federal agents manage active drug-trafficking investigations involving fentanyl? Specifically, what protocols instruct agents on whether to seize a shipment of fentanyl immediately or allow it to pass temporarily under surveillance?").

[18] https://oversight.house.gov/wp-content/uploads/2026/08/DOJ-Walking-Fentanyl-Letter-083126.pdf ("All documents, policies and procedures related to implementation of the 2019 Fentanyl Risk Mitigation Protocols and implementation of any subsequent fentanyl risk mitigation protocols thereafter[.]").

[19] SA Fritz's name was redacted in the OSC complaint posted in both places, but DEA supervisors named as having retaliated—including GS Baker—were not. https://empowr.us/wp-content/uploads/2026/08/2026-08-03-redacted-TL_to_OSC_-_PPP_Complaint__redacted_no_attachments_.pdf; https://www.kob.com/new-mexico/third-dea-whistleblower-claims-retaliation.

complaint received, it is impossible to believe GS Baker did not also know these policies had just recently been cited by SA Fritz to OSC—in a document also naming GS Baker as having retaliated.[20]

SA Fritz told the supervisors he sent portions of the Manual relevant to his whistleblowing to his attorneys and to OSC. GS Baker directed SA Fritz to delete the email from his Gmail, but told him they didn't know what to do about OSC having them. The meeting broke while the supervisors consulted with Division Counsel, and then GS Baker called SA Fritz back in. GS Baker told him that moving forward he should send emails to OSC from his agency email account. GS Baker also said repeatedly before and after calling Division Counsel that SA Fritz should consult with SA Howell on the proper way to send agency documents to an attorney. GS Baker sent SA Fritz an email memorializing the meeting.

After consulting extensively with personal counsel, on September 11, 2026, SA Fritz emailed Division Counsel, copying his supervisors, and highlighted that the DEA Agents Manual itself at Section 6321.1 states that, pursuant to 5 U.S.C. 2302(b)(13), no policy in the DEA Agents Manual that restricts, regulates, or otherwise concerns the disclosure of documents can supersede employee rights relating to communications to Congress or the reporting to an inspector general or OSC of the categories of information protected by whistleblower law.

Division Counsel replied to SA Fritz on September 14, 2026, writing that they did not believe any whistleblower rights permitted a DEA employee to send "sensitive agency documents" "without prior permission or agency review" outside of government email systems. On September 15, 2026, I emailed Division Counsel directly to respond that 5 U.S.C. § 2302(b)(8) does not specify the manner in which disclosures need to be made (such as from a government email account), that *Department of Homeland Security v. MacLean* found even federal regulations not rooted in statute could not overcome the protections of 5 U.S.C. § 2302, and that both 5 U.S.C. § 7211 and federal appropriations law prohibit interfering with communications to Congress.

Ten days later, on September 25, 2026, the Deputy Employment and Defensive Litigation Section Chief from the DEA Chief Counsel's Office emailed a reply. Despite the fact that the DEA Agents Manual sections in question are clearly at the crux of SA Fritz's whistleblowing on the fentanyl issue, the DEA attorney wrote: "First, it is not evident on its face that emailing a document to one's personal email constitutes a protected disclosure. The email does not show the intent with which the email was sent (i.e. for whistleblower purposes) or to whom, if anyone, the information was later forwarded/sent." He then made an absurd comparison to "information protected by statute under certain circumstances, such as protected Title III and Privacy Act information," which SA Fritz had not emailed and had not been accused of emailing.

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[20] https://www.kob.com/new-mexico/third-dea-agent-files-retaliation-complaint-over-fentanyl-trafficking-in-albuquerque; https://www.kob.com/new-mexico/third-dea-whistleblower-claims-retaliation; https://www.abqjournal.com/news/third-dea-whistleblower-alleges-retaliation-over-fentanyl-seizures/3095612; https://www.pbs.org/newshour/politics/justice-department-watchdog-to-review-dea-tactic-that-permitted-deadly-fentanyl-to-hit-streets.

Finally, Deputy Section Chief inquired whether we would "be open to discussing potential alternative means to emailing sensitive email to a Gmail account," indicating that in other contexts the DEA works with attorneys "ensure that sensitive information is reviewed in a manner that minimizes the risk of spillage . . . while enabling fulsome representation." Given that SA Fritz had no further need to send agency documents to his Gmail account, we did not respond.

Yet despite the DEA having been fully informed on SA Fritz's whistleblowing, both by him and by counsel, last Thursday, November 12, 2026—less than two weeks after the national CBS News interview aired—DEA's Office of Professional Responsibility (OPR) informed SA Fritz it had opened an investigation into his forwarding of sections of the DEA Agent Manual to his Gmail account. When SA Fritz explained it was part of his whistleblowing, OPR staff asked, "Who told you that you were a whistleblower?" "Who told you that you were entitled to whistleblower protections?" They also inquired whether he had written documentation specifically stating he was a whistleblower.

OPR then presented SA Fritz with an Excel spreadsheet of all agency emails and records he had ever emailed to himself. All related to SA Fritz's whistleblowing with the exception of some of SA Fritz's own investigative reports he had sent to his Gmail account in September. The case had an extremely lengthy and complex history, so as he worked on an indictment proposal, he had used ChatGPT to summarize the reports. SA Fritz subsequently became aware of a policy prohibiting the use of artificial intelligence systems for DEA information, and thus never used ChatGPT in this way again. But because he associated the case with a prohibition on using AI, when OPR investigators asked him if he had ever sent any other case-sensitive information to his Gmail account, SA Fritz initially did not recall doing so. But for this and the whistleblower-related records, OPR repeatedly asked SA Fritz whether he had violated DEA policy, and pressed him on allegedly lacking candor for simply not remembering the work he did on the indictment proposal.

The DEA's OPR investigation into SA Fritz is completely inappropriate. The DEA already knew exactly why SA Fritz sent himself the vast majority of the records it questioned him about.

Second Retaliatory Investigation

The DEA also initiated a "leak investigation," which we learned has been taken over by DOJ OIG. On November 2, 2026—just days after the national CBS News interview aired on October 29—SA Howell and SA Fritz learned DOJ OIG was in Albuquerque conducting interviews. The interviews took place on November 3, 2026. DOJ OIG personnel made clear the investigation was into a "leak" of so-called "operational information." The DEA had received an inquiry about it from one of the reporters who broke the initial June 21, 2026, fentanyl story.

None of our clients was the reporter's source. On contacting the reporter, she identified the Albuquerque Police Department to us as the source of the information—not our clients. However, it does support their protected disclosures and vindicates their concerns. The fact that DOJ is organizing a surge of personnel to New Mexico in response to the fentanyl crisis there and amid protected disclosures about fentanyl walking being a threat to public safety further

undermines the government's claims. It confirms that DOJ also sees the proliferation of fentanyl in New Mexico as a public health and safety issue, just as the whistleblowers disclosed but DEA and the local U.S. Attorney's Office have repeatedly disregarded.

DOJ OIG leadership subsequently informed us they had initiated the leak investigation *to prevent the DEA from targeting our clients* as a pretext to investigate their protected whistleblowing activity. Obviously, any so-called leak investigation would inevitably require inappropriately digging into our clients' protected communications. In any event, general information about an intent to surge law enforcement resources is not protected by any statute and is necessarily known to large numbers of state and local personnel as well federal officials. Here, it appears one of those local partners, the Albuquerque Police Department, told local news sources about the surge, which is both newsworthy public business and a welcome allocation of federal resources to this crisis. The DEA should be focused on using those new resources to stop the flow of fentayl—not wasting resources to chase "leaks" about it.

Former Inspector General Michael Horowitz adopted formal protocols for handling leak investigation requests from agencies that could implicate protected whistleblower disclosures, and on multiple occasions he responded to these types of requests from agencies by sending a memorandum to the agency memorializing that such a request could be perceived as retaliatory and that DOJ OIG would not be conducting such an investigation. Failure to follow that example could threaten to turn the OIG into a cat's paw, helping the DEA chill further whistleblower disclosures. Its resources would be better used to hold accountable those who falsely denied that fentanyl walking occurred and those who retaliated against our clients for telling the truth.

Conclusion

Our clients courageously came forward with information about fentanyl walking they reasonably believed violated DEA and DOJ policy and posed a substantial and specific threat to public health and safety. The public response has confirmed their assessment of the seriousness of the situation. Their disclosures were protected by whistleblower laws and laws regarding communications with Congress.[21] In black and white, those laws are robust. In practice, they too often require vigorous oversight to actually expose and deter agency misconduct in order to be effective.

We look forward to assisting Congress in its duty to get to the bottom of this issue and protect Americans from this deadly scourge. But it is extremely difficult to expect federal employees to step forward if they are not actually protected against retribution and reprisal. Please use your authorities to help incentivize the DEA to cease its retaliation against SA Howell and SA Fritz.

They deserve to be protected in actual fact, not just in theory. Respectfully, we would suggest calls directly with Administrator Cole and Attorney General Blanche would likely be

[21] 5 U.S.C. § 2302(b)(8)(A), 5 U.S.C. § 2302(b)(8)(B), 5 U.S.C. § 2302(b)(8)(C), 5 U.S.C. § 2302(b)(9)(A)(i), 5 U.S.C. § 2302(b)(9)(C), 5 U.S.C. § 2302(b)(9)(D), 5 U.S.C. § 7211, 41 U.S.C. § 4712(b).

appropriate under these circumstances, followed by extensive document and witness interview requests to investigate the retaliation if those calls are ineffective.

Cordially,
/Tristan Leavitt/
Tristan Leavitt
President

cc: Special Counsel Charles Baldis
U.S. Office of Special Counsel

Inspector General Don Berthiaume
U.S. Department of Justice

Administrator Terry Cole
U.S. Drug Enforcement Administration

Attorney General Todd Blanche
U.S. Department of Justice