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OVERSIGHT OF THE DRUG ENFORCEMENT ADMINISTRATION

DEPOSITORY

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BEFORE THE

SUBCOMMITTEE ON SECURITY AND TERRORISM

OF THE

COMMITTEE ON THE JUDICIARY

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ON

OVERSIGHT OF THE DRUG ENFORCEMENT ADMINISTRATION

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OVERSIGHT OF THE DRUG ENFORCEMENT ADMINISTRATION

THURSDAY, APRIL 2, 1981

U.S. SENATE,
SUBCOMMITTEE ON SECURITY AND TERRORISM,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 2228, Dirksen Senate Office Building, Senator Jeremiah Denton (chairman of the subcommittee) presiding.

Also present: Senator Biden.

Staff present: Joel S. Lisker, chief counsel and staff director; Bert W. Milling, Jr., counsel; Fran Wermuth, chief clerk.

OPENING STATEMENT OF SENATOR JEREMIAH DENTON

Senator DENTON. Good morning. This hearing will come to order. We have four subcommittee hearings I am supposed to be attending, coincidentally this morning, and my colleagues on this subcommittee are in similar situations, and many of them are chairing subcommittee hearings so I don't know how many others are going to appear.

I want to welcome Mr. Bensinger this morning. This is an oversight hearing for the Drug Enforcement Administration, and we will be hearing the testimony of Mr. Peter Bensinger, Administrator, Drug Enforcement Administration. He has two gentlemen with him, Mr. Hambrick, Assistant Administrator for Enforcement, and Mr. Fink, Assistant Administrator for Intelligence.

The Drug Enforcement Administration is, of course, the principal drug law enforcement agency of the U.S. Government charged with the responsibility at both the domestic and international levels. We are pleased to have with us the Administrator and his two companions this morning.

Before calling on you, sir, I should like to comment briefly on the concerns I have with respect to the problem of drug abuse, concerns which are shared not only by other members of this committee, but by the vast majority of American citizens.

Within the short span of 15 years, the use and abuse of drugs has reached such widespread proportions as to create a serious threat to the social fabric and the security of this Nation. Half a million Americans are currently tragic victims of heroin. Some 50 million Americans have used marihuana, 15 million have used cocaine, 8 million have used PCP, 13 million have used inhalants, and 16 million have used hallucinogens. Polydrug abuse, the mixing or

alternating consumption of differing drugs, has emerged as a problem requiring special attention.

Drug trade in our country has become big business, amounting to more than \$64 billion of the retail level. It is an illegal business, one that brings tragic problems in all walks of life and all strata of our society. The abuse of drugs impairs the efficiency and effectiveness of our civilian work force and our military personnel both at home and abroad. Most tragic of all, the permeation of the drug culture among school age children is delaying the educational and maturation processes of our most valuable asset; the youth of America. With all this has come an erosion of the family unit and moral values and standards of our society. Pornography, drug oriented music, violence, and high rates of crime go hand in hand with the drug culture.

As stated by Dr. Harold Voth, senior psychiatrist and psychoanalyst at the Menninger Foundation:

Drug purveyors are finding an ever-increasing market as a consequence of the progressively disintegrating American family. Millions of children from broken homes are being denied fundamental nurturing necessary for the development of strong personalities capable of withstanding the pressures and responsibilities of adulthood. When one considers the soaring divorce rate, the illegitimacy rate which is nearly 20 percent, and that 40 percent of working mothers have pre-school children still at home, it is easy to see that millions of our young people are not receiving the fundamental human experiences which good parenting provides. Many of these youngsters are afraid to cope with life's problems and realities and turn to drugs to escape, and millions of youngsters are doing just that. Beyond this, drug oriented peer pressure and "do drugs" messages are enticing many kids from solid families.

The sum and substance of these developments is a weaker America, a less productive America, a country whose national security and well-being are weakened by our inability to gain the upper hand in the battle against drug abuse.

To be sure, considerable efforts have been made over the past decade to ameliorate the problem. Expenditures at the Federal, State, and local levels to combat drug abuse have risen on both the supply and demand sides. We have entreated foreign leaders to cooperate in stemming the illicit flows of drugs. We have initiated narcotics control treaties. Seizures have increased worldwide, and high-level traffickers have been arrested and put in prison.

Despite these successes, however, the drug problem is still very much with us, and it is getting worse, much worse. It has spread in varying degrees to other countries, particularly in Western Europe. Unfortunately, we have learned that attempts to eliminate illicit drugs at the source can be a frustrating business. For example, following the suppression of the French-Turkish heroin connection in the early 1970's Mexico became the major supplier of heroin, and is still furnishing a significant portion of the supply on our streets despite intensified United States-Mexican efforts since 1974 to eradicate poppy cultivation in Mexico.

To make matters worse, the production of opium in Southwest Asia has markedly increased. Afghanistan, Pakistan, and Iran have become rapidly expanding sources of heroin in U.S. markets. And in Burma, where opium output fell off somewhat in recent years, there is now a prospect for a bumper crop.

Along with heroin, the inflows of cocaine and marihuana are growing at increasing rates. When we consider that despite heroic

efforts our enforcement authorities have been successful in seizing only 5 to 10 percent of the illicit drugs entering our country, the situation appears alarming indeed.

Clearly, more needs to be done to put this nation on a better track to combat trafficking and the illicit use of drugs. The basic decision facing the United States at this juncture is whether we, as a nation, are willing to tolerate the permanent problem of drug abuse, one which shows signs of becoming worse, or whether we are prepared to face in the same direction and subdue it.

A recent report came to the Congress from the Comptroller General that suggests that we have been marching to too many different drummers. The report stated on page IV that:

Differing views among government agencies, as well as the public, make it difficult to attain the necessary legislative, executive and judicial action. Drug supply reduction efforts have yet to achieve a well-integrated, balanced and coordinated approach.

The GAO report concludes on page 34:

While the United States has articulated a strong stand to combat drug abuse in its Federal strategy and policy statements, the implementation has not consistently supported such a stance and has indicated to many a growing acceptance of drug use within this country. This reality has fueled misunderstanding as to what drug abuse policy the United States is willing to back up with action. The confusion is shared by the public at large, law enforcement officials at all levels of government and other nations.

There is a new move on in America, particularly at the community level, to get a handle on the drug problem. New scientific findings are sweeping away the inroads made by prodrug lobbies. Family groups and business organizations are working to shut down head shops, outlaw drug paraphernalia, and inform the citizenry about the consequences of drug abuse.

The American public is growing weary of the drug problem. It will welcome and support new initiatives and high-level directions to minimize the cancer of drug abuse. Certainly, we cannot do the job by dismantling our laws and further embracing drugs. There is no easy answer; no one approach. An across-the-board attack is called for, utilizing a well-designed application of law enforcement, treatment, education, and research.

It is the hope of this committee that the new administration will assign a high priority to curtailing the problems of drug abuse and establish an effective mechanism for the formulation and coordination of policies among executive agencies. The legislative and judicial branches should lend whatever help is necessary to facilitate the job.

For its part, the Drug Enforcement Administration must endeavor to play an increasingly effective role in sharing the burden of the important tasks ahead.

I would like to welcome the distinguished Senator from Delaware, Mr. Biden. We acknowledge your past interest and initiative in this area, and we consider ourselves fortunate to have you here.

Senator BIDEN. Thank you, Mr. Chairman. Mr. Chairman, when it is appropriate I have a brief opening statement I'd like to make.

Senator DENTON. May I finish mine?

Senator BIDEN. Certainly.

Senator DENTON. I'd like to state this morning that the very prestigious National Institute of Medicine of the National Academy

of Sciences has formed a task force whose mission it is to prepare a statement on the potential hazards of marihuana. I feel confident that such a committee, which is directly concerned with drug abuse problems will endeavor to assure that the task force has at its disposal all the latest medical and scientific evidence on marihuana.

In the next several days we will communicate with scientists and clinicians who have worked in this field, and we have asked that they provide statements of their views on this important subject. The subcommittee will then provide to the task force all of the information which it is able to obtain.

Senator Biden?

Senator BIDEN. Thank you, Mr. Chairman. Good morning, gentleman, it's good to see you back again. I have a formal opening statement, Mr. Chairman. Then, at the conclusion of my informal remarks I'd like to ask that it be placed in the record, if I may.

Gentleman, we are here again discussing the problems of drug abuse and the efforts of your agency, and as you predicted 1 year ago, 2 years and 3 years ago, there is a problem with regard to the influx of heroin into the United States which is as bad as you predicted it would be. The efforts to interdict it are monumental and as the chairman pointed out and we all know, it is an incredibly difficult problem that does not seem to be receding.

ADDICTS INCREASE VIOLENT CRIME STATISTICS

One of the aspects of this problem that most concerns me is the direct relationship between the violent crime and the increased use of drugs. As we all know, there's the human tragedy of the individual who becomes addicted to the drug and the impact that has upon that person and their family. If that weren't bad enough, it seems to me that the greater problem is that which is inflicted upon the rest of society.

I am convinced that the new crime wave that we all are hearing about, and including the chairman and I, have been talking about for some time, and substantiated by new FBI figures and local crime figures are directly related, absolutely directly related, to the influx of heroin in particular and other drugs generally. It is interesting that a recent study released not long ago from Temple University Medical School underscores the relationship which I know you, Mr. Bensinger, are more aware of than even I am and have been for some time. And that is the relationship between the \$100-a-day-heroin habits and increased robberies and burglaries, and that study found that 243 addicts committed almost 500,000—I'm going to say that again—243 addicts committed almost 500,000 street crimes in one decade, and were 84 percent more likely to commit a crime when on drugs than when they were free of drugs.

Therefore, I as all of us, are concerned about the proposed Federal Narcotics Control Board. Rather than talk about the general aspects of the problem and what the overall approach is going to be to solve it, the chairman in his statement, which I concur with, made I thought very telling points.

The first of those points was, as I see it, that there are no easy answers in that although the criticism of your agency and others is

that there's not one unified response, there is no one approach to the problem, which is part of the problem.

The second point the chairman makes which I think should be underscored here this morning is that his hope that this administration will put a high priority upon dealing with this problem. I, as you know, Mr. Bensinger, sit on this committee, the Intelligence Committee and the Foreign Relations Committee; I must acknowledge in a diminished status on each of those committees as a consequence of the change of the guard, but nonetheless, I sit on all three of those committees.

And in the confirmation hearings of each and every one of the individuals who came before those three committees, Mr. Casey of the CIA, Mr. Smith, the Attorney General, and General Haig, Secretary of State, I solicited from them and received an absolute commitment that once they got their house in order, they would be willing to sit down with me and other Members, majority and minority, who had an equal interest in this subject, and discuss a coordinated, high-profile attempt to deal with the international drug problem; international aspects of the drug problem.

What disturbs me, quite frankly, Peter, is this budget. I understand the exigencies of the moment, that we have inflation that's running rampant. I understand full well that we have a serious budgetary problem. I also sit on the Budget Committee. I understand we need to make massive cuts. But I am very disturbed with the cuts that are being proposed within your agency particularly, and within other agencies throughout the Government that have law enforcement responsibilities. And I know—before we start, and I'm about to conclude, Mr. Chairman—I know what you are going to have to do, you won't be able to acknowledge this, but you're going to have to do what everyone in your position has had to do every time they've come before me or any committee I've been on since 1972. That is, you're going to have to say no, you can live with this budget, and this budget really is not going to prevent you from being able to do your job, and you're really going to be able to get it done. And you're going to point out to me, I suspect, that you have gone forward in what my annual concern is, your move forward in hiring agents who are accountants and know how to handle the RICO statute and all those things which are done for me, Mr. Chairman, to sort of throw me a bone.

That's unfair, really. There's a decided effort and belief on the part of Mr. Bensinger and his colleagues that that should be done, but the point is you're in a rough spot. And I want to announce to you and to the chairman that to the degree that I have the ability to impact on it, I'm going to try to save you from yourself the remainder of these hearings, and see to it that you don't undergo the cuts that are proposed. I think that this administration lacks an understanding of the problem; the last administration lacked an understanding of the problem. With notable exceptions like Mr. Bensinger and Mathea Falco at State and others at the top level. The Secretary of State, Director of Central Intelligence and the Attorney General have not made drugs a No. 1 priority. They talked around it, they talked about it, they said it was but it is not.

Now we have an Attorney General who says he's going to wage a war on street crime, and the only place that the Federal Govern-

ment can impact crime in any sizable way is in the drug area. We don't have a Federal police force; we can't protect my Mom in the supermarket parking lot in Wilmington, Del., where she gets mugged. We can't protect my sister in her home in Wilmington, Del., from being raped. We can't protect my father from being mugged in Wilmington. But we can do something about what I firmly believe is the overwhelming reason for the massive increase in violent crimes. And that is, we can deal with something the States can't deal with, are incapable of dealing with, and that is the larger drug problem.

So, having said that and taken longer than I had indicated I would, Mr. Chairman, you can rest assured that I as the ranking member of this committee and the full committee will work with you fully. I commend you on your efforts. There is no place that this committee, subcommittee, and full committee, could start that has more merit to deal with this problem, and I look forward to working with you and hope that you and I both, through this administration and the next one if there is a different one, will be equally blind in terms of the politics of what it is, and get at seeing to it that these folks (a) have enough money to do their job, and (b) if they don't have enough money and enough personnel, get it for them, and (c) if they have the money and personnel and don't do the job, then try to eat them alive for not doing it.

But I'm going to try to save you from yourself, Peter, and give you more money in the Budget Committee and here, because I don't think you can cut it with this budget. Thank you, Mr. Chairman.

Senator DENTON. Thank you, Senator Biden, I certainly concur with the thrust of your remarks and I assure you that not only will we regard this problem in a bipartisan manner, but I shall look with anticipation to you for the benefit of your counsel, because of your extensive previous experience and commitment.

I would add that on Armed Services, as I am on that committee, on Labor and Human Resources, on Judiciary and Veterans Affairs, I see the drug problem cutting across all four of those committees. Indeed, it cuts across all aspects of the security and well-being of the United States. And while I agree entirely with my distinguished colleague from Delaware about the need for concentrating on drug elimination, its abuse and so forth, I do believe that there are related sociological problems which do cause people to turn to drugs. I believe the depreciation in values which inspire that, which is responsible for survival in a democracy; namely, some motivation toward self-discipline. I believe that a totalitarian society can employ enough KGB or enough security policy to cause people to adopt life styles and habits or to avoid them, at the will of the State.

We simply don't have that situation in this democracy, and I hope that we can see the connection among the many factors involved in our social deterioration, which I think in the last 15 years parallels that of the specific drug problem.

I will ask the witnesses to stand and raise their right hands. Do you swear that the testimony which you are about to give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

MR. BENSINGER. I do.

MR. FINK. I do.

MR. HAMBRICK. I do.

MR. DENTON. Please be seated. Mr. Bensinger, we invite you to make any opening statement you care to.

TESTIMONY OF PETER B. BENSINGER, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE, ACCCOMPANIED BY GORDON FINK, ASSISTANT ADMINISTRATOR FOR INTELLIGENCE, AND MARION HAMBRICK, ASSISTANT ADMINISTRATOR FOR ENFORCEMENT

MR. BENSINGER. Thank you very much, Mr. Chairman, I appreciate very much the opportunity of appearing today with Marion Hambrick and Gordon Fink before you and Senator Biden. I have a prepared statement which perhaps you could have inserted for the record, but I would like to comment in general terms on the opening statements of both you and your colleague. I thought they were appropriate and I wanted you and Senator Biden to know that I appreciate the perspectives that each of you have brought to this hearing and to the Senate and to the Government.

I do think that drugs and national security are related, not only because I think it affects the Armed Forces readiness, and it does, not only because I feel it affects some relationship between a compromise of our borders, because of the infiltration of planes that are not registered with our Government or the FAA that are approaching our shores, and in fact, invading our boundaries, not only because it may compromise the quality of the production of our equipment and machinery and factories of the education of our students, but it compromises, in many respects, individuals sworn to uphold the law at every level.

It is a serious problem, it relates to families, family disunity. I think drugs are turned to by young people. You've heard peer group pressure of experimentation, but there does seem to be willingness on the part of a parent to make sure a child of 15 is able to drive a car before giving him the car keys. I don't see the same discipline or commitment yet from the mother or father to insure that their youth of that age, or perhaps 10 or 11 when kids are beginning to use them, understand the ramifications of drugs, which can be just as deadly.

The testing levels of the college entrance exams have dropped off over the last decade. I noted that if you take a look at the college entrance exams you'll see a reduction of about 10 percent in the average scores. Whether that relates to your opening statement, Mr. Chairman, as to the number of students that may have experimented with drugs or not is not a proven statistical fact. But there has been a difference in our culture in the last decade or two.

You made reference to foreign sources, and Senator Biden is very well familiar with the importance of stopping drugs at the source, and to any extent, the frustrations and the impact when it can be implemented fully on both sides of the border, of what can happen. I think you're right, that mixed signals tend to be given. Marijuana is a good example, and the Institute of Medicine is being charged with the study of the health hazards.

But on the one hand, we're trying to protect the quality of marihuana through an amendment to the Foreign Assistance Act dealing with paraquat and, on the other hand, we're saying we don't want to have marihuana brought into the United States.

The GAO report is correct in another area where we have a mixed signal. There's a great deal of retail diversion of legitimately produced drugs, and Senator Biden, while I appreciate your comments on our budget, and I do, and I'm a little concerned about trying to be saved from myself, but I won't be bashful. The retail diversion problem hasn't been faced up to by each of us, by the Congress and by the executive branch together. We don't have the resources today for a major effort on retail diversion; neither do the States, and the jurisdictional clarity on that issue is not direct.

In terms of cocaine, which has increased tremendously, the crop substitution efforts, the commitment internationally to motivate foreign governments, as we motivated Mexico and Mexico has motivated itself, to stop both opium, heroin, and marihuana has not been forthcoming. And while we can go after some cocaine dealers in the United States, the most effective way is, as you, Mr. Chairman, have pointed this out, is to do it on several fronts. And on the international front, that's essential.

Our bail system compromises DEA's effectiveness because we have more fugitives than we have investigators. And the Armed Services, themselves, who can be affected by drug use internally, are not being called on to provide the type of intelligence information on the placement of ships and vessels which they could, without being called upon to perform law enforcement arrest-like functions.

Citizen action groups are forming. That's an encouraging sign. Parents groups are very concerned with what's happening in their communities and to their children. Paraphernalia legislation has been introduced as a symbol of lack of willingness to tolerate a decaying society. That is a positive sign.

The budget is less than our original request. OMB had proposed a \$24 million reduction in our budget; the Attorney General, William French Smith, appealed it personally to President Reagan, and \$17 million were restored. The Attorney General has visited DEA's headquarters personally and had a briefing of 1½ hours on the major initiatives and problems that we see need to be addressed. This was followed up with a visit by the Deputy Attorney General and a visit by the Associate Attorney General, with whom I'll be meeting following this hearing.

A violent crime task force has been appointed by Attorney General Smith that will relate, I believe, very definitely, Senator Biden, to drugs, and we have two employees assigned to that task force, our Chief Inspector Joe Kruger and Steve Green from the Office of Enforcement.

I've met with the new Commissioner of Internal Revenue; yesterday with the Director of AID; I'll be meeting with the new Assistant Secretary of Treasury and, of course, I've been meeting regularly with Director Webster of the FBI. My sense, in answer to Senator Biden's comments, is that the attention level of the administration on drugs is high. President Reagan, in his press conference and subsequently in an interview in the Washington Post last

Sunday, spoke out very specifically on the urgency and size and scope of the problem.

The steps that will be forthcoming—I also met with the Under Secretary of State, Ambassador Stoessel, who is, by the way, Senator Biden and Mr. Chairman, very familiar with the problems of drugs, having been Ambassador to Germany, which is now suffering a higher rate of heroin addiction than the United States. He's very active in this and is the number three individual in the State Department as well as Secretary Haig who, as Commander of NATO, got involved. I sense a greater awareness at a higher level of this problem. Whether that will translate itself into legislative action, into policy and administrative direction, into resource allocation is for the Congress and the administration to determine.

We certainly feel encouraged by the presence of the Attorney General, by his personal interest, by the violent crime task force, and by the reception of the other high officials in the State Department, Treasury Department, and Justice Department on this problem.

I met with Deputy Director of CIA, Admiral Inman, for quite some time at their headquarters and discussed our narcotic priorities. He'll be well familiar with this problem. I've worked with him in the past, both at NSA and on other matters, and we are expecting increased attention from that agency, and we need it desperately. Because without intelligence, the enforcement effort is immediately limited.

Without a change in the laws, our agency's effectiveness will continue to be much less than it could and should be.

Mr. Chairman, I have a variety of charts that could go through the extensiveness of this traffic, but I appreciated your personally coming to our offices for an onhand briefing. I don't know if you'd want to go into that discussion now or prefer for us just to respond to questions and to deal with any graphical commentary on the problem at this time.

Senator DENTON. Since I had that recently and it's extremely possible that my colleague is already familiar, with your permission we'll dispense with the chart. I will ask some questions if you're ready, Mr. Bensinger.

Mr. BENSINGER. I am, Mr. Chairman.

Senator DENTON. You mentioned a diversion of legitimate drugs at the retail level. Page 30 of the budget submission indicates 90 percent of the diversion of legitimate drugs occurs at that level. Do you have any evidence to compare the level of drug abuse that results from illegal diversion activities with abuse resulting from unintentional overprescribing by doctors?

Mr. BENSINGER. DEA does not have specific statistics as to how much would be related to overprescribing by doctors as compared to forged scripts or diverted, because pharmacists simply wanted to make available prescriptions or medications to individuals without an appropriate prescription.

We think, however, in the field of anorectics, this is the amphetamine that is used for diet control, it is substantial. We feel that a certain number of doctors—one, I can give you an example of a Dr. Murdock in New Hampshire, who prescribed 2 percent of the na-

tional amphetamine production. He received a 10-year sentence which was suspended. Still hasn't gone to jail for that offense.

Two pharmacies in Chicago—pardon me, wholesale distributors in Chicago—were responsible for 3 million dosage units of talwin. These are the type of problems that we see are most definitely contributing to the illnesses, overdose deaths, and drug addiction that has become a real problem. It is not the legitimate manufacturers, in my opinion, that are causing it. But I can inquire from the National Institute of Drug Abuse if they do have any information on how much of the injury or overdose would relate to over-prescribed scripts from doctors as compared to either clandestinely manufactured pills or pharmacy thefts.

Senator DENTON. Could you compare the level of abuse of legitimate drugs manufactured domestically with the abuse of the clandestinely manufactured dangerous drugs and internationally diverted drugs smuggled into the country?

Mr. BENSINGER. Yes, I could. There is, in fact, one chart which could demonstrate that of the various type of drugs and the percentage increased by year, the diversion of dangerous drugs is basically all domestic. This chart is 1979; 1980 and 1981 would not be significantly different.

MAJORITY OF DANGEROUS DRUGS MADE IN THE UNITED STATES

The one drug which is imported in great quantity is Quaalude, methaqualone, from Colombia, in which clandestine laboratories in that country are purchasing bulk powder and have tabletting machines and even are creating blister-pack drug samples and products that they're shipping up to the United States. But the majority of the dangerous drugs, which account for 23 percent of the illicit market, are basically 90 percent made in the United States.

Of those, our estimate would be at least two-thirds would be licit or legally manufactured. In the case of methamphetamines, in the case of PCP, and in the case of Quaaludes and methaqualone, they would be manufactured clandestinely. But the barbiturates, the amphetamines, the methamphetamines of a pollutant variety, just represent overprescription or specific, purposeful criminal diversion.

We do propose clarification in the Controlled Substances Act. We have a number of suggestions that are under review at the Department of Justice at this time that we think will contribute to better control of retail diversion. This would range from giving greater authority to DEA to remove a doctor's right to store and make available narcotic substances, to clarification of certain present regulatory requirements.

Senator DENTON. DEA has been conducting cyclical investigations of DEA registrants at the wholesale level every 3 years, according to page 30 of the budget submission. How will the proposed staff position cuts impact upon this cycle, and what other negative impact, if any, will these cuts cause?

Mr. BENSINGER. Cuts in the compliance area, very frankly, will mean we will have to do more with a mounting threat with less people. And the way we propose to address that problem is to have those compliance investigators increase the percentage of their

work hours and man-years on the retail diversion problem, and to reduce the cyclical investigations accordingly.

Two years ago, we would have been spending about 15 percent of our time on retail diversion and 85 percent of our 220 man-years on cyclical. In the 1982 budget, this will be reduced to about 50 percent of the time to cyclical investigations, and we will be tripling the amount on retail diversion, drug-oriented investigations and preselected targeted violators whom we feel we can track, and work with State and local investigating agencies to impact on.

I don't know, Mr. Chairman, today if that is going to be adequate. We believe that retail diversion does require greater attention, and if we find that the cyclical investigations slowdown—slowdown of the regular, traditional cyclical investigation—then causes diversion at the manufacturing level, we will return to the Attorney General and to this committee and report such an unfortunate occurrence.

Basically, I think the Agency has really had its priorities perhaps in the wrong place over a long period of time in this one field.

Senator DENTON. I'll ask these questions and then defer to Senator Biden. We'll take 10 minutes at a time.

Since 90 percent of the diversion takes place at the retail level, is it possible that even further position cuts can be made? For example, can DEA conduct compliance audits on a random sample basis, and possibly rely on CPA audits that include checks on inventory controls?

Mr. BENSINGER. There is a provision that we are required to make a cyclical investigation every 3 years. We've been doing this, in many cases, more often. One of the proposals we would have in our Controlled Substances Act review would be to remove that requirement.

We do feel one of the reasons there isn't diversion from manufacturers, though, is that they're aware we're going to make regular visits and inventories. And at some point, it's like the highway patrol; when you take the cars off the road, the violations of the law can increase. We're going to try to find the right balance. We think we've had too many cars on the highway and not enough maybe in the cities, if I could use that analogy. And we're shifting major resources to do what you've suggested. At what point we begin to lose ground at the manufacturers' level we're not sure, and we'll watch it closely.

Senator DENTON. The mini/max point. Senator Biden?

Senator BIDEN. Thank you, Mr. Chairman. Mr. Bensinger, would you agree that drug abuse is a major contributor to violent crime?

Mr. BENSINGER. Yes, sir.

Senator BIDEN. And are you familiar with the Temple study, to which I referred?

Mr. BENSINGER. I'm very familiar with it; in fact, in that study, if you took 25 individuals over the 11-year period, you would find that, had they either been incarcerated or treated successfully, you'd see 50,000 less UCR offenses—25 people.

Senator BIDEN. Would you agree that the drug area is one of those areas that the Federal Government can make contributions to State and local crime control problems?

Mr. BENSINGER. By working the drug area and the violent crime area, or separately?

Senator BIDEN. No; by just working the drug area. For example, let's assume at a Federal level, DEA was phenomenally successful, and was able to cut 2, 5, 10, 15, 20 percent of drug abuse in this country as a consequence of either interdicting the supply of dangerous drugs by cutting off the retail diversion or interdicting supplies coming into the United States or by whatever means; if you were able to cut—that chart you had up there—if the numbers were way down, would that reflect itself in violent crime statistics going down in the cities and counties across this country?

Mr. BENSINGER. That's a problematical question. I think when the heroin availability was reduced substantially from 1976 to 1978 we had the first reduction in national crime statistics in the 1977-78 period in, perhaps, a half a decade. And that reduction in heroin availability resulted in not only fewer overdose deaths—and they were dramatically fewer, as you know, from some 2,000 a year to some 500—but also in some studies I have looked at, there were fewer property offenses.

We tracked, in Washington, D.C., there's one survey which this committee might be interested in that took a look at heroin purity and property crimes. And the trails tracked pretty carefully. As the heroin purity went down, the crime rate on property also decreased, and we could send that to the committee. Nationally, whether that's going to relate for all types of drugs I'm not sure.

In Jackson Heights, we put on a special task force with the New York City Police Department and there has been a reduction in the last 6 to 9 months—I've talked with Bob McGuire, the police commissioner—in the Jackson Heights crime rate.

Senator BIDEN. Every major police chief and commissioner in every major city with whom I've spoken—and I guess I've probably had a chance to speak to 85 percent of them—believes there's a direct relationship between the use and the availability and the addicted population in their city or their country and crime against property.

Mr. BENSINGER. I don't think you'd find any question by any of us here either, sir.

Senator BIDEN. Well, I realize it seems like a fairly fundamental question to ask and something that everyone accepts, but I want to reinforce the point again that the one thing everyone seems to agree on is that local violent crime bears some relationship to the drug problem. And that the drug problem can be—the best chance that we have of making the most impact on the drug problem is at the Federal level.

NEW CONNECTIONS

Now, having said that and everybody having established that, at least everybody agrees with that—I don't know anybody who disagrees—we now come along at a time when we know that there is a new wave well underway of Southwest Asian heroin and reestablishment of a new connection, Sicilian connection. Also the evidence that is mounting, as pointed out by Senator Denton, of increased product yields from Southeast Asia. It seems to me you don't have to be a genius to look at crime rates in each of the

major Eastern cities. You predicted to me a year and a half ago—I don't have the record before me but I'm sure we could find it—that it would hit the east coast cities first.

Well, we see the crime rates affected. The east coast city crime rates have climbed before the Midwest and west coast city crime rate. We had the DA from New York City down here before I heard from anybody from Chicago. But you could almost see it, you could almost see it by the responses that I was getting. It started off in New York, Philadelphia, Baltimore, Washington, and into the South, and then it also simultaneously in other ways started on the west coast but for a slightly different reason.

Now, we all know what's happening. We disagree on what to do about it sometimes. Yet, when this is all going on, we come along and we propose cuts of \$5.4 million under what I considered to be a lean budget to begin with of the Carter administration. The \$5.4 million which was to focus on southwest Asian heroin problem, elimination of State and local drug coordination programs, major cut in State and local task force programs, budget cuts in international narcotics management programs that support crop substitution overseas; major cuts in positions and budgets for customs in the area of drug interdiction. In the treatment area, the President has proposed major cuts in treatment slots and training for drug treatment, which would force addicts and users back on the street.

I don't understand, notwithstanding your commendable alteration of priorities with regard to the diversion question, I don't understand how these kinds of cuts can't hurt, unless what you've been telling us all along isn't true, unless you haven't been doing the job. Not if these programs had made sense—maybe they don't. One of two things is true, Mr. Bensinger, and we've fuzed around with this so much. Either these programs ain't worth paying for, or they're worth spending more money on. Which is it?

Mr. BENSINGER. One other thing is true, Senator Biden. That these programs are going to depend upon the laws and the environment in which they're able to be operated in. I don't have a blackboard and I don't have a chart, but I'll say picture three different columns. One is laws, one is resources, and one is foreign activity.

Under laws, whether we've got 1,950 agents or 2,290 agents, if people we arrest can post a million dollar bail and flee the jurisdiction of the court, that's not going to help us that additionally.

If we have a Navy that has an E-2 plane that has tremendous equipment that can report what is moving in the Caribbean and we don't have that intelligence, we can change that, you can change it as a Senator. If we've got marihuana that represents the largest single amount of illegal money and it can be grown in Colombia to the extent of 100,000 acres and we can't make available the \$16 million that Congress has appropriated to use it to spray the fields, we are also neglecting the best chance we have to hit the marihuana problem. And if the tax people that are the best investigators on forfeiture, which you're pretty much of an expert on in terms of your own interest, if we don't use the IRS in this field.

What I'm hoping to do is to be able to keep thinly spread limited resources, able to work with increased resources from other agencies and new laws. I expect to see AID make a tremendous about-

face, and Pete McPherson indicates that. Over the last couple of years, I think, they've committed \$5 million in crop substitution. He's talking about a \$40 million cocaine program that he's on the line for. The IRS Commissioner is willing to commit 400 man-years. The tax treaties in the Bahamas is something we've talked about for a number of years.

Would I like more resources? It would help. But if we don't get different laws and if the other agencies that we depend upon aren't going to be in the game at the front of the line, I'd have those two before I'd have the third.

Senator BIDEN. I understand that, and I must say to you in the 8 years that I've been here there's only one man that rivals you in being able to obfuscate the point, and that is a man named Jim Lynn who used to be the Director of OMB, and I like him personally as much as I like you.

Look, if what you say is true then I'm going to go to the floor and propose we cut the budget another 50 percent until we get the laws changed, because we're wasting our money spending it, then. If, in fact, you're right, then really it's not going to make a lot of difference until the laws are changed. What the hell are we paying your salary for and the rest of these folks out there to the degree we are? Let's cut it more. Let's cut it until we get the laws changed.

Once we get those other things in shape, then we can go about doing what we're doing. Because I don't understand how, notwithstanding all you say, eliminating State and local drug coordinating programs helps. This has been one of your biggest problems with the State and local people; every conference you and I have attended that's been the subject that the local folks talk about. I don't understand how budget cuts in international narcotics management and how major cuts in positions in customs, I don't understand how those things are going to help us help you with the problem and responsibility you have.

And if they can, fine. I think that's just fine, we'll just go back and cut it some more, and we'll work on changing the bail law in the meantime, we'll work on getting the coordination in the meantime, but let's not give you more people and more money to waste.

Mr. BENSINGER. Senator Biden, I think you're characterizing a response—I haven't heard Jim Lynn testify and I take your comments, in a sense, as a compliment, and yet I don't want to appear to obfuscate the issue. If you think I'm saying we don't need more resources in the fight against drugs, you're mistaken.

Senator BIDEN. Would more resources in these specific areas help you?

Mr. BENSINGER. Could I just make one other comment? We are in a battle against an illegal flow, and are holding back a force on which we need a variety of mechanisms to be most effective. Some are laws, some are resource people, some are other agencies.

In the sense that the administration has reviewed the availability of resources, DEA has been hurt less in terms of manpower reductions and percentage of budget cuts than almost any other agency in government.

Senator BIDEN. Has it been hurt?

Mr. BENSINGER. We have not had the resources we requested, sir.

Senator BIDEN. Has it been hurt? You said hurt less. Would you answer a question directly for me, for once. Has it been hurt?

Mr. BENSINGER. I hope that I do that more than for once, but I would say that our budget and all of the agencies principally in the Federal Government that have had reductions certainly have not been helped, and you can conclude as a result that there is going to be some priorities that are going to be given and others are—

Senator BIDEN. Has it been hurt? Yes or no.

Mr. BENSINGER. The agency's budget or the agency's effectiveness?

Senator BIDEN. I'm going to start calling you Jim. Now you understand what I mean by obfuscation. Has it been hurt? You said the agency has been hurt less than other agencies. Implicit in that is it has been hurt. Now, has it been hurt or has it not been hurt? That is my question. Your ability to do your job for which the Congress commissioned the DEA, has it been hurt?

Mr. BENSINGER. I think we will have to determine how well the adjustments in programs—

Senator BIDEN. Fine, thank you.

Mr. BENSINGER [continuing]. Can carry on before we would make that conclusion, Senator.

Senator DENTON. Mr. Bensinger, I feel in all fairness, that I should say that in my view, in terms of national security which one might define as protection against external foes who would take away our territories, our rights, kill our people, in terms of our national well-being, the other aspect of survival which might be termed as survival against the elements, health problems including drugs, social deterioration including drugs, with money to be invested in such things as education, medical care, that sort of thing, our survival is diminishing. Our survival probabilities are diminishing in both national security and well-being terms.

One area of that is drug abuse. We have chosen to increase the budgets of the armed services, which are concerned directly with national security in the military sense. We haven't really reduced much but we might have reduced a little in terms of the FBI, DEA, the CIA, which may be a philosophical error on which Senator Biden is concentrating.

However, we are also threatening our survival with another situation, and that is spending ourselves to death. And in another hearing going on at this moment, Secretary Schweiker is pointing that out. He's pointing out how in 1962 or 1963 when we had a Democratic President who was not being accused of failing to answer social needs in a fair way, we were spending perhaps 24 percent, approximately 24.3 percent of our Federal outlays on social programs, and about 50 percent on national security related programs, particularly the Defense Department.

In the 17 years since that time, we have reversed that and we are spending roughly 50 percent overall on social problems, 25 percent on defense during this 17-year period in which the Soviet Union has accelerated its military expenditure.

So it's a complex problem, and exactly where the balance lies I don't know. I am of the personal opinion that we are tending to put ourselves in the position of trying to purify the output of a very polluted sewer pipe, which includes individuals who have gotten

themselves on a drug kick; includes people who have become alcoholics, includes people who have become laid back and won't work and many other types of socially deteriorated, if you will, morally deteriorated people.

I'm not knocking any particular moral approach. All I'm saying—and I'm not knocking misbehavior on the part of an individual because all of us misbehave. What I'm knocking is I believe in the last 15 years we have come off of standards and values from which you can't retreat and retain the essence of what was American greatness. I'm concerned with the dropping of the values as the essential cause of the problem.

And I can see that you could take the wrong approach by working at the wrong end of the pipe. So I'd kind of be in favor of maybe pumping some into education, or into conditions which would improve the likelihood that families would stay together. I don't see newsstands with High Times or High Life or whatever the name of that magazine is that I saw in Birmingham, Ala., which is advocating not only the use of all kinds of drugs like LSD and sex orgies at the same time, but selling devices for avoiding the Coast Guard, for avoiding the police; selling firearms. I can't believe that the U.S. Government has permitted a situation like that. I can understand how we would; I know you can't legislate it all. But I would like to see some sense of the Senate resolutions passed in these directions, and I just wanted to say that much.

Does DEA believe that the Department of Health and Human Services is properly assessing the actual abuse of drugs when scheduling action is proposed by DEA?

Mr. BENSINGER. Not promptly enough, sir. I think the process by which we get answers back on scheduling is too long. I've pointed this out to the Acting FDA Commissioner and the Director of NIDA. We believe that a streamlining of that process is essential to having a proper response in this area.

Senator DENTON. Has a proper balance been struck between the extent to which controls decisions are based on law enforcement criteria and the extent to which such decisions are based on medical or scientific determination?

Mr. BENSINGER. The determination of the scheduling of a drug is a medical determination. We provide FDA and NIDA, but principally FDA, with abuse indicators and information to assist them in their determinations. I don't have a problem with health authorities determining how readily available a drug should be. I think we've had excessive delay in the labeling indicators on anorectics that I think does contribute to problems of health. And I think in areas that we have already recommended to FDA that this process be speeded up on some of their decisions, not just on scheduling, but even on making the drug available at all should be made.

Senator DENTON. The posse comitatus laws, I would think that Senator Biden and others who are aware of what you're talking about in terms of failure to use, say, the E-2, and we'd have to be reasonable; we can't expect the whole Coast Guard to be working on this. But I think the Navy would find it to their interest to practice with E-2's, locating and identifying ships; that's something they would do in war time, so I don't think we would have a lot of problem with that.

I was told that we have problems—Senator Goldwater told me this last night—with the application of the Army to an important terroristic event in the United States, a related type problem.

I would think that perhaps it would behoove us, assuming we can't get the budget changed too readily, if Senator Biden, it doesn't appear we're going to be able to, we could maybe work together on improving the posse comitatus statutes, and I would like to ask your opinion of that. Also, what the Attorney General's attitude is as far as you know regarding no bail, really super bail, on some of the major cases.

Mr. BENSINGER. I can respond to both questions. The posse comitatus reinterpretation is in order, which we support, the U.S. Customs supports, the U.S. Coast Guard supports, and is definitely an area where we can use existing resources and increased intelligence and capacities of another service in this battle. And it won't increase our budget.

In terms of bail, the Attorney General specifically feels very strongly about the need for considerable attention on the bail issue, review of the existing criteria being used by judges and magistrates, and has asked me to make clear to the Congress the Department of Justice's as well as DEA's concern.

Senator DENTON. That is encouraging. DEA evaluates currently controlled or new drugs of abuse to make timely and accurate decisions concerning placement on the drugs into appropriate schedules, and it obtains Department of Health and Human Services' evaluations and recommendations for such drug-scheduling activities. What impact has drug scheduling had on prescription practices, drug abuse or other matters, and have you encountered any problems with DHHS that have adversely affect drug scheduling?

Mr. BENSINGER. I think timeliness when new drug substances appear is one of the problems. One of the areas that Congress was able to immediately involve itself in was in the problem of PCP, a hallucinogen which you referred to originally. In this case, this was moved up in schedule and in penalty by an act of Congress rather than through an administrative action. It was timely. And PCP abuse has decreased since that action.

Senator DENTON. Do DEA and DHHS ever disagree on the extent to which a drug is actually being abused, and if so, have such disagreements meant that drugs have not been controlled or moved up in the schedule, as DEA proposed? Or that delays in scheduling have occurred?

Mr. BENSINGER. I don't have personal knowledge of a major area where we felt a drug should be scheduled that wasn't scheduled. We have problems with respect to the timeliness of that schedule. And we do have, from time to time, different perspectives with respect to the indicators that are used.

I can get you more detailed information from the Director of our Office of Compliance and Regulatory Affairs on that matter.

IMPORTATION OF SOUTHWEST ASIAN HEROIN

Senator DENTON. In 1980 during the Khomeini violent demonstrations in Washington, several news accounts suggested that the cost of the demonstrations was, in major part, subsidized by rev-

enues from illicit drug sales, which drugs were smuggled in through diplomatic channels. Do you have any idea as to what percentage of illicit drugs brought into this country are brought in by this method?

Mr. BENSINGER. There was a considerable importation of Southwest Asian heroin by Iranians.

Senator DENTON. Southeast Asian?

Mr. BENSINGER. By Iranians, Iranian nationals.

Senator DENTON. Did you say Southeast or Southwest Asia?

Mr. BENSINGER. Southwest Asia is what I intended. I may well have said Southeast, Southwest Asian heroin. The individuals that were arrested and subsequently indicted, and some of them several times, did not appear to be, to a large extent, linked to demonstrators in Washington.

However, we're not in a position to comment as to whether that could well have been the case through other means that we were unaware of during the debriefings. During the debriefings, we did make inquiry of the defendants that were in custody to attempt to link any type of political activity in the sense of government against government, and do not have specific reports of this type.

Senator DENTON. My 10 minutes are up. Senator Biden?

Senator BIDEN. Thank you, Mr. Chairman. Mr. Bensinger, you indicated that you participated in discussions with the Attorney General and Admiral Inman. Is there in the works a new Federal drug strategy, a new coordinated effort that's being put together? Have you, the three of you, Inman and Smith, and yourself, or any other parties sat down to decide how you're going to attack the problem inner-agency differently, or a higher profile or any alteration from business as usual?

Mr. BENSINGER. I can't report formally on behalf of the Department of Justice or the administration in that regard. I am meeting with the Associate Attorney General Giuliani this afternoon, and Treasury Secretary Walker. We have discussed with the Attorney General an asset removal committee that would bring together the various elements of several different departments. But I am not in a position to speak on behalf of a variety of different departments on that question.

I think it is still under review. I know that the Attorney General, the White House, officials in Treasury, intelligence community are aware of the priority attention it needs but I am not in a position, candidly, to speak on everyone's behalf.

I do want to say one other thing in answer to your question to me on budgets. And that related to the priority of our request. There are less funds for State and local assistance, and there is no way I can say to you that that effort is going to be the same with reduced funds. It is a judgment that you in Congress and the administration have to make, and I wouldn't want to give you the impression that I personally think that relationship should be diminished.

Senator BIDEN. Are you aware of whether or not there is a Federal drug strategy being developed by this administration? A formal document. Is there?

FEDERAL DRUG STRATEGY

Mr. BENSINGER. Yes; I believe there is a Federal drug strategy being developed by the administration. In what form it is going to be documented, at this time I cannot report to you.

Senator BIDEN. With regard to the Department of Justice, have you been working with a specific group of attorneys in the Criminal Section on drug prosecution cases or with the local U.S. attorneys, or both?

Mr. BENSINGER. Both.

Senator BIDEN. Are you aware that Department of Justice authorization for 1982—in that authorization—five positions will be cut in the narcotics and dangerous drug prosecution program in the Criminal Division, and that there will be a cut of 65 authorized positions in the U.S. Attorney's Criminal Division prosecution section, for a total cut of 70 persons, those folks you've been working with on these prosecutions; are you aware of that?

Mr. BENSINGER. I couldn't specifically confirm that those 65 positions in the Criminal Division would be narcotic related investigative prosecutors; or prosecutors rather than investigators, are related to our investigations.

Senator BIDEN. But you are aware of the five positions that will be cut in the narcotics and dangerous drug prosecution program?

Mr. BENSINGER. I was not aware of that until this discussion, sir.

Senator BIDEN. Well, I'd like for you, next time you're up or to submit to the committee your analysis of the impact of the cut of those five positions in the fiscal year 1982 budget in the narcotics and dangerous drug prosecution program within the Criminal Division, and the cut of 65 authorized positions for the U.S. Attorney's Criminal Division, which is not necessarily all drugs but what bearing you think that will have on your efforts. Because if I'm not mistaken, for the last several years you've been telling me how badly you need them to pay attention to your problems. And we got them to put a few more folks in for you the last 2 years, and now I'd be very curious to find out whether or not that's going to affect you. Because you've been up here telling me year in and year out how you need more U.S. attorneys, you need more people in the narcotics and dangerous drug prosecution program to go through with your program.

I don't want you to comment now because my time is running out, but you can be sure I'll be back to ask you to comment on that.

Mr. BENSINGER. My answer would be very brief, and it is: We do need more prosecutors in the field U.S. attorneys' offices dealing with narcotics, particularly in south Florida.

GAMBINO CASE

Senator BIDEN. In the past year, you indicated that the *Guiseppe Gambino* case was one of the largest class 1 violation cases DEA has ever made. What happened in the case?

Mr. BENSINGER. There were two trials involving the Gambinos. One Rosario and one Guiseppe. The *Rosario* case has not been completed. Guiseppe was found by the jury to have been not guilty on the conspiracy account.

Senator BIDEN. Would it have made a difference, in your opinion, if the prosecutors were actively involved at the beginning of the Gambino investigation?

Mr. BENSINGER. I can't answer that; I just don't know the particulars.

Senator BIDEN. How many defendants were indicted in this case, do you know? The *Guisepppe Gambino* case.

Mr. HAMBRICK. I believe it was seven, sir.

Senator BIDEN. Are there any additional charges against the defendants, or is this case completely lost? The *Guisepppe Gambino* case.

Mr. HAMBRICK. The particular conspiracy that was being charged is lost for the moment on that defendant. It came down to a matter of credibility between the informant testifying and the defendant who took the stand. We do have the possibility of future changes in a different area.

Senator BIDEN. How much time and expense went into that case; do you know?

Mr. HAMBRICK. Over 4 months.

Senator BIDEN. How much money would you say was involved by the Government in terms of both the case and the investigation, the whole works?

Mr. HAMBRICK. I don't have an estimate at this time, Senator. We could obtain the information. But we have not run a cost analysis on that particular investigation.

Mr. BENSINGER. I think to do it with full impact and to get a true picture of whether that investigation had value, you would have to look at what the Italian authorities did in Milan at the front end of that case; whether there were lab seizures, arrests apprehensions in Italy that related to Rosario and Guiseppe Gambino's subsequent arrest and indictment in New Jersey.

My sense would be that the investigation, while the jury may not have found the informant to be credible, did have an impact in Italy, as well as in the United States; and I would not rule out the possibility of additional further charges being brought against that target, and that the jury would necessarily conclude Rosario would have been any more credible.

Senator BIDEN. I may not be keeping time correctly. Do I have 3 minutes left?

Senator DENTON. You have 3 minutes left, sir.

Senator BIDEN. Thank you. What is your view of the level of coordination among the various Federal agencies responsible for drug enforcement? Let me be more specific.

We have all become very used to—maybe it's the wrong kind of measure—of using scale of 1 to 10 as being a measure by which we can give a general assessment of whether we think something is good, bad, or indifferent. Ten would be ideal coordination among Federal agencies. Where would you say, on a scale of 1 to 10 the coordination effort of the various agencies responsible for drug enforcement sites these days?

Mr. BENSINGER. Eight to nine. And I think that is quite an achievement, sir, in a field that has had a history of—

Senator BIDEN. I think if that were true it's amazing. I agree. If it were two—

Mr. BENSINGER. I'm under oath, Senator.

Senator BIDEN. I know you're under oath. I just don't agree with your judgment.

Mr. BENSINGER. We'll, you asked for it.

Senator BIDEN. I know, I just said if it were true. You're telling me how amazing it would be.

Mr. BENSINGER. You can ask the Commander of the Coast Guard, you can ask the head of the FBI and you could ask the officials in the U.S. attorneys' offices, I would hope you would.

Senator BIDEN. I have and I get a different assessment, but I'll produce those witnesses. I'll ask the chairman at a later date to do so.

I find that—is there any formal mechanism that exists to insure this coordination? Is there a document you can show me that sets out how this coordination works?

Mr. BENSINGER. I can show you a number of documents, but more important, it's personal relationships.

Senator BIDEN. But is there a document? Is there a Federal plan?

Mr. BENSINGER. I'm going to try to answer your questions. There are—

Senator BIDEN. Why don't you just answer the first one? Is there a single document? And then you can explain.

Mr. BENSINGER. There are memorandums of understanding, Senator Biden, with each of the agencies that I made reference to. They participate—

Senator BIDEN. Bilateral? Between you and the agency of—

Mr. BENSINGER. Yes.

Senator BIDEN. Or one memorandum that covers all agencies?

Mr. BENSINGER. It depends. In EPIC, there is one memorandum that covers nine agencies. With respect to Customs, there's one memorandum between DEA and Customs. with respect to IRS, there's one memorandum between DEA and IRS. There is a meeting held once a month of the principals of these agencies. There are meetings held between the Assistant Administrators for Enforcement of those agencies.

Senator Biden, the Operations Grouper case that went down this month in Miami reflected a 22-month undercover investigation by nine DEA agents with 21 other Federal, State, and local agencies. That's not a No. 1 or 2 coordination; that's a 10. And whether there are instances around the country where coordination could be improved between a Customs or a DEA or an IRS and a DEA, yes, that's our objective, to improve it.

Senator BIDEN. My time is up, thank you.

Senator DENTON. Thank you, Senator Biden. You mentioned, Mr. Bensinger, that you thought you needed more access or coordination with the CIA with respect to receiving intelligence. One would have to ask why you cut some intelligence positions.

Mr. BENSINGER. The intelligence resources allocated to narcotics within our budget and the allocations from other intelligence community agencies are areas that we feel need to be heightened.

One area that we have been able to see, though, is, for example, at EPIC we have now 140 employees, of which only 55 or so are DEA employees; and we are getting the benefit and funding and operational resources of employees from eight other agencies. We

are proposing that, for example, in our CENTACs, IRS agents and Customs agents and U.S. prosecutors are being assigned to those resources. But candidly, Senator, that decision was OMB's, not our own.

Senator DENTON. You also mentioned operation grouper. You successfully completed that since our recent meeting. What effect—how would you assess the effect that will have on marihuana traffic?

Mr. BENSINGER. The effect we feel will be important over the short term because we have targeted and impacted on the principal organization importing perhaps up to 40 percent of the marihuana into the United States. The bail that has been established for violators, I believe, will insure that they will either be incarcerated for long periods of time, or if they're able to post the bail, will be able to make inquiry as to where the source of revenue came from. And if it was drug related it could be forfeited, if it was not, a Nebbia hearing could be introduced in which they would have to outline their sources, and the IRS could perhaps launch separate investigations.

If, however, there is no reduction in the raw material in Colombia, in due course, there will be other organizations that will develop, over time, that will be able to hire crews, buy ships, have facilitation on shore and distribution.

I think the impact, though, is significant, certainly for the next several months and perhaps longer, depending on what type of information is forthcoming from the defendants.

Senator DENTON. Are you satisfied with the sentencing structure of the Controlled Substances Act for dangerous drug violators?

Mr. BENSINGER. No.

Senator DENTON. What would you require as revisions to this structure?

Mr. BENSINGER. I would propose that in the Controlled Substances Act, particularly for the dangerous drugs, narcotic and nonnarcotic, we increase the penalty structure. The Department of Justice is reviewing our proposal in this area and I do think we need stronger sentencing for the retail diversion and narcotic, non-narcotic dangerous drug substances which are a significant abuse problem.

CLANDESTINE LABORATORY OPERATIONS USUALLY SMALL

Senator DENTON. I asked you this last week but for the record, are clandestine laboratory operations ordinarily large, sophisticated, organized criminal networks, or are they typically smaller networks operating within a restricted geographic area?

Mr. BENSINGER. The latter, Senator Denton. It would be smaller, operating generally on a geographical basis.

Senator DENTON. In that case, are the continuing criminal enterprise and racketeer influence and corrupt organizations, CCE and RICO statutes, adequate in your opinion?

Mr. BENSINGER. The RICO has run into a problem, and I'm going to ask Marion Hambrick to talk about that. We have seen continuing criminal enterprise 848's provisions that have been applied; one recently in San Francisco and one recently in Cleveland, on dan-

gerous drug retail diversion cases in both instances. Those were 848's, not RICO's, but, Marion, why don't you address the problem?

Mr. HAMBRICK. Mr. Chairman, with the RICO statute, recently we had a decision by one of the Federal appellate courts, which claimed that to make the charge stick under the indictment, to legitimize it, you must have a legitimate enterprise and not a criminal enterprise.

In the past under RICO, we had taken a criminal enterprise that had any legitimate purpose and used it as one of the elements for RICO. With the review of the decision by the appellate court, today we're prohibited from using the provisions of RICO in drug cases until we can get a Supreme Court decision.

At the moment, upon our review and the advice of our chief counsel's office, as well as the advice of the Department, we feel that we will probably lose the utilization of the RICO statute in narcotic cases, unless it started out with a legitimate enterprise first and then subsequently got into narcotics in some fashion, which is not normally the case.

Senator DENTON. If RICO and CCE do not apply, why does DEA continue to spend resources on investigations which may not result in traffickers receiving relatively lengthy sentences or forfeiting assets?

Mr. HAMBRICK. Well, we do, sir, because we have not lost the provisions of CCE. Let me make that clear. It was only RICO. We have excellent sentencing provisions under CCE, as well as our regulatory conspiracy counts.

We have recently been able to use the new provisions of the CSA under 881 to make our financial or asset cases, both seizures and forfeitures. We find that that's much more effective in two respects. First, we're able to immediately seize the assets and prevent the assets from being able to be shifted once the charges are brought. Under CCE, you have to get a court order to freeze the assets because the assets cannot be forfeited until the charge itself is proven in court.

Under 881, it's an administrative charge on the civil side of the House, rather than the criminal side, and we can immediately seize and proceed to forfeit. We find that it's been quite effective, and we've been able to use 881 even in a CCE case, so that the seizure may show up under 881 even though we were pursuing and prosecuting a continuing criminal enterprise case; we did not use the forfeiture provisions of the CCE.

Senator DENTON. What percent of DEA resources are spent on clandestine laboratory investigations?

Mr. BENSINGER. I would say we're probably in the 15-percent area; 15 to 20 percent.

Senator DENTON. Can you think of any legislative changes that might be desirable to immobilize those clandestine laboratory operations?

Mr. BENSINGER. There are proposals with respect to precursor listings. Whether that would require legislation I'm not sure. We found in the case of PCP the legislative adoption by the Congress of piperidine being scheduled gave us a very significant lead into the PCP lab. And that type of chemical precursor tracking, particularly overseas, is very helpful.

We think probably a lot of the clandestine labs, particularly involving methaqualone and Quaaludes, can be impacted by laws outside of the United States adopted by countries such as Germany and Hungary; and we've had our Director of Compliance and Regulatory Affairs visit both of those countries, which do produce the raw material.

Senator DENTON. Mr. Hambrick, do you have any specific recommendations with respect to legislation on the clandestine lab aspects?

Mr. HAMBRICK. No, sir, the Congress has been very helpful in giving us legislation to track precursors right now, and we think that's assisted us in taking off a number of labs that we have especially in the LSD, PSP, and amphetamine area.

Senator DENTON. This will be my last question before going back to Senator Biden. In your priority rankings of programs you have intelligence ranked No. 4, and domestic enforcement No. 1. You added 26 to domestic enforcement, 10 to foreign cooperative investigations which is ranked No. 3, and subtracted 21 from intelligence, which seems anomalous. I would have to ask you the leading question: You said it was an OMB decision. I would rather suspect that maybe your own in-house intelligence gathering capability is so limited that you would prefer, rather than building up the numbers of those, to concentrate on intelligence services which might be better equipped to handle the job.

Mr. BENSINGER. Well, we consider our agents to be intelligence collectors, Mr. Chairman. The number of special agents are, in fact, the individuals that collect information and intelligence, transmitting that into reports that are then subsequently analyzed by both agents and intelligence analysts. So that we don't—so the number of intelligence analysts that would be added or subtracted would not be the number of intelligence collectors or resources, necessarily.

Senator DENTON. In other words, those are analysts rather than intelligence agents. In other words, you've got agents collecting intelligence, and you build that up by 36 and subtract 21 from analysts and you aren't hurting your intelligence potential, really.

Mr. BENSINGER. We would have preferred not to have lost any intelligence resources.

Senator DENTON. OK. Over to Senator Biden.

Senator BIDEN. Let me pick up right where the chairman left off. Eliminating the intelligence analysts—

Senator DENTON. I will ask you, Senator Biden, to permit me to go ask questions of Secretary Schweiker, and if you will take charge of these hearings I would appreciate it.

Senator BIDEN. Surely. Are you going to be coming back, Mr. Chairman?

Senator DENTON. Yes, I expect to come back in 15 to 20 minutes, and you all are due at another hearing at 11 o'clock, is that correct? Fine.

Senator BIDEN. With regard to the cutting of intelligence analysts, maybe for the record, because maybe you all have a definition of analysts different than the Intelligence Committee does, why don't you tell us what your intelligence analysts do?

Mr. BENSINGER. The intelligence analyst description, it's a 132 series, they have responsibility for making assessments, both strategically and in support of enforcement operations of data. They're deployed in the field and in headquarters and at EPIC. They're responsible for developing major organization reports, for developing information such as the Weekly Intelligence Digest, the Quarterly Trends publications, and for special analytical studies linking smuggling. They contribute to the NNICC report, they contribute to ongoing investigations. They participate in all CENTAC investigations, they work in New York as members of the Unified Intelligence Division. We've established intelligence units in our major district offices, which are district intelligence centers, and basically, their job is to support and enhance and preselect the targets that we go after and to make assessments of the shifts in the traffic or predictably even overseas, where raw narcotic materials would be produced.

They do not have law enforcement authority, they do not carry weapons, they cannot make arrests.

Senator BIDEN. All of your DEA agents also gather intelligence, correct?

Mr. BENSINGER. Yes, and they're trained in intelligence collection and we have special intelligence collection schools that are run to provide, on an in-service basis, special priority direction in the area of intelligence collection, particularly overseas.

Senator BIDEN. Because you have intelligence gatherers, those folks who are also your agents, and a separate category of intelligence analysts, it's assumed that the analyst has a function in addition to the agent.

Mr. BENSINGER. That is correct.

Senator BIDEN. And I assume that the analyst takes the intelligence gathered by various agents from all parts of the country and all parts of the world, and gives an assessment of how the intelligence gathered from L.A. fits into the intelligence gathered from New York and fits into the intelligence gathered from Bangkok, if it does.

So, in order to be able to have a coordinated intelligence apparatus, the intelligence analysts are an important part of that, aren't they?

Mr. BENSINGER. They certainly are, sir.

Senator BIDEN. Now, back to the chairman's question: Does cutting the number of analysts mean that you are looking forward to greater cooperation or more reliance upon the CIA to provide the analysts, the analytical data?

Mr. BENSINGER. Cutting the analysts will result in deferral of planned enhanced intelligence activities, number one; —.

Senator BIDEN. Can you tell me what it will defer?

Mr. BENSINGER. I think the flexibility and timeliness of response, both geographically and drugs specifically. We've got analysts monitoring cocaine, heroin, dangerous drugs, organized crime, and supporting financial investigations. And to the extent that we don't have these positions, our ability to move effectively between them, to put a fast, rapid response effort to a new threat is limited. And apart from that reduction, having additional resources, the CIA would not necessarily at all, Senator Biden, make up for that loss

because the CIA collects different types of intelligence than our analysts. And they can't work on our domestic cases.

Senator BIDEN. Well, I am glad you pointed that out because that is the point I was getting to.

Mr. BENSINGER. I suspected as much, but it is also a fact.

Senator BIDEN. You know those old sayings like "a stitch in time saves nine" and all the rest. Doesn't deferral mean missed opportunity?

Mr. BENSINGER. Yes.

Senator BIDEN. I mean, you are in a time-related business.

Mr. BENSINGER. We have lost State and local resources, we have lost intelligence resources. For me to say that we will be able to do more in those fields is not an accurate statement, sir.

Senator BIDEN. You talked about coordinated effort among agencies being nine. How can you, if you need be on a classified basis, supply to this committee an analysis of how CIA has become more cooperative with your efforts between, say, 1979 and 1981? Could you tell us how that's occurred?

Mr. BENSINGER. Well, I wouldn't make that representation. The question on 1 to 10, I think your question was domestic law enforcement or law enforcement agencies.

Senator BIDEN. Well, maybe I should rephrase my question then. In terms of DEA's coordination with other Federal agencies including the CIA, the FBI, local police agencies, the State Department, the Customs Department, Treasury generally, how do you rank the coordinate effort internationally, nationally and locally? How would you characterize that degree of cooperation in the overall effort to stem the flow, use, production and abuse of drugs of all kinds? And if you'd rather not do it on a 1 to 10 which may be a little simplistic, why don't you just tell me in your words how far along?

Mr. BENSINGER. That would probably be better, Senator, because it varies, and you've introduced some new elements. The intelligence community I didn't consider in my earlier response, the State Department which I didn't consider in terms of law enforcement domestically. I think our relationships with State and local law enforcement is very good. I think the State and local law enforcement representatives that I have talked with and that you have talked with invariably want more resources. They want more agents in their communities, they want more agents in their States, they want more action overseas, they want changes in laws, they sense the need for additional presence. Not just DEA, I'm talking about Customs, Coast Guard and others.

But I think our relationships, from an operating standpoint, is good. We have 42 States now that are participating in EPIC. Our task forces with State and local law enforcement agencies are ongoing. Some of them—

Senator BIDEN. They're going to be cut, aren't they?

Mr. BENSINGER. They're going to be cut in terms of funding. Some of them will continue even without Federal funding. Some may not.

In terms of our relationships in the intelligence community, I think this is an area that needs immediate attention, as I indicated to Admiral Inman and candidly to you. The priority and resources

devoted to that function by the intelligence community competes against other priorities.

It is my personal belief that this administration considers narcotics—the Attorney General does, the President does, the Deputy Attorney General, the Associate Attorney General—a very high priority. And I think—

Senator BIDEN. I can tell you now that the CIA does not.

Mr. BENSINGER. Admiral Inman indicated to me they would be responsive to clear signals from Congress and the administration of that fact. And I am working in that direction.

In terms of the State Department, there is presently an Acting Assistant Secretary for narcotic matters, Mr. Joe Linnemann. He has been very supportive of the need for changes in the Foreign Assistance Act, and has recently communicated both with the Director of AID, as I have, on the need for greater responsiveness from that Agency.

I would say in the past that participation in this overall Federal effort and our relationship has not been good. I'm talking about the AID funds and funding overseas.

Senator BIDEN. Are you aware, by the way, that we are drastically cutting AID, we're going to drastically cut foreign assistance, we're going to drastically cut all aspects of the State Department's operation that you are talking about need to rely upon? Are you aware of that?

Mr. BENSINGER. I'm aware that the AID funds that will be committed to narcotic-related development programs will move from above \$5 million to \$40 million next year. What has happened to the rest of their budget, I can't comment on, Senator.

Senator BIDEN. Well, we have State and local. We've talked about the CIA, we've talked about the State Department.

Mr. BENSINGER. In terms of Federal agencies, the Marshals Service had an excellent relationship with our drug law enforcement effort. They are a participant in EPIC, they've been assisting in a number of areas, both in terms of detention and arrest facilities; for example, for Operation Grouper, for exchange of information and intelligence. There was literally a minimal relationship with the Marshals Service 2 years, so I think that's been a quantum leap.

Its impact is certainly less than that of other agencies like State or the IRS.

Senator BIDEN. It's important, though. How about U.S. attorney's office?

Mr. BENSINGER. U.S. attorneys offices in certain key areas, I think, are strapped for resources. South Florida, particularly. They've made investigative cases with us, but I think the speed and extensiveness of that could and needs to be expanded. And I've shared that view on a number of occasions, and I have reason to believe that the Department will move in that direction.

Senator BIDEN. Can you think of any major city or major area of drug abuse in America where there are either sufficient U.S. attorney resources, or sufficient Criminal Division resources from the Justice Department allocated to those areas? Can you think of one?

Mr. BENSINGER. I would probably be responding on an exception basis, where we see them stretched, so that it affects our ability to

bring investigations. There are probably a number of them, such as St. Louis, Boston, probably Philadelphia, the eastern district of New York, Texas, Arizona. There are other areas, California—

Senator BIDEN. That what? I mean, what do all those areas have in common?

Mr. BENSINGER. The backlog is really what I'm thinking of. When you asked me that question I say to myself, where do we have a big backlog. We have a big backlog in southern Florida.

Senator BIDEN. But how about in the areas you just named? What is the common characteristic of them, from St. Louis to eastern district of New York?

Mr. BENSINGER. We are not reporting to you difficulties in bringing cases.

Senator BIDEN. There are not difficulties in bringing cases in those areas?

Mr. BENSINGER. There's been a difference of views in Chicago on some adoption of cases. A new U.S. attorney has recently been appointed there, but I can't think—and in Denver there have been some—

Senator BIDEN. Excuse me, I want to make sure I understand, because I didn't understand you last time when I thought I included CIA and you left CIA out of your 1-to-10 assessment. Let me make sure before I go off in the wrong direction here. I'd like you to run down those cities again because I'd like to call each of those offices in here. Eastern district of New York.

Mr. BENSINGER. We don't have problems, to my knowledge, in bringing cases in the eastern or southern districts of New York, for that matter.

Senator BIDEN. OK. St. Louis?

Mr. BENSINGER. I would make the same representation.

Senator BIDEN. Boston?

Mr. BENSINGER. I'd make the same representation.

Senator BIDEN. Philadelphia?

Mr. BENSINGER. Also.

Senator BIDEN. What were the other ones you named, do you recall?

Mr. BENSINGER. I didn't go through the list of all 94 U.S. attorneys' offices.

Senator BIDEN. I understand you didn't. I just wanted to know the ones you did mention.

Mr. BENSINGER. The ones that I would mention where we have a major backlog—and I guess I've said this and you may want me to stop saying it—is in southern Florida in Miami.

Senator BIDEN. I understand that.

Mr. BENSINGER. I guess what I'm also saying is I'm not getting reports from Marion Hambrick or our regional directors that there are other major problems of like or even approaching like nature as in Florida. Ham, you could speak to this perhaps more directly.

Senator BIDEN. Let's get the relative weight here. Isn't Florida the overwhelming exception in every category relating to drugs, drug abuse, concentrations of both quantity, dollar amount, organized—I mean every indicia that you would use relating to drugs, we can say that South Florida is in a class by itself.

Mr. BENSINGER. It's the fulcrum of the cocaine and marihuana market.

Senator BIDEN. Now, let's take that one out of the picture. We all agree on that. I don't have any doubt about that. When they start sending money back to the Federal Reserve while the rest of America and all the other system are having money sent to them, somthing is up. OK. When there is a recession around the country and there's a boom down there, something is happening besides the sun.

So let's take that out. We took out south Florida. Now let's talk about how well the other U.S. attorneys' office—not all 94, just in the major metropolitan areas, major drug problem cities, which I would expect we'd all agree at least are Los Angeles, New York, Philadelphia, probably Baltimore, probably Washington, San Diego, Chicago. Let's just take those. Let's pick a little Texas town. Which one in Texas did you say was the biggest problem,

Mr. BENSINGER. Houston has been particularly active.

Senator BIDEN. Let's just take those; not all the rest around the country. Just the ones we named. What is the degree of—let me rephrase that. Are there an insufficient number of U.S. attorneys in those districts, or people from the Criminal Division working on whatever basis in those districts that impact upon your ability to develop and bring cases to successful conclusion? Do you want me to repeat that one?

Mr. BENSINGER. I guess the question you're asking me, and you correct me if I have misunderstood it, is taking the cities that we listed, and we could add one or two here or there, are there enough U.S. attorneys to handle our workload, or do we have major problems in getting our cases to trial.

In those cities, I don't believe that is a major problem bringing cases to trial.

Senator BIDEN. How about in developing the cases? You've educated me very well to the problem of getting U.S. attorneys involved from the get-go, as they say, so that they understand the case, and are helpful to you in developing the case. Is there any distinction between bringing to trial and developing?

Mr. BENSINGER. There would be two suggestions that come to mind, and it's sometimes easier to make a comment about someone else's program than your own. One of them would be there's been a history of nonflexibility of assignments of the total number of U.S. attorneys. We move our agents, at great personal financial hardship to them, too. But that's a criteria of their job. That hasn't been the practice of being able to move the prosecutors as quickly.

Second, in the financial forfeiture area, we believe there's a good deal of training and developmental area that will be of assistance to us, because sometimes you get individual in narcotic prosecution assignments that then are reassigned to general crimes or to the civil side in a U.S. attorney's office and you start with a new prosecutor.

Senator BIDEN. Right. Well, I guess that means there is some problem. Let me sum up, since the chairman is back and I'm sure he wants at least the last 10 minutes. He's been gracious giving me this time.

State and local governments' relationships, good, your assessment. And you don't believe there has been any major impact on that status as a consequence of cutting some of those local task forces.

Mr. BENSINGER. I didn't say that.

Senator BIDEN. Oh, will there be?

Mr. BENSINGER. Yes.

Senator BIDEN. Negative impact?

Mr. BENSINGER. Yes.

Senator BIDEN. CIA, not real good.

Mr. BENSINGER. Should be better.

Senator BIDEN. Hopefully it will get better. Bob Inman I think is the single most competent man in the U.S. Government. I mean that unquestionably. Single most competent guy that works in any Federal agency, including the U.S. Congress. And he chooses his words very well, and if he said to you they will respond to a direction of Congress and/or the administration, he means just that. If we don't tell him, he won't. That is what he means. In case you are wondering, I have dealt with him for 4 years. So it ain't going to happen unless the President demands it specifically of CIA or we demand it. But it is not good now.

Three, State Department. Better than it was, increase in AID looks hopeful, but I won't characterize it beyond that. It has gone from 5 to 40 million, but I just want to warn you the budget is being cut, I see no indication of State putting this on a high priority at the level we both agree would have to be done, which is represented by the Secretary of State negotiating head to head with the Foreign Minister Genstcher or the Interior Minister in Germany in order to get something really done.

The marshals seems better. U.S. attorneys we need. We have some difficulty now, particularly in south Florida, and my question is the cut of 65 positions in U.S. attorneys not devoted to drug cases specifically, because you pointed out they aren't in most cases anyway. You get a U.S. attorney who is there, if it is not somebody directly from the Criminal Division. Will the cut of 65 positions hurt your efforts in your opinion?

Mr. BENSINGER. It might.

Senator BIDEN. It might. And will the cut of five specific positions in the narcotics field hurt your effort?

Mr. BENSINGER. I don't know what type of assignments they would be; whether it is clerical, staff, assigned for program review, where it would fit into the Criminal Division.

Senator BIDEN. Attorneys; not clerical people. OK, thank you very, very much, Mr. Chairman, I appreciate your indulgence. Thank you, gentlemen.

Senator DENTON. Thank you, Senator Biden. Recently, President Reagan has discussed the possibility of opening our border with Mexico to free movement of citizens between the two countries. What is your assessment of the effect such an act would have on the flow of drugs across our border?

Mr. BENSINGER. If it meant there was no inspection, negative.

Senator DENTON. Then piggybacking on that, how would we maintain effective drug enforcement in that area?

Mr. BENSINGER. I am not an advocate of the red/green system at airports or the provision of people passing from any border without a review of their citizenship, a declaration of what they are bringing with them, and the opportunity to have a search of the personal effects, the baggage, the cargo or the shipments.

Senator DENTON. A spot check type thing?

Mr. BENSINGER. A basis by which either utilizing TECS, which the Treasury Department has access to, NADDIS intelligence information, as well as instinctive characteristics. If someone is coming in from Bangkok with a declaration that lists no purchases, has taken a trip that is cash ticket and made a variety of stops, but doesn't appear to have been either dressed or related to that kind of trip, I would want to have a customs inspector take perhaps a second look at that individual and what he was bringing in.

The same would be true of the Mexican border where cocaine is still being used in a transshipment fashion. Mexico doesn't produce coca leaves but it is a transshipment source for a considerable amount of cocaine and some heroin and possibly marihuana.

So I think that from a law enforcement standpoint, we continue to need inspection.

Senator DENTON. We've requested funds to purchase eight single-engine aircraft to implement a phased replacement program for the 40 you now own. In 1979, DEA seized nine aircraft. To what extent has DEA used such aircraft for its own purposes?

Mr. BENSINGER. It has used our aircraft basically for surveillance and for reconnaissance. The planes are not used for transportation. We have a number of aircraft, well over 10 planes 18, 19 years old that I don't consider, as administrator of this agency, to be appropriate to continue to fly, for the safety of the agents and the efficiency of the operation. It is one of the areas the Department of Justice very strongly supported us in; we feel we have to be concerned with agents' safety and mission effectiveness and that is why this air replacement program will be used.

Many of the planes we seize are not directly related to the kind of aerial surveillance, single-engine aircraft that we need to fly above and watch a cargo or a boat or a car move across a highway or to look over a clandestine lab. And many of the planes are physically not in a position to be able to be flown. Some of them are leased and we can't get the ownership; the drug peddlers, knowing that if we prove they own it and seize it and forfeit it, go off and rent planes.

The same is true of our vehicles. While we are seizing vehicles, we are not telling our agents to go out and seize cars. Some of them are not adequate for the job, but we do seize perhaps 800 or 900 a year and use perhaps half that amount in our fleet.

Senator DENTON. Speaking of seizure of valuable commodities in the process of your work, would you explain the new provision you are seeking in your authorization which would permit you to pay moiety?

Mr. BENSINGER. Yes, I would, Chairman Denton, we appreciate the opportunity to have that in our authorization. The Division will permit DEA to pay rewards for information or activity which aided DEA in seizing assets of whatever form which were the result of

drug traffic. The best part of that reward will come from the assets seized from the traffickers, and not from the taxpayers.

At present, we have to pay these rewards from our budget and the provision will apply only to seizure and forfeiture of assets, and not to the seizure of drugs or other contraband.

It's my view, Senator Denton, that we can finance the criminal organizations' demise from their own assets. And we talked about budget earlier, but it is my belief that the seizures that will be made by Federal agencies will be in the half billion dollar area in 2 years, and that the funds turned over to the Government to enable agencies like our own to do this work will be able to be drawn from the criminal groups themselves.

Senator DENTON. Thank you, Mr. Bensinger. Thank you, Mr. Fink, and thank you, Mr. Hambrick. You have another hearing starting in just a couple of minutes. I would remind you that we might have written questions from other Senators for which a written answer would be required within 10 days. I want to thank you for your valuable testimony. This hearing stands adjourned, and you will be notified when the next hearing is scheduled.

[Whereupon, at 10:59 a.m., the subcommittee adjourned.]

[Prepared statement of Peter B. Bensinger and his responses to written questions from Senators Denton and Biden follow:]

PREPARED STATEMENT OF PETER B. BENSINGER, ADMINISTRATOR,
DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT
OF JUSTICE

Chairman Denton, Members of this important subcommittee. I welcome this opportunity to appear here this morning to discuss the vital mission of the Drug Enforcement Administration. Ours is an important task. In attempting to bring drug law violators to justice and to immobilize their organizations, we face what often feel like insurmountable odds. The traffickers have money on their side. The enormous profits available--\$64 billion dollars at the retail level in 1979 in the United States--make drug trafficking an attractive venture which some people believe is worth the risks inherent in such an illegal enterprise. I believe the focus of the U.S. Government should be directed toward increasing those risks--changing the odds.

DEA is rightfully at the forefront of the United States' initiatives. However, before I expand on the specific components of our operations, I believe it would be beneficial to quickly survey the dimensions of the drug supply arena.

The dynamics of the world drug market are changing. One of the most serious problems is the influx of heroin from Southwest Asia, Afghanistan, Iran and Pakistan. European nations are suffering from its disastrous effects; in the United States the presence of Southwest Asian heroin is being felt in many of our major cities. As you know, the sources of opium for Southwest Asian heroin are not controlled and the outlook is not

encouraging. Compounding that problem, is the anticipation of a new bumper crop of opium from the Golden Triangle. After two years, the drought that plagued Southeast Asia is ending. While the estimated domestic supply of heroin has dropped 50 percent since 1975 and continues to decline . despite the increased production from Southwest Asia, the uncertain production from Southeast and Southwest Asia makes future supply levels unpredictable.

The availability of cocaine and marihuana from Latin American and Caribbean source countries will most likely continue in the immediate future. The cocaine traffic in the United States and Europe continues to grow. The marihuana supply is increasing to a significant extent: there is massive cultivation in Colombia and increasing cultivation in Jamaica. Also of growing concern is the domestic cultivation of high THC content marihuana in Hawaii, California, Oregon and in neighboring states.

At the retail level, cocaine is now the single biggest producer of drug revenue. Marihuana is not far behind. The economic and health impacts of these two drugs are being felt nationwide, although most severely in our Southeastern area. It is painful to watch our abuse indicators reflect increased ill effects being experienced by the young people of our country.

Over the past several years, the United States has also experienced gradual increases in amphetamine and methamphetamine abuse. Illicit manufacture of these substances continues even though our special agents are seizing well

over 100 clandestine laboratories a year. Our South Central states are most affected.

Additionally, we have also seen the entry and presence of large-scale organized traffickers in the depressant trade. This has become most apparent with respect to methaqualone. The number of illicit methaqualone laboratories seized by the DEA has increased dramatically. Seizures are up: the same number of labs have been seized in the first six months of 1980 as in all of 1979. There is also considerable evidence of smuggling methaqualone by air and sea into the United States.

In all cases, our objective remains to immobilize the major trafficking organizations that have the capability to affect the national and international drug abuse situation. Consequently, we sometimes shift our drug enforcement priorities by region and city. Thus, in the Northeast the vast majority of our efforts are directed towards heroin, whereas in Florida and the Southeast, where cocaine and marihuana trafficking are very extensive, we are seeing most of our investigations targeted against major organized criminal networks dealing in these substances. But regardless of whether it is a heroin, dangerous drugs, cocaine or marihuana organization that we target, our objective is to immobilize the organizations by ensuring that the principals are incarcerated, the drugs seized, and their assets removed.

The primary focal point for many of our programs is overseas because, as you know, the primary sources for these illicit substances are in foreign countries. It is imperative

that our international program be strong and dynamic. Stopping the drugs abroad, before they enter the marketplace, is one hundred-fold more effective than arresting major violators at home. We have been witness to the effectiveness of the commitment of the Government of Mexico and international cooperation and the resulting impact on heroin production from that source.

Unfortunately, we cannot now get to one heroin source where we need to most: Southwest Asia. In deference to our inability to create an impact at source sites in Southwest Asian countries, we have had to move to our second line of defense, the conversion and transshipment countries, which unfortunately have also in many instances become the victim countries. Our European allies are responding most favorably to the initiatives we have developed.

Intensified efforts in Europe and Turkey have had an impact. Fourteen heroin conversion labs have been seized in the past two years; seven of these were in Italy and two in Sicily. The heroin produced in nine of these labs was destined for the United States. Southwest Asian heroin seizures are up 400 percent in Europe and the Middle East. This rate is actually far more dramatic than the successes realized at the time of dismantling the "French Connection" in the early 1970's. These seizures and the arrests and prosecution of the principals are effective; it is the major reason that heroin purity in the United States has increased only marginally.

Firm commitments are also needed in South America--the

source of increasing amounts of cocaine, marihuana and methaqualone. As with heroin, the solution must be found in the source countries. Crop control and substitution programs, in concert with economic development, are critical elements in a viable strategy. Increased diplomatic initiatives directed toward gaining greater commitment and cooperation from the governments of the production and transshipment countries are also vital to a comprehensive approach.

In the past we have directed our efforts towards traffickers and drugs...no longer. A new major priority is directed not towards the drugs, nor towards the traffickers, but rather toward that third dimension of a drug trafficking organization--the assets. We have accelerated our program to take the profits and proceeds out of drug trafficking.

In Section 9 of the authorization bill we are proposing a major innovation--the implementation of a moiety provision. In this fashion, instead of using the taxpayers' money, the reward to those individuals cooperating with DEA would be derived from the seizure itself. There is indeed poetic justice in using the drug traffickers' ill-gotten gains to provide the incentive to catch the drug traffickers.

DEA's program is moving forward at a rapid pace. Without capital, the traffickers are out of business. In the first year of our efforts (FY 1979), while we were training our agents in techniques, we removed approximately \$13 million in assets from drug traffickers. In FY 80 there was a 700 percent increase in seizures--up to a total \$90 million in seized assets. During that same time, approximately \$42 million was forfeited and turned over to the U.S. Treasury.

I have every expectation that this trend will continue. Hitting the traffickers where it hurts--in their wallets--is an effective weapon. Removing the organization's assets removes its lifeblood. Incidentally, I am very pleased to note that the concept of asset removal is being vigorously pursued both by other nations and, in some cases, at the state level here in the United States.

I believe that the overall emphasis of DEA's enforcement program is sound. It is our responsibility to direct all efforts at the upper levels of the drug traffic. And we have made inroads developing conspiracy cases against major traffickers: we can now reach the heads of the criminal organizations who never touch the drugs, but reap all the rewards and the profits. The momentum of the DEA enforcement program is reflected in the FY 80 statistics which show substantial increases in arrests of upper-echelon violators; overall arrests increased by approximately 900.

Our programs have a built-in flexibility to respond to changing situations or to bring special emphasis to bear on a problem. We are exploring many different, innovative enforcement initiatives to insure that maximum pressure is brought to bear on the drug trafficking environment. Many of these initiatives involve enhanced working relationships with other Federal, State and local agencies.

As I am sure you are aware, last month a model interagency cooperative effort, Operation Grouper, was culminated with the returning of 22 indictments in four Southeastern judicial districts charging 155 individuals with widespread con-

spiracy to smuggle massive amounts of marihuana and methaqualone into the United States. This DEA-led mobile task force involved assistance from 21 other Federal, State and local agencies and the Government of the Bahamas.

Operation Grouper was a unique, extensive undercover investigation that allowed us to reach the upper-most levels of 15 major trafficking organizations and to key on the ringleaders rather than the couriers and mid-level dealers. The drug seizures were extensive over the 22-month operation: 1.2 million pounds of marihuana, 831 pounds of cocaine and 3 million tablets of methaqualone. Our Regional Intelligence Office in Miami estimates that these trafficking groups may have been responsible for as much as 30-40 percent of the marihuana being smuggled into the United States. The apprehension, thus far, of 56 Class I and II violators will have a dramatic impact on drug trafficking in the Southeast. Although there is a ready reserve to replace the drugs that were seized, there is no way possible that these 15 trafficking organizations will be able to function without their leadership and immediate subordinates. I was pleased to note that there are high bonds -- \$20 million -- set for a number of these upper-echelon violators. This is a clear signal from the judiciary that the traffickers' view of bail as a mere business expense will no longer be accepted or tolerated. I am hopeful that the judiciary will further acknowledge the importance of meaningful sentences for large-scale, Class I, marihuana and methaqualone traffickers. It is important to make trafficking these illicit substances a risky business.

I have recently met with FBI Director Webster and IRS

Commissioner Egger to discuss the ever apparent need for increased commitments from each of their services to the domestic narcotic control effort. They have both agreed that continued interagency cooperation is vital and a signal as to the priority of drug law enforcement.

Of course, we are maintaining a strong emphasis on inter-agency investigations with the Customs Service, the Coast Guard and the rest of the Federal enforcement community. In these austere times, we have all recognized the need for further enhancement of cooperative endeavors. I believe we will be seeing an acceleration in the number of interagency, high-level investigations, like Operation Grouper.

Chairman Denton, I look forward to continuing with you the very important dialogue that I have had with other Members of the Congress regarding multi-faceted strategies needed to address the drug problem in the United States.

April 3, 1981

To: Mr. Bensinger
From: Senator Denton

I understand that you have an administrative law judge's decision on your desk relative to proposed limitations to the importation of narcotic raw materials into the United States.

Hearings were held by Judge Francis L. Young in September 1980 and yet to my knowledge you still have not ruled on this decision.

1. Have you so ruled to date?
2. If not, when will you? And why haven't you so ruled?
3. If so, when will it be published in the Federal Register?
4. Could you elaborate on the details of what went into your decision?

The Honorable
Jeremiah Denton, Chairman
Subcommittee on Security and Terrorism
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

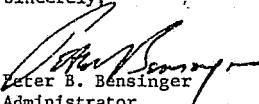
This is in response to your letter of April 3, 1981 concerning the present status of proposed limitations to the importation of narcotic raw materials into the United States.

As you indicated, hearings were held by Administrative Law Judge, Francis L. Young, in September, 1980. On January 16, 1981, Judge Young forwarded to me his report which included his recommended findings and conclusions.

A final decision has not been announced. Since the ruling on this matter constitutes a major Department of Justice policy, the recently confirmed Attorney General and Deputy Attorney General will require a briefing. The publication of my decision must await their understanding of this complex issue and their concurrence in my proposed decision. I expect a final decision to be announced within the next thirty to forty-five days.

If I can be of further assistance in this or any other matter, please do not hesitate to call.

Sincerely,


Peter B. Bensinger
Administrator

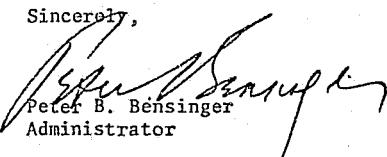
The Honorable
Jeremiah Denton, Chairman
Subcommittee on Security & Terrorism
United States Senate
Washington, DC 20510

Dear Chairman Denton:

Enclosed are the materials prepared in response to Senator Biden's request for additional information pursuant to the Drug Enforcement Administration oversight hearing. I trust that these answers will assist your subcommittee in its important tasks.

Please feel free to contact me if DEA may be of additional assistance to you or your staff.

Sincerely,


Peter B. Bensinger

Administrator

Enclosure

Question 1: Southwest Asian Heroin - What is DEA's estimate of the heroin that entered this country in 1980 and what percentage of that would you say is Southwest Asian?

Answer: DEA's preliminary estimate of the supply of heroin to the United States from principal foreign sources for 1980 is approximately four metric tons. Of this, we estimate approximately sixty percent originates in Southwest Asia.

Question 2: Is Southwest Asian heroin still considered the primary source of heroin that will enter this country in 1981?

Answer: Southwest Asia is the primary source of heroin entering the United States at this time. Although opium production in the Golden Triangle area has greatly increased, it is not believed that heroin from that area will rival Southwest Asian heroin in 1981.

Question 3: In your statement you also mention the serious problems resulting from the influx of Southwest Asian Heroin. The Carter Administration in their proposed FY-81 Budget supplemental requested 20 positions and a budget increase of \$5.4 million to focus additional resources in this area.

- What has happened since that supplemental request to warrant a cut back in this area?

Answer: DEA's Southwest Asian heroin program was organized in February 1980 to respond to an anticipated increase in heroin from Iran, Pakistan, and Afghanistan. Target cities on the eastern seaboard were designated for special attention; manpower, funds, and equipment were drawn from other activities and reallocated to this effort.

Locating and seizing laboratories in Europe were established as top priorities and results have been greater than originally anticipated. Fourteen

heroin conversion labs have been seized in the last two years; nine of these in Italy. Southwest Asian heroin seizures are up 400 percent in Europe and the Middle East. This rate is actually far more dramatic than the successes realized at the time of dismantling the "French Connection" in the early 1970's.

Heroin purity has remained constant and preliminary reports from NIDA indicate a downward trend in heroin indicators in the first quarter, although it is too early to determine if this trend will continue.

Question 4: Which cities will be affected by this cut back in Southwest Asian supplemental funds?

Answer: The thrust of the original request was to provide additional resources for Washington, D.C., Baltimore, New York, and Philadelphia--areas that have been severely impacted by the Southwest Asian heroin influx.

Question 5: Will this cut back negatively affect your efforts in disrupting the flow of Southwest Asian heroin?

Answer: DEA will have to reassign agents to those key cities referred to above. As a result, DEA will have fewer agents available for other aspects of drug law enforcement.

The national and international effort against the threat of Southwest Asian heroin has not been reduced in priority. Southwest Asian (SWA) heroin remains the number one priority.

For 1982 an increase of ten positions is requested to support activities in Europe and the Near East that are targetted at the Southwest Asian heroin traffic.

DEA is expending the planned funding for Southwest Asian heroin investigations overseas, to be as close as possible to the source of supply.

Question 6: Would you tell us what additional resources have been directed to these efforts?

Answer: In an attempt to disrupt the movement of opiates from Southwest Asia, DEA is in the process of establishing new offices for Cyprus, Kuwait, and Greece.

Nineteen Special Enforcement and Intelligence programs in Europe and Southwest Asia were conducted during the last year in Austria, Belgium, France (2), Greece, Germany (4), Italy (2), Lebanon, Netherlands, Pakistan (3), Spain, and Turkey (2). These programs augmented the manpower and financial resources available to the DEA offices in the respective countries and directed the resources to specific enforcement and intelligence goals regarding the traffic of this heroin. These intelligence and enforcement efforts have included quantitative surveys of illicit opium production, identification and disruption of clandestine heroin laboratory activities, interdiction of opiates at vulnerable points along the trafficking routes, and identification and immobilization of the major international trafficking organizations. A concomitant goal in this activity is to enhance the initiative and capability of DEA foreign counterparts in combatting the heroin traffic.

Question 7: What impact has making this a top priority had on disrupting the labs?

Answer: The closer the investigation gets to the conversion laboratories, the more impact it will have on the overall availability of drugs. It is imperative that our international program be strong and dynamic. Stopping the drugs in the source countries or at the laboratory sites before they enter the marketplace is one-hundred-fold more effective than arrests and seizures at home. The number of conversion laboratories dismantled thus far in the Southwest Asian heroin campaign is well in excess of the number of laboratories seized during the "French Connection" a decade ago. As a by-product of the efforts of the DEA Special Agents working overseas in the conversion and transshipment countries, host country enforcement authorities have measurably increased their dedication to all aspects of drug law enforcement. Results have exceeded preliminary objectives.

Question 8: Where are we gaining cooperation that we previously lacked? Where are greater efforts needed?

Answer: Several heroin laboratories have been seized and firm links between Italian and New York based organized crime elements have been established as a result of increased cooperative efforts with Italian authorities. Spanish enforcement authorities have taken advantage of a DEA support program and, as a consequence, have had positive results with the identification of an Asian control group which had been responsible for heroin trafficking in Europe and the United States.

In addition to a renewed positive response to special enforcement and intelligence programs, DEA has been gratified by the application of the narcotics enforcement training programs that it has been conducting. These programs are directed toward drug-critical countries in order to increase the awareness in these areas about the drug problem and to improve their narcotic enforcement capability. This program is currently concentrating on Pakistan, a primary source for opium, and Turkey, a primary heroin production and trafficker source area. Since 1980, several hundred of these police officials have received DEA training.

Greater efforts are needed in north Pakistan.

Question 9: What additional resources would you need to have a major impact on the disruption of these laboratories?

Answer: Lab disruption will not automatically result with added agent positions. Increased travel funding, intelligence and agent positions will increase flexibility, size and scope of our investigations. Increased resources in these areas would enhance the potential for laboratory seizures.

Question 10: Has there been a noticeable decrease in time availability of Southwest Asian heroin in the U.S. because of your activity directed at the laboratories?

Answer: The strategy of striking as near as possible to the source, which in the case of Southwest Asian heroin is at the conversion laboratories, continues to have momentum and is yielding the desired result of containing the Southwest Asian heroin threat in the United States and of levelling Southwest Asian heroin trafficking in Europe and the Middle East. We have not seen SWA spread from the East Coast nor have we seen a major increase in the national heroin purity level.

Question 11: One of the criticisms of DEA in the past was from state and local law enforcement personnel who felt that there was little coordination between federal domestic drug enforcement and the state and local agencies. The state and local task forces have been a mechanism to improve the coordination between federal, state and local drug enforcement efforts and has helped to reduce duplication in investigations and potential danger to enforcement officers.

- Why is DEA cutting 86 positions and \$5.9 million, a 40% reduction form the state and local task force program proposed in the FY-82 Carter Budget proposal?

Answer: State and Local Task Forces

The State and Local Task Force program is a cooperative effort between DEA and State and local law enforcement officers. These task forces compliment Federal enforcement efforts and simultaneously develop and upgrade the quality of the local drug enforcement presence. These units often develop significant cases against traffickers. Certain task forces have evolved into first-rate enforcement operations. The personnel and operational funding remaining in this program should be sufficient to continue those task forces which show evidence of being able to gain and develop further expertise from participating in the program.

Nevertheless, when resources are constrained, programs which are not directed at primary Federal responsibilities have been cited by OMB as the first to be reduced.

Question 12: Which task forces will be eliminated as a result of this budget cut?

Answer: DEA is now in the decision making phase regarding the termination of specific State and Local Task Forces. It would be premature to list specific task forces that are stated to be eliminated. DEA will provide this list to the subcommittee by June 30, 1981.

Question 13: What do you anticipate will be the impact on DEA's effectiveness with regard to State and local coordination as a result of these budget cuts?

Answer: DEA anticipates that there will be a reduction in the number of arrests. Additionally, it is expected that there will be less intelligence and informant input. This, in turn, will affect the development of investigations of higher level traffickers. It is not clear to what extent local jurisdictions will be able to sustain the same level of joint operations with DEA without operational funding.

The DEA 1982 budget proposes a continued State and Local Task Force Program and a strong liaison and training program.

Question 14: Could Operation Grouper ever have been carried out without the cooperation and assistance of Federal, State and local law enforcement agencies?

Answer: Without the cooperation of Federal, State and local authorities, Operation Grouper would have been a most difficult undertaking and the efficacy of the Operation would have been seriously affected. This investigation could have been completed without other state and local authorities, but the effect certainly would have been diminished in terms of drug and asset seizures, numbers of individuals arrested and, in general, the impact on drug trafficking in this area. The duration of the Operation would have necessarily been much shorter.

Question 15: How will you coordinate enforcement efforts like this in the future in areas where you eliminate task force programs?

Answer: The elimination of certain State and local task forces will not preclude operations such as Grouper. Operation Grouper was not the product of a formalized Federal, State and local task force, but rather was the result of a joint Federal, State and local liaison program. Operation Grouper was a Mobile Task Force (MTF) which means that it was funded at DEA Headquarters, Office of Enforcement, but was controlled operationally by the Miami Regional and District Offices. This funding mechanism, and Headquarters role, is clearly distinct from the manner in which a formal Federal/State/local task force is operated. Thus, the budget has allowed for further development of the MTF program although there has been a reduction in the formal task force program. If there is a justifiable need for a MTF in an area where the task force was eliminated, an operation like Grouper can still be initiated. It was in fact initiated in an area without a formal task force. The primary contributing partner to this effort was the U. S. Coast Guard.

Question 16: Could you give us an analysis of increases in forfeitures for this year compared to last?

Answer: From the period of October 1, 1979, through March 31, 1980, seizures amounted to approximately \$9 million and forfeitures approximately \$320,000. From October 1, 1980, through March 31, 1981, DEA asset removal seizures amounted to \$52 million and forfeitures were \$36.2 million.

Question 17: To what do you attribute the increase (decrease)?

Answer: This increase in seizures is attributed to DEA's increased awareness of the benefits derived from utilization of the three-dimensional integrated approach of drug removals, trafficker arrests and asset removals. This enforcement approach relies heavily on a multi-agency approach to drug asset removal and includes the application of a broad spectrum of laws and interagency cooperation. The training program sponsored by DEA has been an important factor in ensuring that Special Agent personnel are aware of the potential of exploiting the financial aspects of drug investigations. Regional Management Reviews focused on an office-by-office basis on asset removals. Regions have been given asset removal goals and all Class I and II cases are expected to produce significant asset forfeitures.

Question 18: What means do you employ to evaluate the effectiveness of your training program in this area?

Answer: DEA evaluates the effectiveness of the asset removal training program by a comparison of seizure/asset removal data with case potential, intelligence and enforcement projections.

Question 19: Has the training program been modified since last year?

Answer: Modifications in the training program have taken place. The intent of the original curriculum was to give a comprehensive first exposure to the financial aspect of drug investigations. The program is designed to reach all DEA Special Agent personnel, including the senior-most managers. DEA has succeeded in reaching approximately 95 percent of its investigative workforce. While the Special Agent force has received this training, appropriate indepth, advanced training regarding asset removal will be implemented this year in the regions and at Headquarters.

Question 20: How does DEA know that all seizures referred to IRS are forfeited?

Answer: DEA does not know if all seizures referred to IRS are forfeited. The prohibitions contained in the Tax Reform Act of 1976 will not permit the IRS to report to DEA the results of seizures referred to them. For our recordkeeping, we have considered the referrals as forfeited.

Question 21: What are fine forfeitures? Are these fines imposed or actual dollars collected?

Answer: Fine forfeitures are fines imposed as a result of an administrative or judicial action brought by DEA either unilaterally or in cooperation with another agency. They are fines imposed and considered to be assets removed from the traffickers.

Question 22: Do seizures made by foreign governments, which is included in your 42 million dollars, actually end up in the U. S. Treasury?

Answer: Seizures reported by foreign governments are reported as seizures based upon information furnished by DEA, or made as a result of a cooperative investigation with DEA, or made by DEA and referred to a foreign government. Foreign seizures are considered drug asset removals by a foreign government. All seizures made by foreign governments are considered forfeited unless otherwise reported. Foreign seizures do not end up in the U. S. Treasury. What is significant is that they represent assets taken from traffickers.

Question 23: Wouldn't these figures make your estimated forfeiture figure of \$42 million that was turned over to the U. S. Treasury a bit misleading and inaccurate.

Answer: The umbrella of "asset removals" covers forfeiture via any Federal or State statute (in DEA cooperative cases), IRS tax levies and court imposed fines. In the course of cooperative efforts with most foreign countries, DEA encourages foreign legal action to seize and forfeit trafficker assets. Foreign forfeitures are not deposited in the U. S. Treasury, nor are they included in the tabulations of forfeitures deposited in the U. S. Treasury. However, these foreign forfeitures represent an indication of the DEA overseas cooperative effort to remove drug traffickers assets, which helps diminish the profit motive in drug trafficking. DEA considers any legal avenue which removes drug traffickers' assets to be appropriate and advocates asset removal action against criminal drug traffickers on as wide a scope as possible.

Question 24: How can you assure Congress that this program can be run effectively when the base figure from which this fund would be created, the seized assets, is in question?

Answer: The Office of Enforcement has developed a rigorous reporting system to keep track of the amount of assets that have been removed from drug trafficking individuals and organizations. Under this system, investigators at the resident, district and regional office level are required to report on the type and dollar value of assets seized, the dollar value of assets forfeited, and the agency or agencies principally responsible for the initial seizure.

The objective of this reporting system is to capture data on assets removed from the drug trafficking community. The system was not intended to provide a strict accounting of revenues realized by the Treasury, and DEA will concede that, at the present time, it does not do so.

A recent internal evaluation of DEA's asset removal program found that, for the most part, the reports on seized and forfeited assets are reliable. However, there is room for improvement, as there is with any new program. The evaluation found some evidence of double counting, i.e., where two or more agencies claim primary responsibility, for a given seizure. The team also found that, in the absence of a market transaction, some investigators have encountered difficulty in assigning a dollar value for reporting purposes to real property or equipment at the time such assets are seized. These are not serious problems and the agency is working to correct them.

Tracking between seized assets and forfeited assets is more difficult. Seized assets that are referred to other agencies for disposition, or assets that are surrendered to the court for judicial action, tend to be lost to the DEA reporting system. In addition, there can be a marked reduction in the "book value" of an asset as it moves from the "seized" to the "forfeited" category and from there to a deposit to the Treasury's miscellaneous receipts account.

Consider a typical example: As the result of an ongoing DEA undercover investigation, DEA learns that a cargo of marihuana is to be flown into the United States. The time and place of the planned flight is provided to the U. S. Customs Service, which intercepts the flight and seizes a five-year-old twin engine aircraft. The aircraft has a "book value" of \$100,000, and since it was intercepted as a direct consequence of a DEA investigation, it is recorded as a \$100,000 seizure in DEA's report of seized assets. The aircraft is turned over to the court, and in due course (possibly a year later) the pilot/owner is convicted and the aircraft forfeited to the Government. The U. S. Marshals Service sells the aircraft at auction, but because of damage sustained in its capture the selling price is only \$50,000. There is a bank lien of \$30,000 on the aircraft that must be satisfied, and the U. S. Marshals Service must recoup \$2,500 in storage costs. The amount deposited to the Treasury, then, is only \$17,500, but there is no doubt that the pilot/owner has "lost" his \$100,000 aircraft. Nor is there any question that DEA was responsible for the seizure, forfeiture, and additional revenue deposited to the Treasury.

While it may be that transactions of the kind described in the foregoing hypothetical example are so complicated that they introduce the possibility of error in DEA's seized and forfeited assets reports, this will not affect the ability of DEA to monitor and strictly account for moiety rewards under the authority now pending before the Congress.

DEA proposes to set aside for use in paying moiety rewards 25 percent of the net assets realized only from forfeitures under Section 881 (and possibly Section 848) of the Controlled Substances Act. No part of the asset seizures referred to IRS or other agencies would be earmarked for use as rewards, nor would revenues generated through fines be used for this purpose. In short, DEA (with Department of Justice and OMB support) is proposing to use only a small fraction of the amount presently reported as seized from the drug trafficking community.

Assets seized under Section 881 are handled in such a way as to be relatively easy to account for. Administrative forfeitures (those valued at less than \$10,000) are handled by the agency directly; property and equipment are turned over to the General Services Administration for disposal, and the proceeds are credited to DEA's account; DEA deposits such proceeds as well as cash and negotiable instruments to the Treasury's miscellaneous receipts account. Judicial forfeitures (over \$10,000) are handled by the courts and, in the case of property or equipment, auctioned by the U. S.

Marshals Service; proceeds are credited to DEA's account, and deposited by DEA to the Treasury's miscellaneous receipts account. As long as GSA and the U. S. Marshals Service follow published procedures -- and there is no reason to think that they do not -- then there is a clear audit trail from the act of seizure to the act of deposit in the Treasury.

To place this matter in perspective, administrative and judicial forfeitures that would be subject to set aside for moiety rewards amounted to only \$1,109,015 in FY 1980 and \$1,186,852 through March 31 of fiscal year 1981. We expect significantly increased activity in this area, but the amounts realized through Section 881 forfeitures will remain relatively small in the foreseeable future. It is our intention -- indeed, we have included authorization language that would require -- that set asides for moiety rewards be treated as appropriated funds subject to the OMB apportionment process, that the accounts be audited at least twice a year, and that an annual report be made to Congress covering all aspects of moiety payments.

Question 25: What portion of a trafficking organization's assets must actually be forfeited to put the organization out of business? For example, assume that you're dealing with a heroin trafficking organization grossing a billion dollars a year and you're able to convict the top leaders, what portion of that organization's assets would you have to forfeit to shut down the organization and keep the convicted leaders from continuing the organization from behind bars? Have you ever been able to accomplish that with the Southwest Asian Heroin trafficking organization?

Answer: DEA's integrated enforcement approach depends on the relative coordination of trafficker arrests, drug removals and asset removals. The accomplishment of only two out of three of these aspects could enable an organization with determination to continue trafficking upon restoration of the damaged element. When an organization's top leaders are convicted and incarcerated, DEA proceeds against as many assets as it is able to identify for seizure/forfeiture action. Successful seizure/forfeiture proceedings in conjunction with incarceration do have an impact on an organization; but, there is no guarantee that operations cannot group with organizational leaders behind bars. Recent intelligence from a key source country reflects that major DEA operations including asset removals do have significant impact.

Question 26: Right now DEA forfeitures are at best only a fraction of a percent of the total illicit drug revenues (approximately \$64 billion per year). What percentage of that total \$64 billion is a reasonable goal for DEA to accomplish in the next FY and each of the next five fiscal years?

Answer: The \$64 billion figure does not represent physical assets, but rather it is an estimate of the amount of money spent on illegal drugs at the retail level. DEA's targets are at the international and national wholesale level which are several layers away from the street retail level. The estimated dollar value at the wholesale level would be significantly smaller.

DEA estimates that seizures, assessments and referrals to other agencies in drug cases could total \$150 million in the current fiscal year. We believe a figure of \$500 million may be possible by 1983. Increasing the figure beyond that in 1984-85 will heavily depend on mutual assistance treaties dwelling on financial information exchange with governments such as the Bahamas and the Caymans. The Departments of State and Justice are active in this area. With satisfactory treaties our seizures could escalate to several billions of dollars.

DEA policy mandates that all Class I and II cases be examined for exploitation of the financial aspects.

Question 27: If we are to achieve those goals at least with respect to Southwest Asian Heroin trafficking organizations would the level of Southwest Asian Heroin reaching this country return to pre-1977 levels?

Answer: Not necessarily. Pre-1977 Southwest Asian heroin represented less than 1/2 ton. Foreign events of a political nature will determine the raw opium availability in Afghanistan and Iran. The asset removal program must be considered in conjunction with trafficker arrests and drug seizures. Asset removal alone will not completely reduce the level of SWA heroin reaching the U. S. The full range of options in the international drug control strategy must be brought to bear in order to have an impact on the Southwest Asian heroin situation. This must include crop control at the source.

Question 28: I am concerned about the downgrading of your Compliance and Regulatory Investigative Program. In the Carter FY-82 budget it was ranked second out of your 14 program areas. The Reagan budget will eliminate 47 positions and \$50,000 dollars from this area. What policy changes have occurred to justify this 47 position decrease?

Answer: The 47 position decrease in Compliance and Regulatory Investigative program represents a net savings in resources which resulted from a shift in management priorities. DEA will continue to enforce the provisions of the Controlled Substances Act as they pertain to the diversion of legally produced controlled substances into the illicit market. However, DEA will reduce its effort in the area of periodic (cyclic) investigation of drug manufacturers and distributors who have a documented history of compliance with the provisions of the CSA. Manufacturers and distributors with past violative history, and suspected practitioner divertors will continue to receive the vast bulk of attention. It is our hope and our expectation that reduced oversight will not result in increased non-compliance among these previously non-violative firms.

There will be 100 fewer cyclic investigations of registrants who present a less obvious risk to the public health and welfare. Staffing dedicated to registration procedures will be reduced, resulting in delays in renewals of some applications until after their expiration dates.

Less emphasis on regulatory activities will allow a modest reduction in pharmacological expertise and less detailed economic analysis of regulations.

There will be some reduction in analytic activities which provide violator targeting information for DEA and State level enforcement activity. Unanalyzed data will continue to be provided to the States. DEA relies heavily on voluntary compliance by industry and professionals. The primary objective of voluntary compliance is to prevent diversion of substances by supporting and fostering self-regulation and self-enforcement within the regulated industry and professions.

More can be done to improve the record and reduce diversion. The DEA has been redirecting its activities from cyclic, non-practitioner investigations to practitioner investigations. This is where the problem is and this is where our response should be directed. As an underpinning to this change in direction, DEA has maintained that our activities must be at the G-DEP I and II level. DEA believes that this is appropriate for the Federal work effort.

Additional efforts should be directed in the area of international diversion. The DEA's international regulatory program, with two investigators in place, has resulted in the interdiction of 12.6 tons of illicit

methaqualone, among other items. Intelligence gathering and liaison with foreign regulatory officials has resulted in greater international awareness of vulnerable commerce channels and an ability to directly impact on drug trafficking operations.

Drug thefts also continue to constitute an area of significant diversion. Thirty to forty million dosage units are lost annually. Violence associated with these thefts has increased dramatically. The number of armed robberies has almost doubled since 1976. The identification of trends and exploration of security technology could result in progress in this area; as could revision in certain regulations and penalties in the Controlled Substances Act currently under review at the Department of Justice.

Question 29: What is the priority ranking for the Compliance and Regulatory program now?

Answer: The minimum level of the Compliance and Regulatory Program is still ranked second, with only the minimum level of the Domestic Enforcement program ranked higher.

Question 30: Will the cuts to compliance and regulatory investigations further hamper efforts to address this problem? (look-alike pharmaceuticals)

Answer: Overall ceiling reductions within our compliance program will not affect efforts to impact on this problem. DEA has no jurisdiction over look-alikes, and therefore, minimal resources have been dedicated to this problem. DEA will continue to monitor the situation and assist the individual states with this problem.

Question 31: How will the DEA be helping states to deal with regulatory problems in the future?

Answer: The DEA will continue to share information with state regulatory agencies and to work with the states in areas of mutual concern. Within the area of compliance and regulatory investigations, we have developed a targeting procedure which provides for the referral of intelligence information regarding targets which are not accepted for Federal investigation. This system includes use of both field intelligence and information gleaned from the DEA's computer programs.