

HEARINGS ON NEW YORK CITY NARCOTICS LAW ENFORCEMENT

HEARINGS
BEFORE THE
SELECT COMMITTEE ON
NARCOTICS ABUSE AND CONTROL
HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS
SECOND SESSION

NOVEMBER 19 AND DECEMBER 10, 1976

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NEW YORK CITY NARCOTICS LAW ENFORCEMENT

FRIDAY, NOVEMBER 19, 1976

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,
New York, N.Y.

The Select Committee met, pursuant to notice, at 10 a.m. in the art gallery of the New York State Office Building, second floor, 163 West 125th Street, New York City, N.Y., Hon. Charles B. Rangel, acting chairman, presiding.

Present: Representatives Peter W. Rodino, Jr., Mario Biaggi, Benjamin A. Gilman, and Morgan F. Murphy.

Staff present: Joseph L. Nellis, chief counsel; Jeanne Robinson, professional staff member; Thomas Vogel, professional staff member.

Mr. RANGEL. The hearing of the Select Committee on Narcotics Abuse and Control will now come to order.

I would like at this time to thank my colleagues who have interrupted their work in their home districts to join with us in reviewing this very serious problem that we face within our city, State and Nation.

First of all, I do not have to introduce, but I present to you Chairman Peter Rodino, who has joined with us and certainly has been a fighter long before I entered Congress in order to stop the illicit traffic in drugs in this country. Next, Mario Biaggi, of the city of New York, and indeed in the Nation, has provided leadership in this very serious problem. On my right, Benjamin Gilman, who is unique because, although the ravages of narcotics addiction has not reached his area to the same extent as it has the inner cities, he has certainly been a leader in coming with us, understanding the problem, and has given credibility and education to those Members of Congress that have not yet been hit with this epidemic. And sitting at the end of the table, Morgan Murphy, from Chicago, with whom I have served on the Select Committee on Crime, who has moved up in leadership in the House, so that our voice is being heard. And, of course, I would also mention our chairman, Lester Wolf, who is not with us today, but has been able to put together this type of committee where the members represent the seven major committees that have jurisdiction in one way or another over this serious problem.

We believe, all of us, that for the first time in the history of the Congress that we can get a handle on this problem.

The purpose of today's hearing by the House of Representatives Select Committee on Narcotics Abuse and Control is to respond to Mayor Beame's press release of October 28, 1976, in which he stated that "the narcotics epidemic is a problem which truly is nationwide in scope and must be dealt with on the Federal level." He made the unusual demand that the Federal Government assume the cost of

operating the New York Police Department Narcotics Division and other components of the criminal justice system dealing with drug-related crime.

In July, the House of Representatives voted overwhelmingly to establish the Select Committee on Narcotics Abuse and Control. Its main purpose is to develop facts concerning the extent and nature of drug abuse in the United States.

The Select Committee, under the chairmanship of Lester Wolff, held a series of oversight hearings during the month of September at which time it heard testimony on Federal enforcement and treatment efforts to control drug abuse.

Today we are convening the first field hearings as a followup to the oversight hearings, the purpose being to investigate the facts and establish a record on the degree of overt drug trafficking on the streets and within the public school system of the city of New York.

In this context, the committee will look at local law enforcement efforts, Federal law enforcement efforts and the statute of pending narcotics law violation cases in New York City.

We are especially pleased to have the expertise that this committee has to be able to come into our city at this time.

As the Congressman from this community, and as a former assistant U.S. attorney and New York State assemblyman, I am aware of the narcotics problems and the severe effects it has on members of our community. We recognize the serious nature of the problem.

Rather than read my entire prepared statement, I would ask the members of this committee to make brief statements before we hear from our first witness.

[Mr. Rangel's prepared statement follows:]

CONGRESSMAN CHARLES B. RANGEL'S OPENING REMARKS

Ladies and gentlemen: The purpose of today's hearing by the House of Representatives Select Committee on Narcotics Abuse and Control is to respond to Mayor Beame's press release of October 28, 1976, in which he stated, "That the narcotics epidemic is a problem which truly is nationwide in scope and must be dealt with on the Federal level." He made the unusual demand that the Federal Government assume the cost of operating the New York Police Department Narcotics Division and other components of the criminal justice system dealing with drug-related crime.

On July 29, 1976, the House of Representatives voted overwhelmingly to establish the Select Committee on Narcotics Abuse and Control. Its main purpose is to develop facts concerning the extent and nature of drug abuse in the United States. The Select Committee under the chairmanship of Lester L. Wolff held a series of oversight hearings during the month of September at which time it heard testimony on Federal enforcement and treatment efforts to control drug abuse. Today, we are convening the first field hearing as a followup to the oversight hearings; the purpose being to investigate the facts and establish a record on the degree of overt drug trafficking on the streets and within the public school system in New York City. In this context, the committee will look at local law enforcement efforts, Federal law enforcement efforts and the status of pending narcotics law violation cases in New York City.

We are especially pleased to have with us the ranking member of the Select Committee, Hon. Peter W. Rodino, Jr., the chairman of the House Committee on the Judiciary, whose knowledge and expertise in this area is recognized throughout the Congress and the Nation.

As the Congressman from this community and as a former assistant U.S. attorney and a New York State assemblyman, I am aware of the narcotics problem and the severe effect it has on the members of our community. Having been a long-time adversary of the narcotics traffic in New York, particularly in

my own community; and having investigated, fought, and prosecuted this nefarious traffic in every way, I welcome the opportunity to give the mayor, police officials, and the narcotic's prosecutor the opportunity to present their views on this dilemma to the Select Committee on Narcotics Abuse and Control. I am hopeful and optimistic as to the actions that the select committee may recommend to the Congress to help alleviate this serious problem.

The committee understands the seriousness of the problem faced by the city of New York. Only recently several other Members of the House, including myself, together with our chief counsel, Mr. Nellis, and several New York City Police Department Narcotics Division investigators toured the Harlem community in a narcotics surveillance van and observed the outright flaunting of the narcotics laws in the plain sight of both uniformed and plainclothes officers of the New York City Police Department. It is well known that in our community, narcotics sales have taken over the streets. The street-level narcotics pushers and addicts know that the efforts being made to enforce, correct, or punish their activities are ineffectual and so we have the incredible spectacle of openly defiant lawlessness on the streets of our city. This is what the Select Committee desires to explore in this day's hearing.

We have come here to investigate the reasons this problem exists and to examine the remedies, if any, which this Select Committee may recommend to the U.S. Congress to alleviate this evergrowing national nightmare.

Mr. RANGEL. At this time, I call upon Chairman Peter Rodino.

Mr. RODINO. Thank you, Mr. Chairman.

I want to commend you for bringing together the members of this committee to inquire into the problem that the city of New York is confronted with at this time. I think, however, that the problem is not one that is concerned alone with the city of New York, but I am sure it is a problem that other urban communities, where there is a congested population, where there is heavy traffic in narcotics, also are confronted with. I think that, under the circumstances, since the problem is one that looms so large here in New York, because of the amount of narcotics problems that this city has to deal with, it certainly can focus on the need for Federal, State, and local governments coordinating their efforts in order to help resolve this problem, which up until now, I believe, while it has received a lot of rhetoric, really has not gotten the necessary attention and the necessary kind of focus that I think it really requires.

I am delighted to join with you, and I hope that the hearings will provide us with the kind of information that we can find useful and be able to get on with the business of trying to help with some of the legislative solutions.

Mr. RANGEL. The committee would now like to hear from Benjamin Gilman, 26th Congressional District, New York State.

Mr. GILMAN. Thank you, Mr. Chairman. I join with my colleagues in commending you for arranging this hearing here in the metropolitan region, a region that represents virtually 40 to 50 percent of the entire narcotics problem in the Nation. I think it is extremely important that we explore today the equitable distribution of Federal funding for law enforcement. I think it is a problem that is deserving of attention and hopefully will be deserving of a remedy in the forthcoming Congress.

I know that other members of our Select Committee would have joined us today. I left part of our Select Committee in Europe, in Germany, and they were on their way into other drug-producing areas of Afghanistan, and on their way through to the Amsterdam area where a great portion of the growing drug problem in Europe is taking place.

As the President indicated in his April message to the Congress, the drug problem has once again reached crisis proportions in our Nation. He related to us that over 5,000 young Americans died from an overdose of drugs last year and that there were \$1.7 billion of drug-related crime in our Nation last year. And it has been conservatively estimated that the business of narcotics today exceeds \$10 billion in our country. I think that that is an extremely conservative estimate, when we see the extensiveness of the seizures that are taking place week after week by our hard-working and courageous Drug Enforcement Agency people and those engaged in local police enforcement.

However, we find a great lack of consciousness of the problem, a lack of adequate funding, and a lack of an overall effective program. It was for that reason that I was particularly pleased to have been part of the effort to create this Select Committee on Narcotics Abuse and Control. I am sure that this committee will do a lot toward unifying and coordinating our efforts. And I know that this hearing today will be productive.

Mr. Chairman, again I thank you for bringing us together here in the metropolitan region.

Mr. RANGEL. Thank you, Congressman Gilman.

Congressman Mario Biaggi, from the 12th Congressional District of New York.

Mr. BIAGGI. Thank you, Mr. Chairman, my colleagues.

Congratulations, first, for holding the hearings in this area. It is most significant, because it is an area that represents a goodly part of the problem. And the question that is being asked here is what is Government doing, not simply the Federal Government, but every level of government. It seems that in the light of the increasing numbers of drug traffickers and drug addicts, there has been an attitude that the problem is without solution, and that it is limited perhaps to just addicts and the traffickers, and "let them take care of themselves." But the fact of the matter is that most of the crime that plagues the people of the city of New York is the consequence of drug traffic. The elderly are being assaulted by addicts, they are being robbed. The merchants are being deprived of their properties by addicts.

The problems are many and varied. The consequence is catastrophic as far as the safety of the people of the city of New York is concerned. There is a reign of terror here. There is a similar reign of terror in other municipalities with comparable population makeups. But the mandate, and hopefully one which we will successfully respond to, is for government at all levels to address itself to this problem relentlessly until a solution is arrived at.

I am privileged to be a member of this committee, and I am more privileged to be participating here today with my colleagues, and especially the chairman of the Judiciary Committee, and of course the chairman of this committee, Charles Rangel.

Mr. RANGEL. Congressman Morgan Murphy, from the State of Illinois.

Mr. MORGAN MURPHY. Thank you very much.

Ladies and gentlemen, I won't be redundant. I think everything has been said that can be said. However, I would like to say that whatever problems are found in New York City will shortly follow in Los Angeles, Chicago, and other great metropolitan areas.

Mayor Beame has raised a valid issue. I think that testimony will show the role the Federal Government should take in narcotics suppression and law enforcement insofar as the drug abuse problem in the cities is concerned. I am anxious to hear the mayor's ideas on this proposal. In Chicago we are having the same difficulties in coordinating the DEA and the local police departments as to who funds what and who is going to pay for the cost of bringing the offenders into court. It always comes down to the cost factor.

So I am looking forward to hearing testimony today regarding this important issue facing our country.

Thank you.

Mr. RANGEL. And of course our chief counsel, Joseph Nellis, who has been with us and has been of great assistance on putting this together.

Now, we all recognize that drug trafficking on the streets of New York is occurring now without any apparent enforcement of either the State or Federal laws as they relate to violations of the narcotics laws. We hope through these hearings to go through witnesses—first, from the mayor's office, to amplify Mayor Beame's plea for Federal assistance. We then hope to go into the testimony of the borough president who accompanied certain people into the streets of Harlem where sales were attempted to be made to him and others. We then hope to hear from members of the police department as to the extent of the problem that they face. This afternoon we expect to hear from the chief of the New York City Police Department Narcotics Division, as well as representatives from the police commissioner's office. And we will wrap up with the special prosecutor who is charged with the responsibility of prosecuting the cases that come into his office for violation of the Federal narcotics laws.

The committee at this time will call Mr. Nicholas Scoppetta, chairman of the Criminal Justice Coordinating Council and Commissioner of Investigations.

TESTIMONY OF NICHOLAS SCOPPETTA, CHAIRMAN, CRIMINAL JUSTICE COORDINATING COUNCIL AND COMMISSIONER OF INVESTIGATIONS

Mr. Scoppetta, would you raise your right hand. Do you swear that the testimony you shall give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. SCOPPETTA. I do.

Mr. RANGEL. The committee is now prepared to hear your testimony. If it is prepared, we will allow for it to be submitted in its entirety in the record. If you want to read the full testimony, you may, or you can just give us the highlights. But you may proceed as you find most convenient.

Mr. SCOPPETTA. Thank you very much.

Let me begin by thanking the committee for having your hearings here and for giving me an opportunity to appear.

As you know, the mayor is out of the country this week, and he would have been here himself had that been possible. He wrote to the Attorney General on October 26. A copy of that letter was

released, and I am sure it is available to you, so that you can have his own words on the subject.

I would like to just summarize the city's position with regard to this problem that you are addressing here today.

In substance, it is a fairly simple proposition from the city's point of view.

We have about 40 percent of the problem, perhaps much more—but the most conservative estimates tell us that we have about 40 percent of the problem in New York City. The best estimates that we are able to put together—and those figures are available—tell us that we get about 3 percent of the Federal expenditures on prevention, enforcement, and rehabilitation. We have an enormous commitment in New York City in terms of dollars and personnel to deal with the problem. The police department spends, together with our rehabilitative efforts, or drug treatment problems—all of those programs together exceed about \$100 million in effort.

So that this city, already faced with enormous fiscal constraints, having the difficulties imposed on us by those constraints, simply is not able any longer to shoulder this expense locally for a problem that is essentially one that is national and even international in its origins. We end up treating in New York City simply the symptoms of the problem. We end up here in New York and in the United States, throughout the United States, in every locality, ending up arresting in New York City over 17,000 people directly on drug charges.

Mr. GILMAN. Is that in 1 year, Mr. Scoppetta?

Mr. SCOPPETTA. That is just 1 year; yes, sir. That does not take into account the many, many tens of thousands of cases that, although not arrests for narcotics violations, relate directly to narcotics. It is no secret that most of the burglaries, the apartment burglaries and the small commercial burglaries, are attributable directly to people trying to get money to support a narcotics habit. Street muggings, crimes of violence in the street, that have been very much with us in these last couple of months, are directly attributable in many instances to the need on the part of the addicts to support their habit and get this \$25 or \$50 a day that they need to keep themselves going.

It is a problem that is enormous in its local dimensions, but really is one of Federal implications and needs Federal enforcement.

We don't manufacture hard drugs in the United States. We don't grow the poppies here. None of it originates in the United States. It comes from without. No locality is going to be able to stem that flow into the United States. It is primarily a Federal problem.

So that we need in New York City—a major port city, with two major airports, a place where clearly there is enormous access to the United States and many ways for the drugs to come in—we need additional enforcement there.

But on the local level, it has been estimated that we could free up about 750 police officers to deal with all the other problems that we have in New York City if the Federal Government were to give us sufficient help with respect to that aspect of our police problem, that is, the narcotics enforcement.

I would like to say, too, that the committee touched on a matter that I think is of enormous importance in this and every other effort to fight crime in any locality, and that is the need for coordination.

We will have in New York City starting January 1 a new position at the deputy mayor level, whose function is to coordinate the efforts of the criminal justice system. That should not stop with coordinating city agencies, district attorneys, courts, police. It should also involve coordination with State and Federal authorities. To that end, I met this week with the regional director for the Drug Enforcement Administration, John Fallon, and we have begun that kind of dialog that I think is going to be essential.

So we are willing to do everything humanly possible in this city to to wage an all-out war on the narcotics problem and the crime problem, wherever it might be. But the narcotics problem gives us so much of our other criminal activity. We need some help from the Federal Government, and we need it in massive doses. And that is what the mayor's message is and my message is to this committee and to the Federal Establishment.

Mr. RANGEL. Mr. Scoppetta, are you asking for more Federal financial assistance to support local law enforcement efforts, or are you asking for more Federal law enforcement efforts within the city of New York, or a combination of both?

Mr. SCOPPETTA. Precisely the latter, Congressman Rangel. We are asking for both. It is primarily a problem of Federal enforcement, to keep the drugs out of this country, and then to make those investigations work that will detect and prosecute the important narcotics traffickers. However, we will always be left with a portion of the problem in New York City, because inevitably—you must be realistic about it—inevitably you are going to end up with some narcotics traffic on the local level. So that we are going to need some help in that area, where we already spend more than \$100 million in New York City—we are going to need some help in the form of dollars to deal with that problem.

But I think it is clearly a two-pronged request that we offer you.

Mr. RANGEL. Do you know of any city policy enunciated by the mayor or his office that because of lack of Federal funds or adequate Federal funding, as a matter of policy overt narcotics sales arrests are not made by the New York City Police Department?

Mr. SCOPPETTA. I think you could address that question more appropriately to Police Commissioner Codd, on the questions of priorities. But I would say that because of the enormous volume in New York City with respect to narcotics trafficking, clearly the police department must have an attitude that says they go toward the most important, or they work toward the most important dealers, try to make the most important cases; that numbers alone, numbers of arrests of street traffickers, really people selling to support their own habit, is not the answer to the problem.

So that I would suppose—although I would ask you to put that question to the police commissioner—I would suppose inevitably they are forced to, for lack of funding and resources and personnel—they are forced to set their priorities so that some of that activity may go on.

Mr. RANGEL. I am confident that we will be receiving that type of response from the police department. But my question is: Did the mayor's office establish any type of policy that would preclude the arrest of narcotics traffickers on the streets of the city of New York based on priority?

Mr. SCOPPETTA. I don't think the mayor's office has specifically addressed that issue, being one that is uniquely within the province of the police department, and there ought to be as little political role played, I should think, with the professional law enforcement people, and I think that has been the attitude of the mayor.

Mr. RANGEL. So it would be your testimony that the mayor just really allocated the budget projections to the New York City Police Department, and then as relates to internal enforcement, that would be a matter that would be within the police department rather than a policy established by the mayor of the city of New York.

Mr. SCOPPETTA. That would be my view of it; yes, sir.

Mr. RANGEL. Mr. Rodino.

Mr. RODINO. Mr. Scoppetta, does your statement suggest that there be a complete Federal takeover of the problem of drug abuse as it relates to crime?

Mr. SCOPPETTA. I don't think that is realistic, Congressman Rodino. I don't think that it would be complete in the literal sense of the word. But I would say that the primary obligation, the first responsibility is really with the Federal authorities. That is the nature of the problem.

We will always spend some dollars, allocate some resources, in a city the size of New York, to deal with the problem locally. But my response clearly is, it is first and foremost a Federal problem, and so first and foremost, most of the resources should be Federal; yes, sir.

Mr. RODINO. Well, let me say, as a basic proposition, isn't crime constitutionally a problem that has to be dealt with locally by State and local law enforcement agencies and not basically, at least conceptually, a problem of the Federal Government?

Mr. SCOPPETTA. That is true. In New York City we spent last year \$1.5 billion in the criminal justice system. Even with our cuts this year, we are going to spend over \$1 billion, about \$1.3 billion again on criminal justice.

Mr. GILMAN. Would the gentleman yield?

Mr. RODINO. I yield.

Mr. GILMAN. Of that \$1.3 billion, what portion of that was spent on narcotics enforcement?

Mr. SCOPPETTA. Well, about 80 percent went to the police department. The police department and all other narcotics enforcement efforts are estimated at being a little over \$100 million. About \$22 million directly to the police department.

Mr. GILMAN. Then \$100 million would have been spent on narcotics enforcement out of the \$1.3 billion?

Mr. SCOPPETTA. Narcotics enforcement and treatment as well.

Mr. GILMAN. Well, I am asking about enforcement. What portion of the \$1.3 billion was spent in narcotics enforcement?

Mr. SCOPPETTA. It is hard to answer that question directly because it is hard to tell where the treatment begins and enforcement leaves off, as so many of the matters that began with arrests end up in treatment centers. But I think perhaps the figure that you can begin with as a minimum is \$22 million in the New York City Police Department.

Mr. GILMAN. By the city of New York.

Mr. SCOPPETTA. Yes, sir.

Mr. GILMAN. Thank you.

Mr. RODINO. Mr. Scoppetta, I assume that as the head of the department of criminal investigations of the city, the criminal justice system, that you are aware of the Law Enforcement Assistance Administration and the programs under it.

Mr. SCOPPETTA. Yes, sir, as a matter of fact, one of my positions, chairman of the Criminal Justice Coordinating Council—the Criminal Justice Coordinating Council is the funding agency for the LEAA funds coming into New York City.

Mr. RODINO. Has there been to your mind the kind of coordinated effort in fighting drug abuse and crime in this area, to such an extent between the State planning agencies that may be involved in LEAA funding and the city, which in your opinion is satisfactory?

Mr. SCOPPETTA. Well, I think the whole question for planning and coordination is very unsatisfactory in criminal justice today, especially in a city like New York. And I think we have only begun to address that problem in a meaningful way. So that we had legislation passed last year that created this new position effective January 1 entitled criminal justice coordinator. The legislature thought it was so important that there be a position in the city at the deputy mayor level whose function is to address that problem. Clearly, this is not a new recommendation. Over the last 4 or 5 years we have had it from several different sources. Everyone should recognize that we don't have sufficient planning and coordination in criminal justice, and we certainly don't have it in narcotics, and not enough between, I think, Federal, State, and local. That would be the way to fight that war.

Mr. RODINO. I would like to point out—and I am sure you will learn if you have not already—that the recently enacted extension of LEAA provides specifically for this kind of a coordinated effort and the doing of extensive research in order to try to determine actually the relationship between drug abuse and crime. And I would like to point out that this, of course, is one of the areas under LEAA which we have now felt is going to really prove useful. I would call your attention to it, because we have been allocating some of our resources in that direction, hoping that may help to resolve at least some of our thinking on how to attack this problem.

I merely call your attention to it because the law was just newly signed, and I am sure you will be getting information on it.

I would like to see that kind of coordination, because I think, while the Federal Government has spent a substantial amount of money in the past 7 years in its effort to try to fight crime and reduce crime through LEAA, somewhere within the vicinity of \$5 billion or \$6 billion, nonetheless we know that crime has been on the increase. And we feel that it is because there really has been no coordinating effort that has in any way been exercised in this area, and that the agencies of Government have gone their own separate ways. I think that this is something we have got to recognize and got to do something about. If we want to even begin to fight the problem of drug abuse as it relates to crime. This was one of the recent provisions. So I call your attention to it.

Mr. SCOPPETTA. Yes, sir.

Mr. RODINO. Let me ask you, Mr. Scoppetta, do you believe that the Congress should set up a formula that would mandate moneys to high drug abuse areas in proportion to the problem that exists within those areas in the urban community?

Mr. SCOPPETTA. Absolutely. I think that that would be a way to try to fairly and equitably distribute the resources that are available. And I know they are limited. They have to be. That we ought to be treating the problem where it is most intensely felt and where it has the most impact on the people in the country.

Mr. RODINO. Are you prepared or could you as a result of this hearing propose the kind of research studies that are going to be helpful to local officials in the projects that might better be able to deal with this problem, an understanding of the relationship between drug abuse and law enforcement, so that we would know really whether or not when Federal moneys are being allocated, whether they are being allocated in an area that will actually be useful and beneficial?

Mr. SCOPPETTA. I would be delighted through my office at CJCC and the planners and management people we have here—I would be delighted to offer up our thoughts and proposals in that regard, because I think that is the fundamental issue concerning the expenditure of funds in criminal justice. That is, that planning and coordination has not existed in the past, and we have only begun to address that problem.

Mr. RODINO. Thank you.

My final question is, on the problem of LEAA as it relates to TASC—I am sure you are aware of the TASC program——

Mr. SCOPPETTA. Yes, sir.

Mr. RODINO. Can you give me your assessment of the TASC program and how it has been working.

Mr. SCOPPETTA. Well, I think that we need to go further with it. I think that we need to do much more with respect to all of those efforts. We have in enforcement that concept that has begun to show the beginnings of some real results—and I am talking about our TASC force approach to crime. And I think that is the way to go.

Mr. RODINO. Thank you, Mr. Scoppetta.

Mr. RANGEL. Congressman Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Scoppetta, I am very much interested in your emphasizing the priority that is needed in the better distribution of funding. What priority has the city administration assigned to narcotics enforcement?

Mr. SCOPPETTA. A very high priority, when you consider that given the problems we have in this city, the financial problems, that we spent over \$100 million in this area. Not only in enforcement; in trying to do many other things with it, too—prevention, rehabilitation, treatment. There has been an enormous effort. And we have in this city, through the efforts of the State as well, a special prosecutor for narcotics enforcement, one that has citywide jurisdiction, so that we cut across the county lines that sometimes get in the way of effective law enforcement. We have five separate district attorneys in this city, one for each county, but we have one special prosecutor for narcotics who has jurisdiction at least to go across all county lines.

Mr. GILMAN. If I might interrupt, Mr. Scoppetta—you mentioned that you had allocated about \$22 million for narcotics enforcement. That is about roughly 3 percent of your total enforcement budget. It strikes me that this does not appear to be a very high priority item on the total police budget if it is only 3 percent of the total expenditure. I certainly recognize that you are not getting an equitable share from the Federal Government. But in like manner, I would like to

explore with you why it is such a low percentage in your own budgeting.

Mr. SCOPPETTA. Let me just look at the \$22 million figure for a minute and see what it represents. We are talking about \$22 million that you can attribute directly to the narcotics enforcement effort. But it only begins to tell you the police effort in this area—because in New York City, for example, the police had \$800 million they expended last year—about \$800 million. We had over 253,000 arrests, over 101,000 felony arrests—

Mr. GILMAN. I am not critical of the police effort. I think it is an outstanding effort with what they have to work with. What I am concerned about and focusing in on is the amount of money that you are pinpointing for narcotics enforcement in your own administration, of \$22 million, which is a 3-percent figure.

You talked about the special narcotics prosecutor's office. This committee has been at work trying to assist them to alleviate the proposed cutbacks that are being suggested and recommended by the city administration at a time when their caseload is increasing. How do you explain that sort of a decrease in the budget at a time when there is increasing narcotics trafficking and an increasing caseload?

Mr. SCOPPETTA. The point I started to make was that that \$22 million only begins to tell you how much the New York City Police Department is spending on narcotics—because of that 265,000 arrests, 17,000 are directly for narcotics. You may have another 30,000, 40,000, 50,000 burglaries. They stem from narcotics as well. So that when you have police officers dealing in those crimes and the street crimes and the robberies and the muggings, they really are dealing with the net effect of the narcotics problem. So that the \$22 million only begins to tell you how much the police department is spending, Congressman. So I think the figure really—a realistic figure, for what dollars the New York City Police Department is expending on narcotics or narcotics related or cases stemming from narcotics traffic, is far, far higher than that.

Mr. GILMAN. Well, I assume, then, you can make some estimate available for us for in-kind services, if it is not dollars being provided, so we can have a better and more practical analysis of the budgeting being expended.

The committee has been informed that the State had some funds available to the city on a matching basis for narcotics enforcement, and the city turned it back. Is that correct? They refused to take it because you were unprepared or not willing to expend additional city funds in order to obtain these matching funds that were so sorely needed.

Mr. SCOPPETTA. I have met with Sterling Johnson, the special narcotics prosecutor. We are continuing to meet with him. We are in the process of setting up our budget now for next year, and we are trying to help him with his problem. I am not aware of any money being made available to New York City that I am aware of that was turned down. We are not turning down money this year or any year that I know of.

Mr. RANGEL. Would the gentleman yield?

Mr. GILMAN. I would be pleased to yield to the chairman.

Mr. RANGEL. Congressman Gilman is referring to matching funds. We understand \$700 million in State funds would have to be matched in order for New York City to receive it.

Mr. SCOPPETTA. \$700 million—is that the figure?

Mr. RANGEL. \$700,000.

Mr. SCOPPETTA. \$700,000 is perhaps in the ballpark. \$700 million we can never reach for.

Mr. RANGEL. And we can't get it because it requires a city match.

Mr. SCOPPETTA. I would be happy to look into that.

Mr. RANGEL. This is the first you have heard of it?

Mr. Scoppetta. No; I have discussed this with Sterling Johnson. And I say we have a budget being prepared this year for next year. So all the help we can give the special narcotics prosecutor I will be recommending it.

Mr. GILMAN. Has the city turned that back because they were unprepared to use it?

Mr. SCOPPETTA. I don't know if it has ever reached the point of being able to turn it back. It is reaching for it.

Mr. GILMAN. Did the city reach for it when it was available?

Mr. SCOPPETTA. We are in the process now of discussing this with Sterling Johnson.

Mr. GILMAN. I understand, too, there was some \$10 million that was available through LEAA for the city of New York, but because it was earmarked for drug enforcement, that the city police department was unwilling to accept that funding, is that correct?

Mr. SCOPPETTA. I met with John Fallon this week, as I told you, and he said there was an opportunity to get reversionary funds—this was the regional director for the Drug Enforcement Administration—there was an opportunity to get funds, I believe, more than a year ago, reversionary funds, money that had been accrued in LEAA programs, and that he had discussions with Police Commissioner Codd on that subject, and it did not result in the money coming to New York.

I was not party to those conversations. I have not had a chance to discuss it with Police Commissioner Codd. I know the money is no longer available, if it ever was. So I think Commissioner Codd would have to respond to you as to whether or not he was ever really put in a position to get the money and what his feelings were about that.

I suggest this to you now—that I am chairman of CJCC—if there were reversionary funds earmarked for narcotics this year, it will be my intention and I am sure the mayor's intention to do whatever we can to get that money into New York City. And if it means that we are putting police officers in a position where they will be working with TASC force and perhaps not directly under the control of the police department, anything of that sort, I would strongly urge the police commissioner to work with us on a plan that would get those dollars into New York City and pay for narcotics enforcement.

Mr. GILMAN. Are you recommending then increased expenditure in the city budgeting for narcotics enforcement as compared to prior years?

Mr. SCOPPETTA. I don't think that we are going to be recommending increased expenditures in criminal justice across the board, because New York City, in order to meet our deadline with the Federal Gov-

ernment for balancing our budget, must cut out about \$435 million out of our budget.

Mr. GILMAN. I am not talking about across the board. I am referring specifically to narcotics enforcement. Are you recommending any increase in funding in that area?

Mr. SCOPPETTA. Narcotics enforcement is going to have to be considered just like all the other enforcement in New York when you are talking about cutting \$435 million out of a budget that already has lost \$1 billion over the last 2 years, so that I don't know that New York City is going to be in a position to do that. But as I say, my province is the criminal justice agencies in New York City. We anticipate they are going to have to take some cuts in criminal justice, because if you take \$435 million out of New York City's budget, you are talking about the areas where the money is being spent—police, fire, sanitation, welfare, and education. Those crucial areas are the places that give up the money. So that we will obviously consider narcotics enforcement one of our highest priorities. It should be one of the highest priorities in any criminal justice effort. But it is going to have to be considered along with that need for \$435 million.

What I am saying quite simply is we would love to spend more money on criminal justice and on narcotics. I don't know where we are going to get it from, where we are going to get \$435 million out of our budget. And that is why we are delighted to be able to speak to a congressional committee about some coordinated effort to work on this problem.

Mr. GILMAN. We recognize the need. But what I am still concerned about, after listening to your testimony, is whether the city placed a high enough priority within its own budgeting in expending only some 3 percent of its total enforcement budget on narcotics problems, when narcotics problems are increasing to a crisis proportion.

Mr. SCOPPETTA. Well, I think the 3-percent figure is conservative.

Mr. GILMAN. What would you estimate to be the ballpark figure?

Mr. SCOPPETTA. We are talking about more than \$100 million that we can pinpoint.

Mr. GILMAN. But you are talking about rehabilitation in that \$100 million.

Mr. SCOPPETTA. It is related to enforcement.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. RANGEL. Congressman Biaggi.

Mr. BIAGGI. Thank you, Mr. Chairman.

On that point—I understand the argument you are making, Commissioner Scoppetta. That \$100 million deals with enforcement, tangentially, perhaps. But let me address myself very precisely to it.

As a former police officer who has never lost contact with the police department I would suggest to you—and I am not even asking for a response, because I appreciate perhaps the position you are in—that the narcotics problem, as far as the policy of the city is concerned, has been subordinated and that less than 3 percent of the \$100 million is in fact applied to law enforcement, precisely law enforcement. The rehabilitation aspect of it and the consequences of narcotics addiction is not on point. And the fact of the matter is the narcotics division has been reduced. The stated policy of the administration is one thing. Practical policy as far as application is concerned is another

thing. It is my belief that they are more concerned with giving out summonses than making street arrests for drug traffickers.

Now, you did say there were some 17,000 arrests made. The committee, I am sure, would be interested in finding out what happened to them.

Another interesting fact might be who made the arrests—the uniformed men—and generally what is the policy and procedure of uniformed men making narcotics arrests.

The reason I raise that question—it has been my understanding they are not allowed to make them unless they have a superior present. That to me impugns the integrity of the individual officer, ties up personnel, and oftentimes permits the trafficker to escape arrest.

Now, at the outset I think you said that this is fundamentally or primarily a Federal problem. I would say that as far as the importation of narcotics is concerned, you are absolutely correct. But as far as the presence of drugs thereafter in our Nation, it becomes the responsibility of every level of government.

Now, what concerns me insofar as the Federal intrusion in great numbers—and this has been proposed before—it poses the possibility of ultimately a Federal police force. And that is a notion philosophically that I think is repugnant.

So that rather than have a dominance of Federal police officers, or Federal law enforcement people, there obviously should be a coordination, as you have testified to, and properly so, of every level of government working toward one objective.

What I think this committee must be assured of, in the light of the fiscal crisis, is that if we do in fact recommend Federal funds to deal with the narcotics problem on some formula basis, that we can be assured that those funds are directed narrowly and exclusively applied to enforcement of the drug laws in the police department. And I mean with the intent of the Congress in mind, with the intent of this committee in mind—and not the sophisticated and broad perspective as some people might argue, as you have said, about rehabilitation—I don't think that is the thrust of this point. There are moneys for rehabilitation. And of course we should have more. No one quarrels with that.

The question is what are we doing in law enforcement.

To capsule the situation, law enforcement insofar as drug addiction is concerned and drug traffic and trafficking is concerned, is virtually nonexistent, notwithstanding the arrests. That is the problem. And the people in the streets—and most of us are street people, we see it every day—we see trafficking. We can ride down this avenue, or ride up in my district. I know the district. And I know where the traffickers are and where they will be, where the addicts congregate. And the neighbors know it. And the people across the board develop a very cynical attitude, and not without basis in the light of what they observe, that "What the devil is the police department doing, don't they care, is everybody on the take, is corruption everywhere?" We know corruption is not everywhere. Of course there is some corruption. There will always be corruption. That may be one of the reasons why they have eliminated the special unit in the narcotics division. But you don't eliminate the entire cure simply because there is some hangover effect from it. You deal with the corruptive aspect of it.

Of course people care. You care, I care, we all care.

But that is the ultimate impact that is made on the public.

And when that happens, the public gives up hope, and they stop being that important contributing force in law enforcement.

I know your attitude. I know your position. Nobody questions that.

But I also know you have a responsibility to the administration. And insofar as our consideration is concerned, in the Congress—this notion, in direct response to the mayor's request, if money is granted, will in fact that money be given to a narcotics division per se, and exclusively, or will it be spread all over the board, justifying it by saying, "Well, as a consequence of drug addiction the elderly are being mugged" and whichever. So it would be another way of getting money and applying it to ease off a municipal budget.

Mr. SCOPPETTA. I think the administration would give you that assurance right up front, that any dollars earmarked for narcotics enforcement are going to be used for narcotics enforcement in the most traditional sense of the word, in the way I know you use it from your experience and the way I would use it as a former prosecutor, both State and Federal.

Mr. GILMAN. With regard to that point, if we get back to the \$10 million that was apparently available, that was earmarked, that was turned down because of earmarking—

Mr. SCOPPETTA. As I say, Congressman, I would not turn it down, I would not recommend it be turned down. I would try to see every penny of that money come into New York City. If Police Commissioner Codd is the one who has been involved in these negotiations, I would like to discuss that with him, too, because I don't see turning down a single penny of money for law enforcement in New York City.

Getting back to a point we discussed earlier—so there is no question about my position or the administration's position—narcotics is a high-priority item. Even given our cuts and the redistribution of funds and reallocation of funds that we hope to make in criminal justice, narcotics is going to be right up there as one of the top priorities, because so much stems from it. I think there should be no question that that is my position and is the mayor's position.

Mr. RODINO. Will the gentlemen yield? I don't know whether you have or have not, Commissioner, given us an estimate. But I would appreciate it if you would. Figures have been bandied about, the relationship of percentages of crime that is drug related.

Mr. SCOPPETTA. Well, we have conservatively estimated that we have 40 percent of the addicts in the city. I don't know how we are going to translate that now. Perhaps the police commissioner can do a better job with that—to translate that into percentage of crime. But most burglaries, street crimes, most of the petty crime in New York City committed by younger people as well, a good high percentage of that—and I am going to leave that to Commissioner Codd to estimate—is attributable to narcotics, even though it is not narcotics arrests. The 17,000 narcotics arrests figure is only the tip of the iceberg in my estimate.

Mr. RODINO. And is that taken into consideration when you allocate the kinds of funds in fighting the narcotics problem? Is that taken into account, that 40 percent of street crime is drug related?

Mr. SCOPPETTA. I don't know. I say we have 40 percent of the Nation's addicts. Certainly it has to be taken into consideration. I would take it into consideration in my recommendations.

Mr. RODINO. My question was, what percentage, if you can estimate, of street crime is drug related?

Mr. SCOPPETTA. I am unable to give you that percentage right off the top of my head. I know that the police department has some very rough estimates, and I am sure they will give you that.

Mr. RODINO. I would appreciate having it.

Mr. SCOPPETTA. Yes, sir; the figure I have is upward of 50 percent.

Mr. RANGEL. Congressman Morgan Murphy of Illinois.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Scoppetta, when I first heard about this proposal of the mayor's, I was intrigued by it. Listening to some of your answers here today, I am afraid that my other colleagues in the Congress who are not from the New York City area but who understand New York City's fiscal crisis, might dub this as an attempt by the mayor to eliminate \$100 million from the city budget so that the Federal Government will pick up the cost.

Now, I think if we are to go back and recommend any type of action to Congress on this we are going to need a better reason than the fact that narcotics come into the city of New York from foreign countries. For example, the city of Chicago, which is part of my district, is really the central depository of all Mexican heroin coming into the United States. I think my colleagues in Congress might resent the fact that I would want the Federal Government to pick up the costs incurred by the city in fighting this problem.

I am not opposed to this idea. It is attractive. And I am anxious to hear the reasoning behind the mayor's proposal. But to say that because the drug problem is intercounty or interstate as opposed to intrastate does not seem to me to be reason enough to sway Congress to adopt this committee's recommendations.

I think we would have to have a little more than that.

I think, No. 1, that if we do pick up the tab for the narcotics problem, we must know what Federal oversight the city of New York will permit, or what Federal oversight the Federal Government will insist upon? Will we just stop at the narcotics question? Will we want to have police officers assigned to this particular jurisdiction on Federal pensions? There are a lot of ramifications to this problem including the cost factor to the Federal Government which I think will be much more than \$100 million.

We may even get into other areas of crime such as burglaries and robberies, because they flow from the narcotics question. There is also the question of uniforms, equipment, radios, and the rest. I see this as a very expensive problem. I'm afraid that some cynical Members of Congress might say that New York is very cleverly taking a high profile issue and handing it to the Federal Government in an attempt to try to balance their budget.

What is your reaction to the criticism that I anticipate other Members of Congress might bring up on the floor in debate.

Mr. SCOPPETTA. Sure. I think two points have to be kept in mind.

It is a Federal problem in the sense that it is outside of any locality's ability to deal with. But more than that, just simply look at the nature of the problem in New York City, one city in the United States that has almost half of the narcotics addicts by anybody's estimates. We are talking about 40 and some people have said as high as 50 percent. I have conservatively estimated 40 percent. And so that is one reason

why the Federal Government would want to focus its attention in the narcotics enforcement area on New York City.

I agree with you, Congressman Murphy, that if the Federal Government is going to earmark money for narcotics enforcement, that it should be narcotics enforcement. It should be in the most traditional sense of the word narcotics enforcement. That is what we are talking about.

Much of the other problems that I have alluded to we deal with by necessity, of necessity. That is rehabilitation and so forth. We would like to never have to rehabilitate a narcotics addict in New York City because we don't have them in sufficient numbers to worry about rehabilitation programs.

Mr. MORGAN MURPHY. Did the mayor anticipate that the Federal Government would assume not only the salaries of the people involved in the narcotics effort, but also the pensions, the equipment, and anything else which might be involved?

Mr. SCOPFETTA. I don't think we are talking about the Federal Government picking up local costs that are legitimately local.

Getting back to the other points that have been made—crime is essentially a local problem. We deal with it with large amounts of money and large amounts of personnel. Most crime is local. Narcotics is a unique kind of crime. It has national and even international implications. And we all know—some of you undoubtedly have been involved in many of the efforts that deal with the problem on an international level and deal with that issue. So that narcotics is unique. And its impact is felt nationally and internationally. And its origins are of that nature.

So I think it is a little bit special with narcotics.

But I don't think for a minute that New York is suggesting that the Federal Government take over its burden on local law enforcement. It is asking for some help on the local level in narcotics enforcement. And when we talk about the narcotics division as being a clear and precise example of the kind of thing that could benefit from some Federal help, then it translates into numbers of police officers who would be released to fight other crime and so forth.

But more than that, we are not talking about substitution. We are not talking about giving us \$100 million so that we can then spend that \$100 million on other things, on day care centers and so forth. That is a separate problem, a separate issue.

We are talking about money in addition to what is already being spent.

Mr. MORGAN MURPHY. Well, I just think that my colleagues outside New York, may be a little suspicious about your budgetary problems and your financial crisis. They might see this as an attempt to charge \$100 million, or whatever figure you are throwing about here today, to the Federal Government to help New York stay within its budget.

I am not saying that the mayor's suggestion is not a legitimate one. I find some merit to it. I am just throwing out for discussion possible criticism that we will receive on the floor of the House of Representatives.

Mr. SCOPFETTA. Those allocations, of course, are clearly—can be subject to meaningful controls. When the Federal Government funded the two national conventions, the security aspects of the two national

conventions, Kansas City and New York received roughly equal allocations, with controls and a responsible reporting back to the Federal Government to assure the Federal Government that that money was being spent properly.

Mr. MORGAN MURPHY. One of the ways suggested by Chairman Rodino of the Judiciary Committee is through LEAA. My initial reaction is that this would be the vehicle within which to proceed.

I have no further questions, Mr. Chairman.

Mr. RANGEL. Thank you.

Before counsel inquires, subsequent witnesses will be able to show the utter contempt that drug traffickers have for law enforcement on the streets of New York. But if I understand your testimony correctly, if the city is projecting a \$400 million to \$500 million cut in the budget, then your testimony would be to this committee that we should look toward even lesser action on the part of the police department with street trafficking than presently exists today. Is that correct?

Mr. SCOPPETTA. Well, I would hope that the cuts that we make—and we spent a lot of time with Commissioner Codd on this, and he has formed a new planning unit to address this question—that we are able to maintain our street patrol forces as nearly as we can to the present level, so that we are hopeful—and we may be overoptimistic in this regard—that we will be able to maintain a street presence roughly equivalent to what it is today. Because I agree with you, it is inadequate.

Mr. RANGEL. Do you find any relationship at all between the presence of uniformed police officers and drug trafficking on our city streets?

Mr. SCOPPETTA. There may be some relationship, but I don't think it is the most effective way to deal with narcotics enforcement. I think that the other specialized units that were alluded to earlier—everything from anticrime to—

Mr. RANGEL. So to try to maintain your street forces certainly would not be a deterrent to drug traffic.

Mr. SCOPPETTA. I didn't mean when I said our patrol forces—I necessarily meant that as a term of art in the police department, patrol uniformed forces. I mean our street presence, I mean our capability to detect crime in the traditional sense of the word.

Mr. RANGEL. Congressman Gilman has constantly reached out for the type of priority within a very restricted budget that our city would have as related to narcotics, as opposed to general law enforcement, education, sanitation, fire. I don't see where in the discussions about fiscal problems that narcotics really has risen above any level than any other problems that our city is facing. Is that a fair observation?

Mr. SCOPPETTA. Well, let me just say that even with the cuts that we had in the police department last year, over 4,000 police officers since the fiscal crisis are gone. We increased the anticrime units this past year. And they deal with narcotics as well as other street crime.

Mr. RANGEL. Do they come under the narcotics division?

Mr. SCOPPETTA. No; they do not come directly under it.

Mr. RANGEL. Do they make narcotics arrests?

Mr. SCOPPETTA. I am not sure.

Mr. RANGEL. Will counsel make a note of that so we can inquire further of the commissioner of police.

Counsel may inquire.

Mr. GILMAN. Mr. Chairman—

Mr. SCOPPETTA. Excuse me. Just to make the point. The anticrime units have been increased recently. I don't say that prefiscal crisis and postfiscal crisis that there are more police officers assigned. You can address that to Police Commissioner Codd. But in recent months, and this past year, there has been an increase in the allocation of resources for anticrime units, who I think are very, very effective units across the board in narcotics included. But clearly the narcotics division and everybody else in the police department has suffered a cut.

Mr. RANGEL. Well, it is not your jurisdiction, but we are under the impression that there are select narcotics arrests. And if you don't fall within that, then you are home free.

Mr. SCOPPETTA. You say the police department's priorities—

Mr. RANGEL. Anticrime or antinarcotics, as related to street traffic, that doesn't fall into any slots. And I think you are saying that the anticrime unit, that it may have jurisdiction over that.

Mr. SCOPPETTA. Well, I think it is a question most appropriate for Commissioner Codd.

Mr. GILMAN. Mr. Chairman, if you would be kind enough to yield.

Mr. SCOPPETTA. I think I can safely say that everyone on the committee that is present here today is sympathetic to the city's problem, and would seek to try to assist the city in trying to get more adequate funding. However, our problem will be to go back to the Congress and say that New York City is not getting a fair share of the Federal dollars in narcotics enforcement, and that we are being shortchanged. However, New York City in like manner is shortchanging the problem itself when you spend only 3 percent of your total funding on narcotics. How do we go back to the Congress and say we have got to increase the percentage of dollars for New York City when the opponents to this, or the critics, would say "Well, what is this city doing about its problem, how much priority do they place on the problem?" And I think you will agree that 3 percent, or even up to 5 or 10 percent, if you want to add the increased services or in-kind services, is an extremely low priority for a 40-percent or 50-percent amount of the total crime picture that is allocated to narcotics enforcement.

Mr. SCOPPETTA. I guess I have to come back to a point that I made earlier; that I think the 3-percent figure is conservative, considering all of the things we have been talking about; and second, when you consider that we had 265,000 arrests in New York City, 17,000 of them were narcotics—you can start to get the dimensions of the problem in a city that size, with 8 million people. And I know you know Chicago, and know that it has the same problems, according to Congressman Murphy's observations. But cities like Chicago, like New York, are in terrible trouble in law enforcement. We need to do a lot of work ourselves, I know—planning, coordination, making the most effective use of the dollars that are available.

And the point I think to be left with is that narcotics, this unique kind of criminal conduct, needs an awful lot of Federal involvement on every level.

Mr. GILMAN. What I am suggesting, of course, is not only does the Federal Government have to readjust its priorities. I think the city administration should be doing some readjusting of its own priorities in that area.

Mr. RANGEL. At this time counsel has some questions.

Mr. BIAGGI. Would you yield, Mr. Chairman, on that last note. Maybe the city—but more precisely it would be a question of the police department allocating the moneys within its budget, as far as that 3 percent is concerned.

Mr. NELLIS. Mr. Chairman—Mr. Scoppetta, I want to ask you some questions about the revisions of the New York State drug laws enacted in 1973. I think it is generally agreed that the New York State drug laws are among the toughest in the United States. Wouldn't you say so?

Mr. SCOPPETTA. I think that is true, yes, sir.

Mr. NELLIS. Now, if you look at the level of street offenses, to what degree would you judge these laws to be successful?

Mr. SCOPPETTA. Not successful at all.

Mr. NELLIS. Would you recommend that they be revoked?

Mr. SCOPPETTA. I don't know that we can make a sweeping recommendation that we revoke the drug laws. I don't think, though, that single provision that caused us, or gave so many people so much comfort, the life sentence provision for small sales, has really had the effect that everyone hoped it would have, that it would just scare the life out of anybody trying to deal in narcotics. In fact, we are still left with pretty much the same problem, if not more of a problem than we had before.

Mr. NELLIS. In other words, the New York State laws have not provided either general or specific measures that have served as effective deterrents up to this point.

Mr. SCOPPETTA. That seems to be the case. I think all of the reports that have been done, trying to determine the change in conviction rate, in deterrence, and prevention, have come to the conclusion that the drug laws have not in and of themselves had that effect—that is clear.

Mr. NELLIS. But you do recognize the obligation of the city to enforce those laws, do you not?

Mr. SCOPPETTA. There is no question about it, yes, sir.

Mr. NELLIS. Then why is it, Mr. Scoppetta, that in a recent trip through Harlem, in an undercover van, I myself saw no less than 12 narcotics transactions, right out in front of my face, within a space of less than an hour and a half?

Mr. SCOPPETTA. Well, again, the police department is not my agency.

Mr. NELLIS. You are speaking for the mayor, aren't you?

Mr. SCOPPETTA. Yes; I would say that the resources we have are inadequate to the job, and I know narcotics are being sold in the city on the streets. I know other crime—old people are being beaten in their homes. We have got lots of problems in this town, in our criminal justice system, narcotics not the least of it. And I cannot offer up to you an explanation of why in a great city like this people are able to sell narcotics on the streets, except to say that the police department and the city has inadequate resources to deal with the problem.

Mr. NELLIS. And possibly that the police department has adopted a policy of ignoring these sales on the streets.

Mr. SCOPPETTA. I am not aware of any police department policy that says that they would ignore a crime committed in plain view.

Mr. NELLIS. Mr. Scoppetta, I saw felonies being committed in front of my eyes in the presence of police officers and nothing was done.

Mr. SCOPPETTA. Well, as I say, I think Commissioner Codd would be interested in making some comments on that and be interested in addressing the question.

Mr. NELLIS. But I want to know what the mayor's office would say about it.

Mr. SCOPPETTA. The mayor's office would say the obligation of every police and police officer is to apprehend anyone committing a crime that he has knowledge of. And that would be a position I would take, whether I were the police commissioner, the deputy mayor for criminal justice, or the commissioner of investigations. That would be my policy if I were setting the policy in the police department.

Mr. RANGEL. It is very important—I just don't know what input you have in establishing the policy. One would like to have it so in the city of New York, those of us that live here and love it—to ignore the policy. It would be much easier for our conscience to say that when a crime is committed in the presence of an officer, that he will be enforcing the law as he knows it. But if in response to counsel you would say what you hoped the mayor would say, whether he knows it, whether he wants to know it or not, and for whatever sound reasons there is a policy that exists that prevents the enforcement of the law as it relates to drug trafficking—I hope that you may give your strongest statement as it relates to your position, if in fact such a policy exists, whether written or unwritten, where uniformed and other police officers feel that they cannot or will not arrest people that are trafficking in their presence, and not on informant information or anything of that nature. I am talking about sales on the streets in front of uniformed police officers.

Mr. SCOPPETTA. I would agree with the position you have taken. My policy would never be to have—my philosophy would never allow for such a policy, that a police officer could see a narcotics transaction go on in his presence and not take appropriate police action. I could make the distinction between setting priorities within my police department, that is, aiming for important drug traffickers, having a special unit in the narcotics division, the SIU, or any of the others we have worked with, and working with DEA, in getting important traffickers. That is one side of the coin.

But a policy that says that a police officer seeing a narcotics sale in his presence cannot make the arrest, either because there is a superior officer absent or any such thing, wouldn't seem to make such sense to me at all.

Mr. RANGEL. Well, it bothers me. I know you have input in the city's budget as relates to criminal justice; that if this policy has not been enunciated by the police chief in your presence and the mayor's presence—then we may not know what really is going on as relates to drug trafficking. I asked this committee to join with me in the hearings so that the mayor's office could explain why it is necessary to have this policy. But your testimony would indicate that you have no knowledge of it. And as I point out, subsequent witnesses from the police department would substantiate that. I hope you follow the testimony given this afternoon, because as I do come here and ask the committee to be sensitive and supportive of my city's efforts, I think that I also would ask the committee whether or not we should not call upon the mayor's

office to respond to the testimony that we are hearing today as relates to that specific lack of enforcement.

Mr. SCOPPETTA. I certainly will follow the testimony. I am anxious to see what comes out of it. And I would like to see what kind of distinctions are being made in the police department as to setting priorities to get major traffickers as opposed to allowing police officers to ignore felonies committed in their presence.

Mr. RANGEL. Well, that is the thrust of our investigation.

Mr. NELLIS. Mr. Chairman, I have one other area I would like to discuss with Mr. Scoppetta.

We expected Mayor Beame to be here, but we know, of course, he is out of town. This is a policy issue. We are very reliably advised, Mr. Scoppetta, that the New York City school system has lost between 80,000 and 90,000 children. These children are now roaming the streets of New York without any knowledge on the part of the city officials, truancy board, or anybody else, as to where they are and what they are doing.

Let me just add—on this trip through Harlem, through this part of the city, some 3 or 4 weeks ago, I saw countless numbers of small children roaming the streets, right between the pushers and the addicts, learning how it is, how easy it is to make a buck, and not go to school.

This has nothing to do with narcotics enforcement. But is it true that the city has lost track of all these children?

Mr. SCOPPETTA. I can't believe that it is true that 80,000 or 90,000 children have been lost track of in New York City. But I do know something about the problem that you address.

I grew up in these neighborhoods, as I know Congressman Biaggi did, as I know Congressman Rangel did. And I know what happens in ghetto neighborhoods with children in families where there is no motivation instilled in the kids—there is no initiative instilled in the kids when they live under those conditions, to pursue the education that would get them out of that mess that they are in, in the first place. It is a very complicated problem—is really my response to your question—that is, the absentee rate of children in ghetto neighborhoods, the fact that children in large families, often broken homes, are unsupervised and out in the streets, exposed to street crime and all of this traffic. It is a problem I think far beyond any comments that I am prepared to make at this time and one that should be addressed by this city administration and every administrator in every locality.

Mr. NELLIS. I am trying to address the question to you, Mr. Scoppetta, as the mayor's representative. You have a situation in which the New York school system has no control over that many children, doesn't know where they are or what they are doing. You also have an enormous increase in drugs in the schools; is that not correct?

Mr. SCOPPETTA. There is an increase in crime in the schools. I am sure it is reflected in the drug traffic as well.

Mr. NELLIS. But there is enormous drug abuse in the schools themselves.

Mr. SCOPPETTA. That has been stated; yes, sir.

Mr. NELLIS. To your knowledge, what, if anything, is the city doing with regard to this problem?

Mr. SCOPPETTA. The city has a number of programs that relate to the problems in the schools. You must know, too, I think, though—

Mr. NELLIS. Mr. Chairman, excuse me—might we have order? I cannot hear the witness.

Mr. SCOPPETTA. You must know, too, that in New York City, the board of education, the education system, is not under the direct control of the mayor. So it is not precisely the way it is with a mayoral agency. The board of education is not a mayoral agency. It is independent, as are a few other agencies, like the transit authority, and others. It is independent like an independent corporation. So that we have some input, the mayor has some appointments on the board of education, tries to make his presence felt there. I know we have met in recent months. I recently have met with people in the board of education and elected officials who were trying to do something about the increase in security in the city's schools. We try to set the priorities as best we can. We don't have that kind of direct control. It is a problem I hope is being addressed in the appropriate circles. And I am sure the mayor would be enormously concerned, involved, interested, and motivated to do something about the situation if that is, in fact, the case, that such a large number of children, that the school system cannot account for—something has to be done about it.

Mr. NELLIS. Well, that certainly is our information. I would recommend that the city look into it.

Mr. SCOPPETTA. We would pursue that; yes, sir.

Mr. NELLIS. It seems to me, just as a closing observation, that there is a very high degree of lawlessness in the city of New York. Do you attribute that to recent events involving your budgetary problems and so on? Is it worse now than it has ever been?

Mr. SCOPPETTA. I think that we have been hurt by the budgetary cuts and we have our share of the crime problem. But we are not the leading city, according to the national crime statistics. We are somewhere around 11th or so. There are 10 other cities that are ahead of New York City. So that big cities have the problem—it is not peculiar to New York. We have been hurt by the budget cuts—criminal justice has. We have begun to reallocate and replan and try to tighten in lots of different ways. But there is no question about it. You cut \$1 billion out of a budget, and you are going to feel the effects. And criminal justice is feeling the effects, too. And, sure, we are able to do less than we could before.

Mr. NELLIS. Thank you. Thank you, Mr. Chairman.

Mr. RANGEL. Thank you, Mr. Scoppetta. This committee looks forward to the testimony and information requested to supplement the record. We have reason to believe that the Attorney General, who will be responding officially to Mayor Beame's request—we certainly hope you share your response to him with us, so that we will have a better understanding.

Thank you so much.

Mr. SCOPPETTA. Thank you for having me.

Mr. RANGEL. Our next witness is the chief executive of the Borough of Manhattan, Hon. Percy Sutton.

Mr. President, in view of the fact that staff has informed me that your testimony will deal with incidents that occurred within the presence of the New York City narcotics division investigators, would you have any objection if they came up and sat with you?

Mr. SUTTON. I would like it very much.

Mr. RANGEL. At this time, then, the Chair will call Sgt. Alvin Ingram and Officer Clarence Morgan of the New York City Police Department, narcotics division, to testify with the borough president, and we will take the testimony as a panel.

TESTIMONY OF PERCY E. SUTTON, PRESIDENT, BOROUGH OF MANHATTAN; ACCOMPANIED BY ALVIN INGRAM AND CLARENCE MORGAN, NEW YORK POLICE DEPARTMENT NARCOTICS DIVISION

Mr. RANGEL. Would you please stand, and raise your right hands. Do you swear that the testimony you shall give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SUTTON. I do.

Mr. INGRAM. I do.

Mr. MORGAN. I do.

Mr. RANGEL. All right; you may proceed.

Mr. SUTTON. Thank you very much, Mr. Chairman.

May I just, for those from outside, first thank you for calling this meeting, conducting these hearings here in Harlem, because I would wish each of your colleagues to know that they are in the heart of the drug traffic in America.

I further would like to explain my status, for those who are from outside the city. I am a borough president, or chief executive of this county. If you want to know what a borough president is, it is a disappointed mayor. That is what you are. [Laughter.] You are unable to deliver services and you are accused for not delivering them.

Mr. MORGAN MURPHY. Thank you for the explanation. I just asked Mr. Gilman what that meant.

Mr. SUTTON. Good seeing you, Brother Gilman. My condolences. I was just aware of your great loss. I am sorry to hear that.

Mr. Chairman, gentlemen, what I would like to do today is to make you feel—not just tell you about it, but make you feel what it is like to live here in Harlem, in the heart of the drug trafficking in America—to let you feel, not that which you see in a van as you pass by, as counsel did, but to go into the heart of the crowd and to hear the hawking of drugs as though they were fish on a street corner.

You, Mr. Chairman, were with us. As a matter of fact, it was your suggestion that we go. And we went with the special prosecutor of the city of New York and four undercover agents. Now, we saw that which every citizen of the city of New York can see and what every shopkeeper, homeowner, or resident of Harlem sees every day—you see all of these things. You see them and you are ashamed of them.

I have some pictures—because I think you ought to feel what it is like to see an alleged drug dealer dead in his apartment, with his wife there, and the daughter who had come home from school dead also, wiped out because a ransom was not paid. I would like you to know about 17-year-old hit people who work for narcotics dealers. I would like you know what happened to the city of New York, because it is possible in other cities. And I would like to talk about the 3 percent that we get from the Federal Government of the entire allocation of moneys that the Federal Government has for all drug enforcement,

drug addiction, all of your programs—you give 3 percent to the city of New York. And then there is another 3 percent we allocate for enforcement here. Ridiculous. And I have not seen any suggestion we are going to allocate more.

It is against that background, with a desire to show you pictures of supermarkets in drugs—these are not things that some reporters have not written about before, newspaper reporters, but they are things about which nothing happens.

My colleague here, Mario Biaggi, knows it. He has talked about it. We all know what happens. But what we are disturbed about is that nothing is done about it, nothing meaningful. And there are a number of reasons that nothing is done about it.

I would just like to pass up, to set the climate, so you might just feel something—I would like to pass up the pictures of three persons. You see the faces of none of them. But they are as they were found in an apartment—an alleged drug dealer, his wife and his daughter. Just to start things off. Let you feel that for a moment.

Mr. MORGAN MURPHY. Mr. Chairman, I would like to move that they be incorporated into the record.

Mr. RANGEL. Would the borough president make this available to the committee?

Mr. SUTTON. Yes, sir.

Mr. RANGEL. Then it will be considered as part of the record.

Mr. SUTTON. I would like next to pass up to you a picture of a drug dealer on the streets of the city of New York, waiting—and it is appropriate he is waiting in front of a meat market here in Harlem, waiting for a person to sell. There are a series of pictures. And you will see people come up and buy from him. You will see persons congregating in areas that only drug addicts and drug dealers congregate.

Mr. MORGAN MURPHY. I would make the same motion, Mr. Chairman.

Mr. RANGEL. So ordered. May the record indicate that the pictures provided to the committee by the borough president—one indicates a female, obviously dead. Another—

Mr. SUTTON. So outrageous is the drug traffic in the city of New York that in these supermarkets on the streets of Harlem, drugs are sold by brand name: Malcolm's Green, The Judge, No Monkey Business, Ruby's Red, Butter Cup, Chinese Rock, and Space Walk. And I have got some of the stamps that are stamped on the packets of drugs that are sold. I thought you would like to see that as well. These are just some of the almost 200 brand names of drugs that are sold. So bold is the traffic, that they can stamp it so that one who wishes to purchase can know the quality, the strength of the drug, because that brand name, like Libby's, or any other thing we see in the supermarket, is there.

Mr. BIAGGI. What you are saying, then, Mr. President, is that the quality—the nature of the business, coupled with the absence of proper law enforcement, has permitted this to become a stable market.

Mr. SUTTON. Mr. Biaggi, you are so right.

Mr. MORGAN MURPHY. I make the same motion with regard to the trade names, if I may use that term, just handed to us by President Sutton.

Mr. RANGEL. So ordered.

Mr. SUTTON. Mr. Chairman, you have, in your usual high intelligence and concern for your constituents, perceived that one of the best ways to deal with a cancer upon a community is to expose it to the hot light of public view.

Nothing is so injurious, so pervasive, so devastating to life in the city of New York as is crime. And, Mr. Congressman, Mr. Chairman, gentlemen, the overwhelming majority of people in this city perceive the problem of crime to have its principal base in the use and sale of hard drugs in New York City.

As you know in particular, Mr. Chairman, I am a strong believer in surveying the views of people on a variety of subjects. In a recent poll done by me in the period between October 31 and November 15, 1976, 335 registered voters were polled by telephone in the 65 assembly districts in the city of New York. Of those persons selected at random from the election rolls and queried, 58 percent said they believed that drugs were the greatest cause for the commission of crime; 19 percent thought drug sales and use were some of the causes of crime; and only 22 percent answered that they didn't know what the relation was between drugs and crime.

In this regard, you know well that at least once a week I go at night to our mutual political club, the Martin Luther King Democrats, and there I sit until I have seen all who would come to discuss their problems. This club is at 160 West 129th Street, between Lenox and Adam Clayton Powell, Jr., Boulevard, in the heart of Harlem, in the middle of a very poor community.

Until a recent time, Mr. Congressman, three out of five of the people who came to bring their problems to me came to ask for my assistance in getting housing for their families in this housing-starved city of ours. Today, three out of five of those people who come to see me come to complain about crime and the drug problem.

Today, too many of the streets of Harlem and many of our neighborhoods in Manhattan, Brooklyn, Queens, and the Bronx have been taken over by users and pushers of heroin and cocaine; this as though our streets have been abandoned to the drug users and the drug pushers.

Gentlemen, we have severe State and Federal narcotic control laws; yet we have but little effective enforcement of those laws.

We have a Federal Government that can send a man to the Moon. We have a Federal Government that can police the world. We have a Federal Government that can land a machine on Mars and there make chemical soil tests and then flash the results back to waiting scientists here on Earth. But we can't keep heroin and cocaine out of the hands and bodies of the pushers and users here in the city of New York.

Something is wrong.

Something is wrong when public officials and undercover policemen can walk into crowds of drug users and pushers on the streets of New York City and hear them singing out a litany of names of drugs for sale, just as though they were hawking fish from a fish wagon.

Something is wrong when the junkies and the pushers are so confident on the streets of our city, so confident that they will not be arrested that they will come to the corners of our streets and onto the sidewalks and there, out of shopping bags, in the sight of all, pull out and sell packages or decks of heroin by their brand names of:

Tru-Blue, Bingo, Di-Gel, Black Magic, Black Love, Clear Tape, Dick Down, Death Wish, Funk City, Lite'N Lively, Mean Machine, Be Fatal, Black Mota, Blackout, Black Power, Blue Start, Bogard, Could Be Fatal—interesting name, isn't it—Dynamite and Foolish Pleasure. And all of this, Mr. Congressman, with an absolute feeling of confidence that no police will interfere, no uniformed policeman will make an arrest, and no Federal narcotics agent will apprehend.

Gentlemen, I know that we are a city in trouble. No one knows it better than I. But, gentlemen, not everyone knows that it appears today New York is a city being abandoned to the users and pushers of drugs. And for drug users to get drug buying money for a fix, many New York residents and business people are being subjected to robbings, vicious beatings, muggings, and various other outrages, including murder.

I just wanted you to see the picture of the murdered people, so no one will leave here with the impression it is a harmless thing. I don't think you think it is harmless. But I think you ought to know the other side of what can happen. Life is not a thing of great value in this manner of sale.

According to special narcotics prosecutor Sterling Johnson, the average consumption of heroin per day of the addicts in the streets of New York is \$100 per day, which would require the thief of a minimum of \$500 per day, given the discount rate of 20 cents on a dollar for stolen goods.

Just for your information, if there are 100,000 drug addicts and they are stealing, you are talking about a sum of \$50 million a day, from \$50 million to \$100 million a day.

Mr. BIAGGI. Mr. President—in the light of your opening statement, when you stated you were in the heart of the area with a great concentration of drug addiction, and your ensuing comments when you said that you can actually traffic without interference by any level of law enforcement—or so minimal that it is virtually nonexistent—a suspicion arises in my mind—I don't know if it has similarly bothered you—that perhaps law enforcement people have written off Harlem.

Mr. SUTTON. Well, that is a conclusion we are going to reach as we go along, if you will permit me. We will reach a conclusion, not just Harlem, but the streets of the city of New York, in addition, Mr. Congressman. And I think you were hinting at it when you said that only 3 percent of our budget in the city of New York allocated for the police was used with regard to enforcement of the drug laws. But then when you get into that area, you have to also talk about the area of the courts—probation—after you arrest them what are you going to do with them.

You are talking about more people who are drug addicts in the city of New York than you are talking about who are occupants or residents of many cities in America. You are talking about a population that comes from all over this country to the city of New York. You are going to be cognizant of the fact that when the drug addicts are arrested or die because of an overdose or some other reason, that more than 60 percent of them are not New Yorkers, but come from elsewhere, like so many of our people are from elsewhere.

There are a number of things I hope to inform you on as we go along here.

Gentlemen, I want you to remember something. I think both of us will also remember how cruel was the scene of that thoroughly drugged mother standing there, deep in her high, at the corner of 117th Street and Eighth Avenue, selling packets—gentlemen, listen to this—selling packets of drugs over the heads of her two children, neither of which could have been more than 5 years of age.

I can tell you that Congressman Rangel was not disguised at all. I had on a beret, which might have disguised me just a little bit. They knew he was a public official, that I was a public official. We had the chief prosecutor who was disguised, and four undercover agents with us, with an understanding that no arrests would be made that day. The idea was to get us to have a feel of the situation. We see it all of the time from the outside. We see it as we go by in cars.

But this was to go into the center of the crowd. So confident were they that nothing would happen, one of the persons attempting to sell us cocaine had someone tug on his sleeve to tell him, "Hey, man, those are public officials, don't do that." And it didn't disturb him at all. As he kept pushing, the man said, "Man, don't do that, don't do that." So he decided to discuss politics with us. He said, "Man, how does it look for Carter." But he wasn't worried about us. He wasn't worried about those undercover people. He wasn't worried because he knew there were not enough undercover people to do anything about it. He knew that there were only 10 undercover people working the 24 hours, and we had four of them there with us.

Mr. RANGEL. Mr. President, were there any squad cars or any presence of police?

Mr. SURRON. Yes; I am going to show you a picture of a squad car parked on the corner.

Now, I think I want you to ask someone—I want you to ask the police commissioner whether there are instructions to the police that the problem is too large for the squad car to get involved with, or what is the reason.

Let me go further.

We saw the sight of that mother, with someone who was apparently her boyfriend or husband, selling drugs in the open.

Let me back up just a moment to have you understand that in the days gone by they didn't sell it as openly. You would pay the money to one person and delivery would be around the corner or elsewhere. But those are days gone by. Today, right out in the open, with a shopping bag. And there is someone selling stolen goods right near the corner to get enough money to be able to make a purchase. And the steerers are there.

Congressman Rangel talked to a young lady that made him almost cry—a young lady who was not more than 17 years of age. He asked "What are you doing here as a steerer"—that is, telling us where we could make purchases. She had come from New Jersey. We saw the sight of this sale. And we wondered what kind of life was ahead for these two youngsters, neither of them 5 years of age, forced to grow up with this vicious drug cycle, learning to count by knowing that a packet of Tru-Blue sold for \$5, that two packets sold for \$10 and three packets sold for \$15. They learn to count that way.

We both looked in distress and wondered how this great city permits an education of youngsters in this manner.

We saw the scene, and we knew that it was a scene looked upon every day by the shopkeepers and the residents of Harlem. But we also knew that it had a mirror image in other parts of our city, in the Bronx, in Queens, in Brooklyn, and, yes, though not quite so flagrant, even in Staten Island.

We looked and we wondered why it was that uniformed policemen made no arrests; why more undercover policemen were not assigned to the area to make drug purchases and to, thereafter, arrest the violators; and why, indeed, the Federal Government was not taking action against the violators. We wondered aloud and we did ask questions, if you recall, Mr. Congressman.

You recall, Mr. Congressman, we were accompanied on our trip by four police undercover men and the chief narcotics prosecutor for the five boroughs of the city of New York, that very able prosecutor, Mr. Sterling Johnson.

We asked questions then and thereafter, and we learned that there were only 10 black, city, undercover agents working in the upper Manhattan area, though a minimum of 300 ought to be working to be effective.

Mr. MORGAN MURPHY. Let me interrupt you at this point, Mr. President, if I may. With only 10 undercover agents, it wouldn't take long until the pushers knew them as well as anyone else.

Mr. SUTTON. Every one of them.

Mr. RANGEL. If the gentleman would yield—the term “undercover” I assume is being used as a familiar term. But I think they recognized some of the so-called undercover agents a little better than they did me. So that it doesn't really make that much difference.

Mr. SUTTON. There is no fear, Mr. Congressman. The point I wish to get across is that there is no fear. Undercover really is not undercover. And they don't have enough policeman assigned so that it could really be unknown.

Mr. NELLIS. Could I ask one thing of you, Mr. President? One of the things I observed in our undercover tour was a considerable number of out-of-State cars containing white addicts who would get out at the corner, make their deals, hold their glassine packages up in their hands, and get back in their cars. There seems to be a trainload of cars coming in from Pennsylvania, Ohio, New Jersey, and other places. If there were a sufficient number of police, these addicts could be followed and the transaction could be recorded then and there, could it not?

Mr. SUTTON. Yes.

Mr. NELLIS. But it goes on all the time, doesn't it?

Mr. SUTTON. Yes; you see it is rather difficult for a white undercover agent. Those persons you saw who were white were known. You cannot, if you are white, come in and make a purchase unless you have been there before with someone who identifies you, someone that is trusted. Those whites that you see are whites who have been dealing there, or some white who is just so desperate that he is willing to take that chance. White undercover agents have virtually no value in Harlem, any more than black undercover agents have any value in other parts of the city where persons congregate on the streets.

Mr. NELLIS. I was mainly directing my comment to the white purchasers who know exactly where to go to get their fix and get out of there as quickly as they can.

Mr. SUTTON. Right; and pay a higher price in most instances for it.

Now, what we are concerned about here is how do we deal with the problem. Because it isn't just the exchange that occurs here in Harlem, but it has to do with what people see and how it causes a breakdown of respect for policemen. When a policeman rides by in a police car, in uniform, the kids who are on the block see him ride by, they see the people selling drugs openly, and the policeman has instructions not to stop, not to make an arrest—what do you expect the community thinks with regard to the police, what do you expect that the community thinks with regard to the social order.

And when people on 126th Street—and I hope you stay around until around 4 or 5 o'clock, so all of you can see the congregants. But more importantly, try to know there are good people here in Harlem, who go to work every day, people who have had their stairwells taken over, their stairways taken over, the stoops taken over, who can be mugged as they come down the steps, who can be robbed or killed. Try to picture a young man in a \$14,000 Cadillac parked at 117th Street, said to be only 17 years of age, with a 26-year-old chauffeur driving it. And nothing is going to happen—absolutely nothing is going to happen.

What I am trying to get across to you is the depth of the feeling that some of us have who live here in the city of New York.

Let me sum up by saying that some of us, such as your chairman and I, and others, who have for a long time thought of ourselves as civil libertarians, have come to the position that crime has taken such a toll here in the city of New York that we are coming to take some positions that we would not have taken before. For example, I am now in a position to recommend that we have massive legal arrests of drug pushers on the streets of the city of New York, at our supermarkets that we have here, and if the city of New York is overcrowded in its courts, and it is, that we deliver them over to the Federal Government for prosecution, for they have violated Federal laws. And the reason we say this is because—and I heard the questions asked before—we think the Federal Government has a greater obligation to New York City. We don't think that you ought to bear all of our burden. And we are not trying to put anything out of our budget on you.

But what we are aware of is that you must be aware that these are not just New Yorkers. These are people who come here because they can get lost. We cannot send the New York police out to monitor every plane that arrives here, every ship that arrives.

When I mentioned earlier that the Federal Government can police the world—I may be asking too much to ask that you police the borders of America so that New York City does not bear all of this burden. But what we are saying to you is, can you come to understand the gravity of our condition, can you come to understand what it means to be here in the city of New York with a high crime rate. We have heard that it is No. 11 or No. 12. We have roughly 40 persons per 100,000 dying by violent crimes here in the city of New York. Dallas, Tex., has 52. But the television cameras are here. And everybody knows about the crime that is here.

So the impact or the burden on the citizen who lives here, on the businessman who would operate here, is greater than in Dallas, Tex. And we are asking you to give more consideration to the city of New York.

I don't know whether this calls for a change in the laws. We have the most rugged law in the entire Nation here in the city of New York—life imprisonment. But it is not enforced.

Now, let me tell you one of the arguments the police use when you say to them they don't do anything. They say that the people will riot. The people won't riot. The people in Harlem will not riot. The people in New York City will not riot if you attempt to do something about it. As a matter of fact, they may riot if you don't do anything soon.

Now, let me get to my final point. That is whether or not the police really are going to do anything; whether the police department, the criminal justice system in the city of New York, in our next budget, when we have to bite the bullet—Mr. Scoppetta brings it to us as it is. It is a difficult thing deciding what your priorities shall be. Every element of society in a pinched city such as New York feels that it ought to be first, "Cut someone else; not me." Then the question is, what shall be the priority for all of us. Do we believe that crime permeates our life so completely that unless we cure this we cannot cure the other problems? I think that is so now. Unless we give a priority to the curing of the question of crime, we are not going to be able to have our tax income, the sales tax that we use to support our bonds, our school system, every element of life is going to suffer.

But we cannot do it all alone in the city of New York. If we allocated all of the \$100 million that we have, take all of it away from rehabilitation, prevention, and put it all in enforcement, I suggest to you that would not solve our problem. We need the intervention of the Federal Government to assist us here.

We ask you, can you persuade the Federal Government to give us a greater share of your allocation. We have more than 50 percent—Mr. Scoppetta said 35 to 40, but I have always estimated it much more than 50 percent of all of the drug problem in America here. Yet we get 3 percent of your budget. This is obscene—not just outrageous—obscene.

We would be happy—this is cruel—to transport back—except that isn't the way you do things in New York City—we are a sympathetic city—the people who come here to get drugs from Ohio.

Let me conclude with this. If you would just have your narcotics agents stand on the streets of Harlem and trace the people who come here from Connecticut, Pennsylvania, and New Jersey, that would be a great help to us. But you don't do that. When I say "you" I am talking the editorial "you." Virtually nothing is done.

Out of 300 undercover agents in the city of New York and northern New Jersey, 10 are black. And most of them are now in other parts of the country. What chance do the 290 white agents have to come here in Harlem and deal effectively with the problem? Ridiculous, absolutely ridiculous.

I would be happy to answer any questions.

But I first would like to show you, if I might, a couple of street-scenes. Please understand, we cannot identify every one of these persons as a drug user or seller who we know, except when we were on the street you could expect that everyone else there, if not an undercover agent, was a user or seller, because you would not congregate at that location if this were not so. But please do not take that I am saying everyone is.

Mr. COOPER. This was Eighth Avenue and 115th Street. This is 143d Street and Seventh Avenue. This is 114th Street and Lenox Avenue. This is 127th Street and Saint Nicholas Avenue. This is 126th Street and Saint Nicholas Avenue. This is 117th Street and Eighth Avenue. This is 127th Street and Saint Nicholas Avenue at a time when the police cars ran into a tremendous mob. They merely dispersed, went around, congregated on other corners, and the five police cars drove off. This is again that same particular scene, 127th Street. They just moved one block down to Eighth Avenue.

This is 126th Street and Saint Nicholas Avenue. This is 114th Street and Eighth Avenue. This is 143d Street and Seventh Avenue. This is 119th Street, between Seventh and Eighth Avenues. This is 114th Street and Lenox Avenue. This is back to 127th Street and Saint Nicholas Avenue, where they wound right up again in the same situation.

We also have some pictures here that if the committee would like to look at, we would bring the board over to show to you.

Mr. SUTTON. While you are doing that—may I just conclude by saying both the chairman, myself and all of us involved here understand clearly—and I didn't finish reading my statement, but I will supply you a copy of it—all of us understand that drug addiction and crime often have their base in ignorance, in poverty, discrimination, poor housing, a variety of other things. And I talk about this very often. And historically, I was prepared to always say that we have got to cure that condition first. But one of the things that has troubled me—and I have come to the conclusion—there won't be anybody around to house if we don't do something about the problem now. We have to use our left hand to bring about rehabilitation of our communities and our people, but with our right hand we have to pluck from among us those who would violate all decency, the drug users, the pushers, the criminals, who have no regard for the rest of us.

That concludes my presentation. unless you should wish to ask me any questions.

[Mr. Sutton's prepared statement follows:]

PREPARED STATEMENT OF PERCY E. SUTTON, PRESIDENT,
BOROUGH OF MANHATTAN

Mr. Congressman, I want to thank you from the bottom of my heart for holding this hearing on the problem of drug abuse here in the city of New York.

You have, in your usual high intelligence and concern for your constituents, perceived that one of the best ways to deal with a cancer upon a community is to expose it to the hot light of public view.

Mr. Congressman, nothing is so injurious, so pervasive, so devastating to life in the city of New York as is crime.

And, Mr. Congressman, the overwhelming majority of people in this city perceive the problem of crime to have its principal basis in the use and sale of hard drugs in our city.

As you know, Mr. Congressman, I am a strong believer in surveying the views of people on a variety of subjects.

In a recent poll done by me in the period between October 31 and November 15, 1976, 335 registered voters were polled by telephone in the 65 Assembly Districts in the City of New York.

Of those persons selected at random from the election rolls and queried, 58 percent said they believed that drugs were the greatest cause for the commission of crime; 19 percent thought drug sales and use were some of the causes of crime; and only 22 percent answered that they didn't know what the relation was between drugs and crime.

In this regard, you know well that at least once a week I go at night to our mutual political club, the Martin Luther King Democrats, and there I sit until I have seen all who would come to discuss their problems.

This Club is at 160 West 129th Street, between Lenox and Adam Clayton Powell Jr. Blvd., in the heart of Harlem; in the middle of a very poor community.

Until a recent time, Mr. Congressman, 3 out of 5 of the people who came to bring their problems to me, came to ask for my assistance in getting housing for their families in this housing-starved City of ours.

Today, 3 out of 5 of those people who come to see me, come to complain about crime and the drug problem.

Today, too many of the streets of Harlem and many of our neighborhoods in Manhattan, Brooklyn, Queens and the Bronx have been taken over by users and pushers of heroin and cocaine. This, as though our streets have been abandoned to the drug users and the drug pushers.

Gentlemen, we have severe State and Federal narcotic control laws; yet we have but little effective enforcement of those laws.

We have a Federal Government that can send a man to the moon.

We have a Federal Government that can police the world.

We have a Federal Government that can land a machine on Mars and there make chemical soil tests and then flash the results back to waiting scientists here on earth.

But, we can't keep heroin and cocaine out of the hands and bodies of the pushers and users here in the City of New York.

Something is wrong.

Something is wrong when public officials and undercover policemen can walk into crowds of drug users and pushers on the streets of New York City and hear them singing out a litany of names of drugs for sale; just as though they were hawking fish from a fish wagon.

Something is wrong when the junkies and the pushers are so confident on the streets of our City; so confident that they will not be arrested that they will come to the corners of our streets and onto the sidewalks, and there, out of shopping bags, in the sight of all, pull out and sell packages or "decks" of heroin by their brand names of "Tru-Blue," "Bingo," "Di-gel," "Black Magic," "Black Love," "Clear Tape," "Dick Down," "Death Wish," "Funk City," "Light'N Lively," "Mean Machine," "Be Fatal," "Black Mota," "Blackout," "Black Power," "Blue Star," "Bogard," "Could-Be-Fatal," "Dynamite," and "Foolish Pleasure." And all of this, Mr. Congressman, with an absolute feeling of confidence that no police will interfere, no uniformed policeman will make an arrest, and no Federal narcotics agent will apprehend.

Gentlemen, I know that we are a City in trouble. No one knows it better than I. But, Mr. Congressman, not everyone knows that it appears today New York is a City being abandoned to the users and pushers of drugs. And for drug users to get drug buying money for a "fix," many New York residents and business people are being subjected to robbings, vicious beatings, muggings and various other outrages, including murder.

According to Special Narcotics Prosecutor Sterling Johnson, the average consumption of heroin per day of the addicts in the streets of New York is \$100 per day, which would require the theft of a minimum of \$500 per day, given the discount rate of 20 cents on a \$1 for stolen goods.

Because you are a leader in the fight to rid America of drugs, Mr. Congressman, it must have hurt you deeply when we recently walked into those crowds of pushers and users on Lenox and 8th Avenues in Harlem, and saw how open is the traffic in drugs.

I will, and I know that you will, always remember how cruel was the scene of that thoroughly drugged mother standing there, deep into her "high," at the corner of 117th Street and 8th Avenue, selling packets of drugs over the heads of her 2 children; neither of which could have been more than 5 years old.

We saw it, that sight, and we wondered what kind of life was ahead for these youngsters, forced to grow up in this vicious drug cycle, learning to count by knowing that a packet of "Tru-Blue" sold for \$5, thus 2 packets were \$10 and 3 packets were \$15.

Yes, they may learn to count that way, Mr. Congressman, but we both looked in distress and wondered how this great City permits an education for youngsters in this manner.

We saw the scene and we knew that it was a scene looked upon every day by the shopkeepers and residents of that area of Harlem. But, we knew also that it had

mirror images in other parts of our City; in the Bronx, in Queens, in Brooklyn, and yes, though not so flagrant, also in Staten Island.

We looked and we wondered why it was that uniformed policemen made no arrests; why more undercover policemen were not assigned to the area to make drug purchases and to, thereafter, arrest the violators; and why, indeed, the Federal government was not taking action against the violators. We wondered aloud and we did ask questions, if you recall, Mr. Congressman.

You recall, Mr. Congressman, we were accompanied on our trip by 4 police undercover men and the Chief Narcotics Prosecutor for the 5 Boroughs of the City of New York, that very able Prosecutor, Mr. Sterling Johnson.

We asked questions then and thereafter, and we learned that there were only 10 Black, City undercover agents working in the Upper Manhattan area.

According to Special Narcotics Prosecutor, Attorney Sterling Johnson, 75 percent of the drug sales occur in the central Harlem section of New York City; and in spite of this, there are only 10 Black undercover agents employed by the Federal Government in the entire New York City and Northern New Jersey area.

In this regard, Mr. Congressman, we are both agreed that the reality of life in this society is that very few Black undercover agents can penetrate White street corner groups posing as drug users or sellers native to the area.

Conversely, we know that White undercover narcotics agents have little success in penetrating the street activity of the Harlems of New York City.

Without more New York City policemen to serve as undercover agents, I rhetorically ask: What can be done, Mr. Congressman?

I ask the question and suggest the answer is to set uniformed policemen upon these drug super markets on the streets of our City and apprehend the violators for delivery over to Federal prosecuting authorities. Every drug sale in the street super markets is an obscene and flagrant violation of local, State and Federal laws as well as community decency.

As to community decency, Mr. Congressman, you know, and I know, that what we saw in our tour of concern in our own Harlem community is that which mothers, fathers, children, business people and every law abiding resident of Harlem must look upon and walk through with fear, frustration and a sense of hopelessness every day of their lives.

Mr. Congressman, your concern and my concern is to do something about the crime that frightens the good people from our streets and locks them in a prison of fear, both by day and by night.

We both saw how drug users and pushers have taken over the corners, sidewalks, stairways and stairwells of homes, frightening and intimidating the poor residents who only seek safe access to and from their homes.

We saw it and we were sad. And we were ashamed as public officials that the police were not making arrests, the prosecutor was not able to prosecute and the courts were not adjudicating these blatant perpetrators of crime.

We saw all of this, Mr. Congressman, and we vowed to do something about it. We vowed to help the Special Narcotics Prosecutor restore his budget that had been cut from \$2.4 million to \$1.1 million, so that he could truly fight crime and remove the backlog of 1,200 yet unprosecuted narcotics cases. We also vowed not to make ours a one-day protest, but a crusade against crime—all kinds of crime; drug related and non-drug related, street crime and corporate crime; white-collar crime, and blue-collar crime.

You vowed to hold this hearing, Mr. Congressman, and I vowed to testify. And both of us pledged to keep clear in our minds the fact that drug related crimes and non-drug related crimes do not occur in a vacuum. Because we understand that most crimes in the community have a base in ignorance, poverty, discrimination, joblessness and hopelessness.

We know the conditions of poverty in our City, the unemployed, the hopeless and the disenchanting. We see this and we know that much must be done to bring about massive change in living conditions. But, we also know that the prospects for these changes being sudden or instant are not good.

So, Mr. Congressman, I am pleased to be with you as we join forces in waging a war on crime; with one part of our energy and dedication exposing to the public, for their support, the conditions of the poor housing, the 60 percent unemployment in our teen-age youth, the 30 percent unemployment among our Ghetto adults; the devastated housing that is woefully in need of rehabilitation, and/or replacement, and the job training and job opportunities that must be promised first by our private sector, and, if not by the private sector, then by our Federal Government.

We are committed, Mr. Congressman, to work to solve the problems that produce crime, but we know that our own commitment and the commitment of our City and State are not enough, the problems of the cities can no longer be solved by the cities alone—Federal help is needed.

Today, the heroin problem is more than just an issue of local concern and it requires a much greater effort than local law enforcement can now provide.

It is obvious to me that cities, such as New York, plagued by the inflow in heroin grown in other lands are now unable to singlehandedly stem the increasing numbers of drug users and sellers who escalate crime in our communities.

But we can do something about the drug produced crimes that are choking off the hope and the life of our people. We can create a climate that will, within strictly legal bounds, make the City of New York an uncomfortable place for people who would use our young people and our weak people as dumping grounds for their drugs. By use of undercover agents, by use of uniformed policemen, by demanding massive Federal intervention, we can, at least, keep alive and safe our people until that ideal day when the condition of crime is eliminated. But unless we do something now to arrest and prosecute the criminals, there will be little left of some of our communities to rebuild or rehabilitate.

Uncontrolled, narcotics can do more to destroy our country than all subversive ideologies combined. There is a need to fight the drug problem with all of the tools of warfare that we would use in defending our country from any hostile invader. The plague of drugs is a tenacious enemy and there is great need to do all out battle—Now.

Mr. SUTTON. Mr. Chairman, I have with me two undercover agents who are now no longer undercover, having blown their cover right here before you.

I have just been informed by the chief that they are not working undercover any more. I don't know. They are very well-trained persons. That means we are in a worse fix than we were yesterday, then.

Mr. RANGEL. Mr. President, with the committee members' permission, we would like to take testimony at this time. But before we inquire from the police officers, I understand that we do have a film that we would like to show before we recess. But I would just like to ask the police officers whether or not there is any conflict in the testimony of the borough president as he describes the incidents that took place when we were on the street, and if you could in your own way explain the reasons why these crimes are committed without arrest. And, if you could, within the restrictions of your titles, as to what are the policies as you see them. I would ask Sergeant Ingram to testify, as well as Officer Morgan, before the committee inquires. Then we do have a film which I am certain that the police officers are familiar with, where you can more adequately describe the extent of the overt narcotics trafficking in the areas around the city.

Mr. BIAGGI. Mr. Chairman, one comment in connection with President Sutton's presentation.

First, as usual, it was excellent, comprehensive—and you have lived it.

But what encouraged me, Mr. President, is your statement or realization that we cannot subordinate the law enforcement effort to any other consideration. As you said, on the one hand we must be plucking the wrongdoers from the community while continuing rehabilitation and housing efforts; as contrasted to a policy of yesteryear, if you will, or yesterday, as enunciated by you, which said only that we must get to the cause. The cause and causes will take a great deal of time to remedy. I think Government is responding in some measure, maybe miniscule, but responding. But meanwhile, the law-abiding

populace of our respective communities, which happily are in the vast majority, are being subjected to the encroachment, if you will, or the brutal assault, of the criminals. And the realization that law enforcement must persist and must be paramount is, I think, salutary.

Mr. SUTTON. Mr. Congressman, it is not that I have changed my view that we have to change the conditions. What I am saying to you is that it has gotten so much worse from when I held that view until now, what has happened, it is so open, crime is so high arising out of drug addiction and drug sales, that what I am saying is that if we are going to have a community to be able to take advantage of that one day when we shall have rehabilitated people and housing, then we have to pluck from within our midst those persons. But we need help. It is not going to all be done here in the city of New York. And no city with this kind of burden could do it—no city, gentlemen. New York City but compounds the problems of all larger cities.

And just remember, New York City is a bit different from Chicago, because New York City is a port of entry, more so than Chicago. You have your lakes. New York City is different because it is so large; with 8 million people you can get lost here. The deviates come here, the alcoholics come here. But also the good people come here to compete. This city is highly competitive. I kiddingly say—not too kiddingly—there are some giants here, and one giant looks at another an irch shorter and calls him a midget. This is how competitive the city is.

Historically the poor have come here, from central Europe and eastern Europe in the last century. Today they come here from the South, South America, and the Caribbean. But they come with the same hope that the people came with before. And New York City was then a rich city. It is a poor city now. And we cannot sustain the burden that is upon us, not by ourselves, in this problem.

Mr. RANGEL. Sergeant Ingram.

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. You don't take issue with any part of the borough president's testimony as related to the incidents in late October.

Sergeant INGRAM. No, sir, I do not.

Mr. RANGEL. And police officers were present in identifiable squad cars during this occurrence?

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. Is there any type of policy that would prevent uniformed police officers from making arrests when a felony is being committed in their presence.

Sergeant INGRAM. Well, if you direct that toward narcotics, my understanding, and what I have been informed, is that there is not a written policy per se that they will not make arrests, but they are discouraged from making these arrests, and basically they say that they feel that the courts would not be able to prosecute most of these cases, is what they have informed me the reason they are discouraged from making them.

Most uniformed men that see a violation of this type and they want to take some action, they are also required to call or attempt to get a supervisor present on the scene where this has taken place.

There are special units in the uniformed force, the SNEU cars, as they are called, the special narcotics enforcement units, that make arrests. But they have a sergeant assigned with them all the time. And this action is taken with a superior officer present.

Mr. RANGEL. Do you know of any action taken by narcotics traffickers in the area that we are concerned with, that would attempt to hide their illegal conduct, whether or not a call could be made to a superior officer?

Sergeant INGRAM. No, sir, the sales will go on. If they happen to notice you, or maybe, as we say, eyeball them too much, they just go around the corner and continue and the sales go right on. It would not stop. And if there was an arrest made, basically what they do is once they feel you got your piece for the day and you leave, they will come right back, a replacement will be right there.

Mr. BIAGGI. Mr. Chairman—on that point. I saw these pictures. The pictures by themselves are not too meaningful. They become meaningful when you listen to the testimony.

I want to ask some very precise questions.

Were you present when those pictures were taken?

Sergeant INGRAM. Which ones, sir?

Mr. BIAGGI. The film.

Sergeant INGRAM. The film itself? I don't believe I was, no. I saw the film.

Mr. BIAGGI. Can you identify those locations?

Sergeant INGRAM. Yes, sir.

Mr. BIAGGI. You are experienced?

Sergeant INGRAM. Yes, sir.

Mr. BIAGGI. You have witnessed them many, many times?

Sergeant INGRAM. Yes, sir.

Mr. BIAGGI. And those groupings, what do they represent to you?

Sergeant INGRAM. The groupings usually—there are different types of groupings. You may see one male will suddenly appear on the scene from wherever he comes, and you will see a large group gather up immediately around him. He is like a piper. They will just follow him until he is all sold out, and then disperse.

Sometimes groups gather to get their money together. The price is pretty high. Maybe I only got \$10, maybe he has only got \$40—we have to get together, because the bags are going for \$50 to \$60 to \$65.

Mr. BIAGGI. It is common knowledge those groupings represent participants in drug trafficking?

Sergeant INGRAM. Yes, sir.

Mr. BIAGGI. Were there uniformed officers present?

Sergeant INGRAM. They ride by every day.

Mr. BIAGGI. You have seen it?

Sergeant INGRAM. Yes, sir.

Mr. BIAGGI. And to your knowledge nothing was done?

Sergeant INGRAM. No, sir.

Mr. RANGEL. Was there a period of time that you commanded an observation post for the sole purpose of recording on film these drug transactions?

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. And these pictures that we have seen today properly reflect those type of transactions which you in the normal course of your police activity would witness?

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. Or any other policeman in uniform with normal vision.

Sergeant INGRAM. Yes, sir.

Mr. SUTTON. Could I just interject something, Mr. Chairman. We were talking about the person with us, the chief prosecutor for narcotics in all five counties of the city of New York. I want to leave a figure with you. This man, who is a former policeman, former U.S. attorney, who is a skilled man, had a budget of \$2.4 million, which was inadequate. And in the cutback he was reduced to \$1.1 million. He has got a 1,200-case backlog. There is no way on God's green Earth for him to prosecute. I just wanted to leave that with you. So why should a person be afraid to sell on the street.

Mr. GILMAN. Mr. Chairman, if you would yield.

First of all, I would like to compliment President Sutton for his very eloquent presentation. I just wish more of our colleagues could have heard your presentation. I hope that some way we can convey your thinking to them. I know you were present when we discussed the problem with Mr. Scoppetta earlier. Of course, the burden of this committee is to try to raise public consciousness of the drug problem and raise the priorities within the National Government. But in like manner, I am still concerned about the fact that the city has not underscored the problem in its own administration.

You have stressed how important it is and have called for massive arrests and massive enforcement. Have you met resistance, President Sutton, in your requests to the administration for raising the priority? Three percent of the total budget for drug enforcement is just as bad as the Federal Government's.

Mr. SUTTON. Would you believe it if I told you I didn't know what the percentage was until I prepared for this.

Mr. GILMAN. What has been done to try to revise that priority?

Mr. SUTTON. Here is what I am saying. Mr. Congressman, what I am saying to you is would you believe that I did not know that percentage of money allocated, that was being allocated, until I was preparing to give you testimony, thinking it would be logical that you would ask me. But then before I testified, I heard Mr. Scoppetta give you that information.

Now, I think you ought to know that when we do the budget each year, the budget isn't broken down so that you as a member who votes on the budget—my role as a member of the board of estimates, which is composed of the mayor, the president of the city council and the comptroller, all of whom are citywide officials, and I as a borough president have 2 votes out of 22. But you can be persuasive with that two if you know what is happening. But if you don't know what the budget breakdown is within a department, and you often do not, and as a matter of fact, if you ask for it, you won't get it in most instances, because they are hidden.

Now, now that I know it is 3 percent, I can sally forth and say that it ought to be 15 percent. But the minute you do that, then they are going to ask me the question, "OK, where shall we cut back? Shall we cut back on patrols in the schools or shall we cut back somewhere else?"

I think all of us understand when we talk about increasing in another area, then you better be decided what your answer is going to be, what other part of your constituency is going to lose.

Now, what I am saying to you is that I must be prepared as a public official to bite that bullet and say "OK, give me a plan; I am.

prepared to bite that bullet." And it is not easy. Sometimes it can poison you.

Mr. GILMAN. We, as your colleagues in the Federal Government, have the same problem. The first step has to be taken locally to show that this is a priority problem, and that there is concern, and that there is a willingness to expend a certain portion of the local dollars on the problem. And then the Federal Government should be willing to come forward to be of assistance.

Mr. SUTTON. The problem that presents—I remember when we were talking about when could we prove to the banks that we were sacrificing. So we asked the banks, you know, how much blood do we let, that you are going to invest in New York City. So we began letting the blood. But the banks never invested afterward.

What I am saying to you, if we invested 10 percent, would that be appropriate—if we invested 15 percent?

My point is that we have to have some indication from the Federal Government, if someone could tell us that you would be impressed with this or that. But I don't think you can do that. So we have to say to ourselves—I want at least 10 percent; how many men will this hire, how many courts will it open, how many probation officers, how many prisons, et cetera. But after we have done all of that, we still need your help in keeping the drugs out of New York City, and allocating some of the money that you give to the rest of the country here to New York City to meet the problem that is not entirely our fault.

Mr. GILMAN. Mr. President, I think I speak for the committee when I say we recognize the urgency of that problem, and we are going to go back with that message. And I hope that you are going to be supportive of our efforts by attacking the priority here in the city of New York.

Mr. SUTTON. I shall, Mr. Congressman.

Mr. RANGEL. Sergeant Ingram, does the division of narcotics have the primary responsibility of the New York City Police Department, that is, of enforcing the State narcotics laws?

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. Could you briefly describe to this committee its number, its reduction in number, and what resources you have to work with in this area.

Sergeant INGRAM. The cutbacks—the figures I am not equipped with.

Mr. RANGEL. How many men are in this division?

Sergeant INGRAM. In Manhattan North, we have a total of 70 men.

Mr. RANGEL. What is the jurisdiction of Manhattan North?

Sergeant INGRAM. I am assigned to the sixth district, which is central Harlem. I cover the 25th precinct, the 28th precinct, and the 32d, which runs from 110th to 158th, and I would say the boundary would be like Saint Nicholas Avenue over to the river, to the Harlem River.

Mr. RANGEL. Would these 70 men be covering one-half of the borough of Manhattan?

Sergeant INGRAM. No; 33 men are all that is covering the 3 precincts I just mentioned, that area from 110th to 158th Street, from Saint Nicholas Avenue to the river.

Mr. RANGEL. How long have you been a police officer?

SERGEANT INGRAM. Nineteen years.

Mr. RANGEL. How long have you been in investigation of violations of narcotics laws?

Sergeant INGRAM. Four years.

Mr. RANGEL. What would you say, as an expert, would be roughly the percentage of drug trafficking as relates to the city of New York, in this area which you have jurisdiction?

Sergeant INGRAM. Just my area compared to the rest of the city?

Mr. RANGEL. Yes.

Sergeant INGRAM. I would say we got more than 50 percent of it right here in Harlem—of the whole city.

Mr. RANGEL. You would say the area over which you have jurisdiction—

Sergeant INGRAM. Perhaps 60 percent.

Mr. RANGEL. 50 to 60 percent of the narcotics trafficking that occurs generally within the city and State of New York.

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. And you have 33 men that are assigned to the specific task of enforcing the State narcotics laws, is that correct?

Sergeant INGRAM. I can break that down a little better. The street enforcement, you have a total of myself and five men, which is six, and two undercovers.

Mr. SUTTON. I'm sorry—I thought there were 10.

Mr. RANGEL. What are the responsibilities of the other 25 men?

Sergeant INGRAM. They work mid-level and high level, the balance of the 5 from 33.

Mr. RANGEL. What would mid and high be, for the record?

Sergeant INGRAM. Well, 1-ounce dealers, 2-ounce dealers, kilodealers.

Mr. RANGEL. So they would deal with conspiracies more than the street trafficker.

Sergeant INGRAM. Yes, sir.

Mr. RANGEL. So again, for the record, as relates to the drug trafficking that takes place on the street, which your part of the division has jurisdiction over, how many men are assigned to this task?

Sergeant INGRAM. To the street level? Five investigators, one sergeant, and I have two undercover police officers.

Mr. RANGEL. Now, sergeant, if you have five investigators and two undercover agents for this responsibility, during any 8-hour period, how many men can you depend on being available to enforce the State narcotics laws?

Sergeant INGRAM. Well, barring vacations, we will just say if everybody is working, that we are not all in court, I can say I might have three men a day. I might have five some days. But it is an average of three or four men.

Mr. RANGEL. Of this 8-man task force, how many are black or hispanic?

Sergeant INGRAM. I have an all-black team.

Mr. RANGEL. Officer Morgan, could you add to the testimony of the sergeant as it relates to the problems that you have in enforcing the State narcotics laws, as you would like, as a police officer?

Mr. MORGAN. Basically we could use a lot of help. I am constantly kidding the sergeant that he is working us to death. But he is a hard-working man. And I believe we have a team that is dedicated.

to the job. And we are concerned with the neighborhood that we are serving, because most of the members of our team come from that neighborhood. We would like to do a much better job. We need more money, more personnel, and equipment.

Mr. RANGEL. Were you recently wounded as a result of your police activities?

Mr. MORGAN. No; that was one of our undercover men.

Mr. RANGEL. Belonging to your same team?

Mr. MORGAN. Yes, sir, he is now.

Mr. RANGEL. One last question. Do you have any relationship at all, as you assume your responsibility, with the Drug Enforcement Administration and Federal agents that have a responsibility to enforce the Federal laws?

Sergeant INGRAM. I have communications with them by phone when they need information perhaps on the street operation. We had an operation with them—we used Federal narcotics agents. But at that time, which was approximately March 1975, they brought in numerous Federal undercover officers and manpower, and we concentrated that in the vicinity of 117th Street, just the one block, for about 3 to 4 months—we worked in one block. I would say we must have had about 10 undercover officers from out of town, plus our own.

Mr. RANGEL. Did that result in any arrests?

Sergeant INGRAM. Yes; it did.

Mr. RANGEL. How many?

Sergeant INGRAM. I would say in that period we made over 200 arrests, just in sales.

Mr. RANGEL. Were any of those street arrests?

Sergeant INGRAM. All—all sales.

Mr. RANGEL. But you don't see any Federal presence now.

Sergeant INGRAM. No; once they shut it down, we went back to our little small group.

Mr. RANGEL. Congressman Murphy.

Mr. MORGAN MURPHY. I was just wondering—

Mr. RANGEL. Let me interrupt to thank the borough president.

Mr. SUTTON. I am going to tape something downtown, Mr. Chairman. Thank you very much for letting me appear.

Mr. RANGEL. Thank you very much.

Mr. BIAGGI. Mr. Chairman, I would like to make one observation. Inasmuch as you are pursuing the breakdown of personnel on assignment from your unit, I think it would be imperative that we get the same kind of breakdown of personnel—this is strictly for the committee—from the State narcotics people and the local narcotics people, to really determine just how many people we have in fact working on narcotics in the New York City area. And also there should be a definition, a very carefully defined area of jurisdiction, of what their duties and responsibilities are, so the committee can really know, in a very quick look at the total personnel picture, how many people are in fact working on it. Obviously yours is a microcosm of the total picture. But that breakdown, coupled with breakdowns of all the other personnel assignments, would be helpful.

Sergeant INGRAM. I believe I have what might be considered a large team at this time also. I know one sergeant that has only two men.

Mr. BIAGGI. As an afterthought, as a matter of practical police work, I certainly would recommend to the authorities that are responsible that we have more black and hispanics in this area. There is a crying need.

Mr. RANGEL. Wasn't there a suggestion that the white members could do something with their skin coloration in order to meet that need?

All right—Chairman Rodino.

Mr. RODINO. Mr. Chairman, I would like to say first of all I was impressed with the borough president's presentation. I wish the borough president who made the statement were here to respond—because it seemed to me that there was a suggestion in the presentation that while there seems to be a complete breakdown because of the lack of enforcement due to insufficient personnel, the kind of personnel—I wonder whether or not it is intended that the Federal Government assume this responsibility.

Now, I know that the borough president is not here. And I wanted to address that question to him. I would hope we would have the opportunity of furnishing the borough president with some questions, because I think it is important for us to recognize that the single agency of Government that right now has the responsibility of dealing with law enforcement is the Law Enforcement Assistance Administration. Up until this time, of course, as I stated initially, we have spent a considerable sum of money in our effort to fight crime, and we failed, and we failed miserably. And I think some of the questions we ought to address to some of these individuals who are dealing with this on a day-to-day basis are whether or not they feel that Law Enforcement Assistance Administration, which has now been in existence for a period of some 8 years, and which has an extended period of existence—and which we have recently allocated some funding to—whether or not it has a broader role to play than it has to date in fighting drug-related crime.

Perhaps we ought to take this into account, because, as I see it, the borough president did point out the need for more personnel. And I would like to know if there are more personnel, and they were instructed to deal with this kind of street crime and this trafficking, whether or not this would effectively reduce the trafficking.

I think these are important questions for us to be able to answer before we go back with any recommendations. And also whether or not there are any new programs that ought to be undertaken through LEAA in order to fight street crime that is drug related.

It may be that this is going to point up a whole new area for us that I think is tremendously important. And I value this testimony. And, of course, as chairman of the Judiciary Committee, having responsibility for the law enforcement assistance programs, I would hope that this committee would make available to LEAA this kind of oversight.

I think what has been pointed out here is so shocking that maybe the efforts we have been making and the amount of money we have been expending in fighting crime has all been misdirected, and we ought to find out whether or not we ought to establish a national policy on how to fight crime. And I believe that if we examine what we have done up until now, we don't have a national policy, despite all the rhetoric.

I think it is important for our members to be aware of this.

I would like to commend the witnesses who have been undercover agents up until now for their contributions. I think that you are fighting such a tremendously difficult and uphill battle that no matter what the resources, we hope that we can be of help.

But I hope you understand the position that this committee is in. I would not like, as a member of this committee, to suggest that we here can do other than inquire into the facts as they are and see what the city is doing, what the local agencies are doing, and how they are addressing this problem, and then what coordination there can be between local agencies and the Federal Government in the effort to try to do something about a solution to this problem.

Thank you very much.

Mr. RANGEL. Mr. Chairman, no one in the Congress or closer to the executive branch would have more input into this area than yourself. I certainly reiterate the appreciation of the committee for your being with us. I know what you have done to pull our committee together. We look forward to your leadership in this area.

Now we are going to show the film. Since there is no sound with this film, I would ask the officers if they would be kind enough to describe the scenes as graphically as they can for the record. And then the committee may inquire.

I may at this time ask Sterling Johnson to come forward. And please, Mr. Johnson, feel free to add to whatever is being offered for the record to describe the film before your formal testimony.

Sterling Johnson is, of course, the New York City special prosecutor.

The committee takes this opportunity to welcome Federal Customs Judge James Watson to these hearings, who is a well-known lawyer as well as a community member. Thank you, Judge.

[At this point, a film was shown.]

Sergeant INGRAM. This is between 115th and 117th and Eighth. This is 117th. You are looking south on the east side of the street. There is the Mateuse Club there on the corner. That is right on the southwest corner of 117th Street and Eighth Avenue. This is what is called the marketplace in our operation that we have down there. And that is just what it is.

As you see, everyone has gathered together there. As I said, they usually get their money together. We will have to watch a transaction take place. Usually you can only see hand-to-hand movement. But you will see money changing hands, and then there will be a quick coupling of the hands together.

As I said, I am only going to look at this and try to depict—there is a person well known to us, hands in his pockets. He is in jail, so there is no problem right now about him knowing about this film. He is a seller. We were fortunate to get him on two different occasions. Behind him there are other transactions going on.

The guys leaning up against the wall—the one with the black cap on, if I was watching, I would keep my eye on him.

Mr. RANGEL. You are talking about drug sales.

Sergeant INGRAM. This is a seller now, leaning against the wall. He has his hand out.

Mr. RANGEL. What time of the day would you say this is?

Sergeant INGRAM. This is broad daylight. It might be noon, 1 to 2. As you can see, there is no problem being able to see this, even from a window, or just walking down the street. So it is broad daylight.

Again, if you keep your eye on the people up against the wall. The fellow coming toward us with the raincoat has just had a transaction. He is gone already. The transaction took place with the fellow with the cap on. As I said, the fellow that made the buy is walking with an umbrella, walking away.

Again, we are at 115th and Eighth. There is where the borough president was referring to—the girl that had the shopping bag. As I recall, this is the corner she was working on, but to our right of the picture.

The liquor store, that is the northeast corner of 115th Street and Eighth Avenue.

A lot of these people standing around are touts, as they refer to themselves, and what they do is you walk up and they will ask you "Are you looking" and you say "Yes" and he says, "All right; my man over here has the best stuff, dynamite stuff." He works for a percentage. He will take you over to the guy with the stuff and he will say "I know this guy" and you make your buy. Normally you don't give him the money because they don't want him handling their money. He just gets a little taste for bringing the customer up to them. That might be in the form of money or it might be in the form of drugs.

Another reason why I believe a lot of the addicts stay here is they are among friends here.

I would say, if I had to make a guess, everyone that is standing in that crowd is an addict, because nobody else would stand there. You will be told if you are not buying, "Don't stand here, move on." In fact, this happened to us on the tour. We were all told, myself, the borough president, Congressman Rangel, "If you don't want any, you are not buying, keep moving, get out of here."

Again, this is 117th, the east side of the street. On the left you can see—there is no telling how many transactions are going on. This again is the marketplace area, 117th and Eighth, on the left, by the bar there.

This side, there is a hotel on the right, where the Malcolm Blue came out of.

Mr. RANGEL. Officer, is this a daily occurrence?

Sergeant INGRAM. This is every day.

Mr. RANGEL. And how long has this been taking place, to your knowledge?

Sergeant INGRAM. I have been in the narcotics bureau 4 years, and I have been working with the street team, precinct response team at that time, and this condition existed when I started. In fact, it is even worse, I would say. Then it was around 115th and Eighth. Now it has moved to 117th. It has spread out even further, I would say.

Again, this is 117th Street and Eighth.

I don't know whether these pictures were of a particular operation or just the street. The Royal Flush Bar and Grill.

This is on 116th and Eighth. There were numerous buys made in the location by my team and others.

Now we are coming up to the Shelton Hotel which is—there is no way to describe it. It is just from the top floor to the ground floor

wall-to-wall addicts and pushers. The Gemini, controlled by pushers who have gone up in the world.

Mr. JOHNSON. In the Shelton Hotel they have people working whose job it is to find veins of those addicts who can no longer find veins. They are called spikers. And they will lift up under the breast, inside the thigh, anywhere they possibly can, to find that vein that the addict cannot find, and do it for \$5, \$10 a shot.

Sergeant INGRAM. That's correct. We met him, by the way in this hotel. That is all he does—he spends his whole day.

Again, this is where we did the observation of sales from an OP we had there. I think we were allowed about 30 to 60 days, I don't recall, and we got wiped out of manpower doing it—I can say that. I guess we did about 90 arrests in a month.

Mr. NELLIS. Sergeant, is Malachai Drugs anywhere in this area? Have you ever heard of it?

Sergeant INGRAM. No, sir, this is heroin—some coke, but strictly heroin. As I said out here it goes for—if you're lucky, you can get it for \$45, but basically it starts at \$50 and up to \$65.

Mr. GILMAN. What percentage heroin is that?

Sergeant INGRAM. They call it quarter bags. If you buy three bags total, you might have a little better than an eighth of an ounce in weight. And the percentage is approximately 3 percent heroin.

Mr. RANGEL. How many corners in the area that you have jurisdiction over would you find this type of group sales taking place?

Sergeant INGRAM. I guess we can start at basically 113th, 114th, 115th, 116th, 117th, 118th. Then we go to 143d and 147th, which has really become unbelievable lately—153d Street and Eighth Avenue; that is a different precinct, but the same problem. There is a different phenomenon—I can't understand it; 127th Street would be a boundary line. If you were to go below 127th you can only buy \$50 to \$60 bags.

Mr. RANGEL. But these shopping places are more or less stationary.

Sergeant INGRAM. Yes, sir, then you come uptown, above 127th, and you can get them from \$3 to \$10, 1-grain bags, approximately.

Mr. GILMAN. Sergeant, what do you estimate the total daily sales of heroin are in your jurisdiction?

Sergeant INGRAM. Maybe Mr. Johnson might have that. It is staggering. We have arrested 13-year-old and 14-year-old kids with—they would have maybe 15 to 20 bags left, and would already have \$2,000 to \$3,000 in their pockets.

Mr. GILMAN. What would you estimate the total daily sales, Mr. Johnson, in the Harlem area?

Mr. JOHNSON. I would say millions of dollars a day. If you have got half of the Nation's addicts in New York City and 75 percent of them being in Harlem itself, and each addict having to purchase drugs to sustain himself for that particular day, \$55 for 100,000 addicts or 200,000 addicts—millions of dollars a day. I have never tried to compute it, but I would say millions of dollars.

We arrested one individual who was selling drugs on one block in Harlem, on Eighth Avenue, who was netting \$50,000 a week, and he wasn't the top man.

Mr. MORGAN MURPHY. How about the top men? Where do you think they get their supplies?

Mr. JOHNSON. We don't estimate. We know where they get their supply. The drug trafficking pattern has changed in the past few years.

It used to be organized crime would get in a load, 49, 50 kilos, sell it to a wholesaler, the wholesaler would sell it, and the importer would do maybe one or two transactions a year. Then the minorities got onto this. I think it was sometime during the Vietnamese war. Your blacks, your hispanics, your orientals. They got overseas connections mainly from the Golden Triangle. They would bring the drugs in themselves and they would whack up the drugs and put it out on the street. So they would be the importers. They would also be the distributors. They would be in the drug business, say, from the womb to the tomb. There was not that specialization that organized crime had. There was more money in this particular operation, bringing it in and distributing it themselves. But there are also more risks.

So we know who these individuals are. We have made some cases on them. We are making additional cases on them. But as soon as we take out one distribution network or one particular Mr. Big, there is somebody else to take his place.

Mr. GILMAN. Mr. Johnson, what is the major producing area today for the New York City area? Where is most of the shipment coming from today into New York City?

Mr. JOHNSON. We are getting a substantial amount of drugs in from Mexico, and also from Southeast Asia. Now, an interesting phenomenon occurs in New York. Down in the East Village, where you have a lot of Caucasians, they prefer the dark heroin, which is usually your Mexican heroin, and in Harlem they prefer the white heroin, for some reason. I don't know why. But if you can't get the white heroin, you get the dark heroin. But the heroin of choice for most people I would say would be the white heroin, because it is a stronger heroin.

Mr. RANGEL. Is this the film that has the drug pushers touting their wares by brand name?

Mr. JOHNSON. When they are out here they have brand names.

Mr. RANGEL. I know; but is this the film that actually shows them hawking their brand-name drugs?

Sergeant INGRAM. I am not sure. I only saw this once before myself.

Mr. RANGEL. But you have on film—

Sergeant INGRAM. Oh, yes, we had hoped to, if you recall—I wish we had now—tape ourselves on that walk we took, because it could show you more than I can explain here, the hollering and screaming at you. The undercover I sent out—a guy will pull on them—“What are you going to him for? I have the best. I've got the joint”—meaning it is very good. “Man, don't go to him.” Occasionally of course you run into people out there that are selling what we call beat stuff, so you have to be careful about that, where they will sell you a package of flour. If they sell it to someone else, you find them dead. If they sell it to us and we find out about it, they laugh.

Mr. GILMAN. Mr. Johnson, how many cases did you prosecute last year?

Mr. JOHNSON. I would say somewhere in the range between 100— are you talking about trials—150 and 200 trials.

Mr. GILMAN. Do you have a backlog at the present time?

Mr. JOHNSON. Approximately 1,200 cases. And it will increase, because with the budget cuts imposed upon me by the city, I was required to or supposed to dismiss 15 assistant district attorneys and 15 support personnel. I was able to persuade the Federal Govern-

ment, LEAA, to allow me to use some accruals, and I saved those positions. However, June 30 of next year those accruals will be finished, and I will have to dismiss 15 assistant district attorneys, and 15 support personnel.

Mr. GILMAN. What percentage of your district attorneys do 15 represent?

Mr. GILMAN. About 82 people, close to 40 percent, I would say.

Mr. RANGEL. Why don't we stop the film so that the committee members can inquire.

The panel is being joined by Sterling Johnson, the special prosecutor of the city of New York.

Mr. Johnson, would you stand and raise your right hand. Do you swear that the testimony you shall give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JOHNSON. I do.

**TESTIMONY OF STERLING JOHNSON, JR., SPECIAL NARCOTICS
PROSECUTOR, CITY OF NEW YORK**

Mr. RANGEL. In view of the fact that Mr. Johnson has testified in front of this Select Committee and other committees of the House of Representatives, I would then ask that the members inquire and ask Chairman Rodino to lead that inquiry.

Mr. RODINO. Thank you, Mr. Chairman.

Mr. Johnson, you made reference to a backlog of some 1,200 cases. You also, during your presentation, in making reference to the film, talked about Mr. Big, that one Mr. Big is apprehended and then another Mr. Big. How big is Mr. Big, first of all?

Mr. JOHNSON. Assuming that an individual has a kilo of heroin, and by the time he, as they say, whacks it up, and he puts it into the street, he can make \$300,000, \$400,000, say, per kilo. And that is a conservative estimate. Mr. Big can turn over two or three kilos within 2 or 3 weeks. An individual with 50, 60 kilos—Mr. Big can make \$10 million, \$15 million a year.

Mr. RODINO. How many of those Mr. Bigs are in the 1,200 cases that you are talking about?

Mr. JOHNSON. Most of the Mr. Bigs that we apprehend, because of our conspiracy laws, we must turn over to the Federal Government. It is a little flexible there. Their conspiracy laws are much better. For instance, we had an individual that we arrested, the joint task force. This individual decided to cooperate, one of several individuals decided to cooperate—flew out to California, negotiated with his connection. To make a long story short, over 100 pounds of heroin was seized in California and \$730,000 in cash was seized. Thirty people were indicted, and I think something like 25 or 26 jumped bail and they are in the wind. One of those individuals who was not even a Mr. Big, who had delivered something like 6 kilos of heroin, was a 16-year-old youth, and he wouldn't be considered a Mr. Big.

Mr. RODINO. Well, I was asking how many of those, of the 1,200 are Mr. Bigs. You mentioned—and it frightens me—once you get a Mr. Big, there is another Mr. Big to take his place. This concerns me greatly. I wonder how far you would have to go.

Mr. JOHNSON. Using the criteria—we have our State laws—A-1, A-2, A-3. An A-1, the individual is punishable with 15 years to life. If we use that as a criterion, as a Mr. Big, those individuals who are subject to penalties like that, one-third of our cases are Mr. Bigs.

Mr. RODINO. You mentioned also the fact that you called upon LEAA, and apparently LEAA has been of some assistance in fighting this problem.

Mr. JOHNSON. They have been of some assistance to my office in addressing this particular problem. But it really is not enough.

I wanted to read a prepared statement. I can go into that if I might, Mr. Rodino.

Mr. RANGEL. Mr. Johnson, I would want Chairman Rodino to continue his inquiry, and then Congressman Gilman, who will not be with us this afternoon, I would like for him to inquire. Then I am hopeful, since I see that we have Chief Preiss here, that perhaps you could join with us for lunch, and then we can get to your prepared testimony this afternoon, if you are available this afternoon.

Mr. JOHNSON. I will be available, Mr. Chairman.

Mr. RODINO. I am glad that you made reference to LEAA. I would like to ask you specifically from where you sit, having been so deeply involved in the problem—do you feel that LEAA has a broader role to play than it has to date in fighting drug-related crime?

Mr. JOHNSON. Yes, I do, Mr. Rodino. But I am put in the unfortunate posture of the Federal Government, meaning LEAA, pointing the finger at the city government and saying that "You are not doing enough in this war on drugs, and we have supported you for a amount of years," and the city government saying it is a Federal problem "And you are not doing enough." And nobody is doing anything. And we are going down the tubes in a sea of heroin.

Mr. RODINO. But in view of the fact that we have had some estimates that have ranged from 40 percent to 50 percent, that crime on the streets is drug related to that extent, then there is a recognition that in order to really effectively fight crime, we ought to be able to fight drug-related crime.

Mr. JOHNSON. That is correct.

Mr. RODINO. And to fight it in a greater degree than we have been.

Mr. JOHNSON. That is correct.

Mr. RODINO. And so you feel from your knowledge of what LEAA has been doing that LEAA then should play a greater role.

Mr. JOHNSON. That is correct. For instance—I am the only local prosecutor in New York City, and probably Federal and local, that does not have an investigation squad, a squad that can follow up. If you have a search warrant and you see some drugs, and you want to tie the defendant that you arrested to the apartment, you have to have investigators to do this. I must rely on the people who make the arrests, either the police of the task force or the DEA agents. I do not have my own squad.

I put in a grant to LEAA for moneys to get a squad. And what I had intended to do was to hire some of the laid-off police officers who were involved in this work before. I got a rejection slip from LEAA, saying in effect that, "We have supported you long enough, this is a local problem and they should solve it."

Mr. RODINO. Well, Mr. Johnson, I would like to stop you right there—or interrupt you, rather—and say that I hope you will call to my particular attention this proposal that you presented and the kind of rejection you received. I would like to inquire into it.

Mr. JOHNSON. I will send you all of those papers.

Mr. RODINO. I would appreciate it.

Mr. JOHNSON. I re-presented it, and the second rejection I got was for the excuse that LEAA does not have any money. So I am stuck where I am.

Mr. RODINO. Thank you very much, Mr. Johnson.

Mr. RANGEL. Congressman Gilman would like to inquire before we recess.

Mr. GILMAN. Thank you, Mr. Chairman. I appreciate your permitting me to take up the testimony prior to full presentation by Mr. Johnson.

Mr. JOHNSON, I want to welcome you before the committee once again and thank you for in the past having arranged for our committee to get a firsthand look at the Harlem drug situation. We welcomed that opportunity when we visited Harlem on two prior occasions. And I think it is a visit that more of our colleagues should be taking.

Mr. JOHNSON. Thank you, Congressman Gilman. I just learned of your deep tragedy, and you have my sincere condolences.

Mr. GILMAN. I appreciate that. Thank you, sir.

Mr. JOHNSON, just so our record is clear, your office handles all of the prosecution for drug cases in the city of New York, is that correct?

Mr. JOHNSON. That is correct.

Mr. GILMAN. And how many assistant district attorneys are there in your office?

Mr. JOHNSON. I have 32 to 34. There are some vacancies now. I think about 32.

Mr. GILMAN. And I believe you stated earlier there were over 100 cases prosecuted last year, is that correct?

Mr. JOHNSON. Between 150 and maybe 200.

Mr. GILMAN. And there is presently a backlog of how many cases awaiting prosecution?

Mr. JOHNSON. About 1,200.

Mr. GILMAN. And am I correct that the city of New York has cut down your budget from last year to this year by about 50 percent?

Mr. JOHNSON. That is correct. When I took office, Congressman Gilman, the budget for my office was \$2.4 million, the money coming from the State and the city, matching funds. The first month, I think, effective July 1, they slashed my budget from \$2.4 million to \$1.3 million. The next year—I am operating in this fiscal year—they slashed it from \$1.3 million to \$1.1 million. This would necessitate me terminating 30 employees.

Mr. GILMAN. Which would represent about one-half of your personnel? Is that correct?

Mr. JOHNSON. That is correct—almost one-half.

Mr. GILMAN. At a time when your prosecution cases are doubling and tripling?

Mr. JOHNSON. That is correct. That is why I disagree with the city hall's assessment that they do treat drug enforcement and drug prosecution as a top priority, when in fact drug prosecution and enforcement in New York City is not a top priority.

Mr. GILMAN. I understand that you were only able to maintain these personnel through an accrual of Federal funds last year.

Mr. JOHNSON. That is correct. But those accruals will terminate on June 30, and unless I get some additional funds from the Federal Government or the city—and the city is talking about making additional cuts—I am going to have to terminate these people, 30 people.

Mr. GILMAN. It is incredible to me to hear some of this testimony. I was skimming through your formal statement. I see that you may not even have office space for the remainder of the year if you cannot find the rent money.

Mr. JOHNSON. That is correct. In the statement that I have prepared, I was previously located at 26 Federal Plaza, which is a Federal building, and because of the rent problems, I cannot pay the rent, I had to move. And I was fortunate enough to get a space in the State building. I had to move because I could not pay the rent. The city did not pick up my moving costs, they did not pick up the costs of installing the telephones. The State did this. My rent is \$236,000 annually. We have a terrific arrangement with the State authorities, and they are picking up 70 percent of my rent. The 30 percent, which is about \$70,000, which must be paid by the city, they authorized me to spend \$20,000. So I have to look for \$50,000 for rent.

Mr. GILMAN. Or work out of a trailer.

Mr. JOHNSON. That's right.

Mr. RODINO. Would the gentleman yield at this point.

I had intended to ask Mr. Johnson this question.

Mr. Johnson, if you had sufficient personnel—and I don't know what sufficient is—and under instructions to apprehend and strictly then enforce the law and prosecute, what in your opinion would be the net effect? Do you think there would be not just a reduction, but do you think you could in some way eliminate the problem of drug trafficking?

Mr. JOHNSON. Just money alone and dollars alone and people alone is not going to eliminate the problem. You have got root cause problems, such as poor housing, unemployment, underemployment. One of the things that we can do, if we had sufficient resources and commitment on the part of both the Federal Government and the city government, if an individual is apprehended and he is brought to trial and sentenced to jail right away, it might change the attitude that you see out in the street right now. People laugh at drug prosecution and enforcement now. If you arrest an individual, with my backlog, he is going to be out on the street for maybe 1 or 2 years, waiting for his trial, and at the same time he is going to be out there selling drugs again to pay for the lawyer or to put something away for his family. And the police and the DEA agents are not going to invest any more enforcement energies to arrest him or make another buy, because there is already a pending buy. And he is a living example to the rest of the drug people who are thinking about going into drugs that the system does not work.

Mr. RODINO. In other words, what you are saying, to capsulize it, it is not the enforcement alone that is going to do it, but we have got to address the other problems, the root causes that give rise to this terrible incidence of this drug abuse.

Mr. JOHNSON. That is correct. There is no one cause for drug abuse, and there can be no one solution to drug abuse. There are many causes and many answers.

Mr. RANGEL. Mr. Johnson, I invite you to join with the committee for lunch. I ask Commissioner Taylor and Chief Preiss, and Judge Watson, to join with us for lunch.

The committee will recess until 2:30, when we will resume with your testimony.

I invite the reporter as well to join with us, and staff.

The committee stands in recess until 2:30.

[Whereupon, at 1:25 p.m., the hearing was recessed, to reconvene at 2:30 p.m., the same day.]

AFTERNOON SESSION

Mr. RANGEL. The committee will now come to order. Chairman Rodino will be rejoining us.

To conclude this afternoon's testimony, we will hear from Sterling Johnson, and then I hope that Commissioner Taylor and Inspector Preiss could testify as a panel. And we might have someone from the community, time permitting, to be our last witness.

So with that in mind, and the witness already being sworn in, we might let you proceed, Mr. Johnson, with your prepared statement, and by that time Chairman Rodino will be able to inquire as well as counsel.

Mr. JOHNSON. Thank you, Mr. Chairman.

I would ask that the prepared statement be made part of this record.

Mr. RANGEL. So ordered.

Mr. JOHNSON. Mr. Chairman, gentlemen, until the late 1960's narcotics addiction and drug abuse were primarily confined to the Nation's urban ghettos. Only after the tragedy of addiction spread to middle- and upper-class communities did local, State, and the Federal Government begin to mobilize even a small portion of the resources necessary to combat what was then termed a national problem. Massive amounts of funds were made available for law enforcement and rehabilitation projects. Importantly, the administration in Washington, and the State Department were successful in persuading Turkey to ban cultivation of opium poppies.

After the 1972 Presidential election, a false security was fostered by slogans such as "We have turned the corner in the war on drugs." Since that time, while we have had some success in stemming the Turkish-French connection source, Mexican heroin quietly filled the vacuum that was created. Officials estimate that in the late 1960's, Mexican heroin represented approximately 10 percent of the National drug market. Usage for the most part was confined to Southern California and towns and cities along the Mexican border. Today, about 80 percent of all the heroin that is consumed in the United States is of Mexican origin.

It is no secret that we also have a serious drug problem in the United States. A high Government official estimated that the ranks of the addict population has swollen to over 500,000 persons.

The drug problem is spreading in Europe as well. In 1972, European law enforcement officials seized 8 kilograms—17.4 pounds—of heroin on the continent. In 1975, that figure rose to 250 kilograms. Rome, Vienna, and Stockholm are for the first time experiencing significant drug problems. Continental drug pushers refer to Amsterdam as the New York City of Europe.

To complicate matters Turkey has resumed growing opium poppies despite a pledge they would ban this practice. In 1975, they planted 20,000 hectares—50,000 acres. Although they assured the free world that there would be no diversion of opium into the illicit heroin market, they assigned only 200 inspectors to police 100,000 farmers. The Turkish Government also predicted in 1975 that they would harvest 16,000 tons of opium poppies. When the harvest was completed, it was announced to a startled world that only 6,000 tons were harvested. Quietly continuing to violate the pledge she made, Turkey in 1976 intends to increase its cultivation of opium from 20,000 hectares to 54,000—135,000 acres—without increasing the security people. While there is not yet evidence that the Turkish-French heroin connection has been resumed, it is inconceivable that 200 officials will be able to police 135,000 acres of poppies and 200,000 farmers without substantial diversion.

In New York City, where it is estimated that half of the Nation's addicts reside, heroin is being sold as openly as groceries in a supermarket. The drugs are packaged and sold by brand names. [The information referred to is on page 53.] Pushers are doing everything but advertising on radio and television. Law enforcement officials have identified more than 200 known brand names. Many drug sellers in New York guarantee their product: If a buyer is dissatisfied, he can get another package or a refund. Recently, the New York City Police Department arrested a man who was reportedly netting more than \$50,000 a week from selling heroin on one block in Harlem. On Wednesday, November 17, 1976, a prominent New York City attorney was arraigned on an indictment charging him with possession of almost 6 pounds—3 kilos—of heroin.

EXHIBIT A

BRAND NAMES AND COLORED TAPES APPEARING ON STREET HEROIN BAGS

Brand Name/ Color of Tape	Drug	Pct. Found In	Source/Remarks
ABBY	H	28	
ABOUT TIME	H	24 - 32	
A - 1	H	32	
APPROVED	NCS D	28	
B	H	23	
BE FATAL	H	28	
BC TRADEMARK	NCS D		
BIG RED	H		
BINGO	H	28	Source - EDDIE BINGO Brooklyn. Bags seen in Westchester County. Blue rubber stamp
BLACK LOVE	M	110	
BLACK MAGIC	H	28	Red ink
BLACK MCTA		44	
BLACK OUT	H	28	Bag at 7.0%. Orange type
BLACK POWER		41	
BLUE STAR	M	23	H A P D
BLUE DRAGON	H	28	
BLUE MAGIC	H	28	
BOGARD	H	28	
BOODY	H	32	

BROTHER	M	44	
BULLS HEAD	NCS		Blue stamp
"CC"	M	46/48	
CANCER	H	24 - 28	Bag at 8.6% purity Being sold by FLOYD Source MALCOLM HARRI
CAPONE	H	28 - 32	
CAT STAMP	H	28	
CHINESE ROCK	H	28	Stamped photo of mar
CHULETA	M	48	
CLEAR TAPE	H		
COOLEY HIGH	M	28	
COULD BE FATAL	H		
CRAG JOE		28	
CRAZY JOE	M	23	
DC	H	28	
DAYS PLAY		28	
DEATH WISH	H	28 - 32	Bag at 2.5%
DICK DOWN	H	28	
DING DONG	H	28	
DOGONE	H	32	Green ink
\$	M	28	
DOUBLE BURGANDY	H	28 - 32	
DOUBLE RED	H	28	
DYNAMITE	M	28	
DYNAMITE ("ED")	H	28	
EBONY RED	H	32	
\$10	H		Red stamp Bag at 3.

EXTRA BUTT...	M		
FEB 69 - ENT'D			
FIRST CHOICE	H		
FIRST CLASS	R		
FIRST CLASS	M	79	
500	H	32	
531	H		
FLY	H	113	Blue - green ink
FOOLISH PLEASURE	H	28	
14 K YELLOW GOLD FILLED	M	120	
THE FUCK ME			
FRAGILE	M		Manilla envelope
FUCK ME	H		Bag at 7.0%
FUCK ME PLEASE	H	28	
FUNK CITY	M	110	
GERSER	H		Bag at 12.2%
GET YOUR SHIT TOGETHER			
GIANTS RING GUARD	M	120	
GNOME	H	28	
GOLD I	M		6 Homicide Squad
GOOD	H	28	Picture of cat Black rubber stamp
GOOD PUSSY	H	28	Bag at 1.5% Bag at 2.5%
GREEN TAPE 8			Large red "0"
GUARANTEED	H	28	Red stamp Bag at 4.4%
HARLEM	H		
HIJACK	H	28	

INCENSE	M	110	
INSURED	M	28	
IT'S NICE	H		Bag at 4.3%
JACKASS	H	23	Bags at 14.9%
JAWS	H	32	
JAWS	M	28 - 32	
JOINT	H		Stamped blue Bag at 4.3%
KKK	H	32	
KILLER 1		28	
KO KO MO	H		
KUNG FU	H	28	Bags at 2.8%
LIPS	H	28	Stamped in red
LITE'N LIVELY	H	28	Bag at 13.4%
L O V E	M	42	In black ink
LOCO	H	30	
LOVE #3			
M	H		
MAGIC	H	32	
MAGIC BAG	H		
MAGIC BLUE	H	28	
MALCOM'S GREEN	H	28	With star before and after
MANPOWER	H		Stamped 749-9773 in a circle Bag at 3.
MEAN MACHINE	H	32 - 26	
MEANS QUALITY	M	41	
MOLTAR & PICTURE OF LION	M	79	

NATURAL	H	42	
NEW HOPE	H	9	
NEW IMPROVED	M	28	
NEW SUPER CLEAR	H		
NICE TO BE NICE	H	28	
NO	H		Yellow tape
THE NOSE	C	3	
O O (CAN'T GET ENOUGH THAT FUNKY STUFF)	H	103	
O.D.	H	28	Bag at 2.6Z
* OD	H		Black stamp
OD (and picture of a puppy)	H	28	
OFFICIAL CORRECT	H	32	
100 PROOF	H	28	
100Z PURE	M	17	
ORIGINAL	M	28	
ORIGINAL BLUE MAGIC	H	28-105	
ORIGINAL T	H	28	Black stamp
PAST DUE	H, METH		Blue stamp
PAYBACK	H	M.N.	Being sold by pusher JOSEPH HAMM
PEACE L O V E	M	42	Red ink
THE PEOPLES CHOICE	M		
THE PEOPLES CHOICE	H		
#1 THE PEOPLE CHOICE	M	41	
PICTURE OF RAM	M	Bronx	

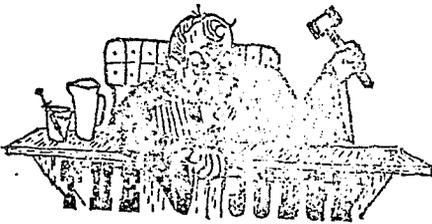
POWER		41	Both sides of manilla envelope
PRB H4B	H		
PUSH/BLACK	H	32	
RAID	H	28	Blue stamp
RCA	H	28	Bag at 3.7%
RED & GOLD GIFT	C	25	
RED PENTACLE STAMPED ON ENVELOPE		6	
RED TAPE SEAL	H	28	
REVENGE	H	28	Bag at 2.8%
RUSH	H	28	
\$	H		Red stamp
SATISFACTION	H	28	Bag at 3.4%
SCORPION	M	28	Stamped picture of
SEX	H	32	Black stamp
SHIT	H	26 -- 28	Bag at 5.5%
SHIT	M		
GENTS RING GUARDS	M	120	
\$ ON THE MONEY \$	H	28	
SPANISH CONNECTION	H	23	
SPECIAL	H	32	
SPECIAL DELIVERY	M		
STAR	C	28	Picture of 13 black stars stamped
STAR	H	32	And various colors
*(IN RED)	H		
STRONGHOLD RING GUARD	M	120	

SUPERCHUNK	M	28	
SUPER CLEAR	H	28	Black ink
SUPER FLY	H	23	Bag at 3.3%
SWEAR TO GOD	H		Bag at 5.1%
SWEET BACK	H	28	Black ink - 2.69%
TASTERS CHOICE	H	28	
TEMPTATION	H	28	Bag at 2.4%
THE BLUE DEVIL	M	28	
THE JOINT	H	28	Red stamp
THE RED DEVIL	H	28	
THUNDERBOLT	H		Bag at 3.3%
TIGER			
TOP NOTCH	H	32	
TOP SHELF	H		Red ink
TRAGIC MAGIC	H	81	
TRAGIC MAGIC (with star)	H	23	Bag at 5.1%
UNTOUCHABLE GODFATHER	H	28	
VIRGO GOLD	H	28	
VIGOR RG 401	M	120	
VIGOR RG 402	M	120	
WHITE DEATH	H	32	
THE WIZ	H		Bag at 1.8%
WIZARD	H	23	Bag at 4.9%
WIZARD	H	32	Red ink
XMAS	H	28	
YELLOW TAPE	H		

3 - D	H		
3 STARS - FRONT	H		
1 STAR - BACK			
3 X BYG RED	H	28	
"J2"	H	28	Black ink
12 GENTS YGF	M	120	
12 GIANT	M	120	
20 E			
2 CATS STAMPED IN BLACK INK	H	28	



★ Malcom's Green ★



Chinese



Rock



★ Ruby's Red ★

Two weeks ago, I took a walking tour in Harlem with Congressman Rangel and Borough President Sutton. We went to some of the locations where drugs were being sold openly on the street. Surrounded by at least 100 addicts and pushers, we stood on 115th and Eighth Avenue and discussed the drug problem in the city. All the pushers and addicts agreed that the situation was getting worse. When the people in the street finally recognized us, some shook our hands, talked about solutions, and then continued to loudly hawk, "Truly Wonderful," "Red Tape," and other brand name drugs. A frail black female with sad, brown eyes, who said she was 18 but looked 14, explained that the drug culture was the only life she knew. There is no light at the end of the tunnel for her.

The plainclothes officers who were accompanying us were told by street pushers in a firm tone to get off the corner unless they were there to buy dope.

While these activities are flourishing, New York City, because of its fiscal crisis, has reduced the police department's narcotics squad by more than a third. My office had its budget slashed from \$2.4 million in fiscal year 1974-75 to \$1.1 million for 1976-77. If I were not permitted to utilize Federal accruals, I would have been forced to terminate 15 assistant district attorneys, and 15 support personnel last July 1. Next year there are no accruals and these positions must be terminated.

Because of our inability to pay rent, and the fact that we were the only non-Federal agency in a Federal building, my office was forced to leave 26 Federal Plaza. Fortunately, we found quarters in the State Building at 80 Centre Street. The rental fee is \$236,000 annually. New York State has agreed to pay 70 percent of this cost. We requested that New York City provide the remaining 30 percent or \$70,000. The city contributed \$20,000. As I sit here before this committee I do not know how I am going to be able to raise the additional \$50,000.

The city requires monthly fiscal reports from my agency and gets angry when the reports are late. The fact is that because of the arbitrary cuts forced on us, I cannot even hire an accountant.

If the drug problem is to be alleviated in this country and in this city, the Federal and city governments must cooperate with each other and assume a more active role in trying to solve the problem. We are wasting valuable time while the city and Federal Government accuse each other or not doing enough. The fact is that until the problem is eradicated neither level of government is doing enough.

The root cause of addiction and drug abuse must be dealt with. The Federal Government must address itself to unemployment, underemployment, housing, and education.

New York City lacks credibility when it talks about combating the drug problem on one hand and taking resources from the prosecution on the other hand.

City hall must put the same priority on drug pushers uptown that they place on pornographers, massage parlors, and prostitutes downtown. Funds that were slashed from the narcotics prosecutor's office should be restored.

Financial aid to enforcement and prosecution in New York City is a must. Excuses, rhetoric, and slogans from the city and Federal Government are simply not acceptable.

Mr. RANGEL. Mr. Johnson, do you know about a purported case where 13 alleged narcotics offenders were acquitted as a result of some \$60,000 being distributed to the jury?

Mr. JOHNSON. I would prefer not to comment on that, Congressman Rangel. My office is involved in that investigation with the Federal authorities, and that investigation is still continuing.

Mr. RANGEL. Chairman Rodino.

Mr. RODINO. I have no questions.

Mr. RANGEL. Congressman Murphy.

Mr. MORGAN MURPHY. Thank you very much, Mr. Rangel.

After looking at the films today and the snapshots of the various street corners which you so aptly described as an open supermarket of drugs, I can see that the pushers, while they don't advertise on radio and television, advertise with their own logos. With all the pronouncements that have been made today, I don't understand how the city thinks it can slash its budget and still be economically prudent in combating drug abuse.

Mr. JOHNSON. I have said that by letter to the mayor, the budget director. But it fails to reach the people responsible for giving out money. Drug enforcement and prosecution—at least drug prosecution that I am aware of—is just not a top priority item with the city administration.

Now, cuts had to be made fiscally. I am saying my office should not have been cut. But if you have to make these cuts, the best way to do it is to examine your priorities, what can be cut, what cannot be cut. And if there have to be cuts, what can be cut the least.

The politically expedient way of doing it—and this is what happened to my office—was a directive will come around and it says: "Cut your budget 20 percent."

Let me explain.

My office is funded by the State and the city. My budget of \$2.4 million was provided for by the State saying: "We will put up \$1.2 million and the city must put up \$1.2 million, but it has to be matching dollars." The State puts up its \$1.2 million. But the city, on the first time around, said: "We can only put up \$600,000," so the State only puts up \$600,000.

The budget went down to \$1.3 million. Big MAC says to the city: "Cut your budget again." And the city says to me: "You slash your budget \$100,000." I said: "You cannot do that to me. It is not really \$100,000; it is \$200,000, because you take \$100,000 from me, the State takes \$100,000 from me." "Notwithstanding that, cut your budget \$100,000."

My budget came down to \$1.1 million. And I had to prepare a plan that required myself to fire or terminate 15 assistant district attorneys and 15 support personnel.

Fortunately for the office, I persuaded LEAA to let me use Federal accruals, and the 30 positions that I was going to lose I was able to save.

June 30, that \$400,000 that LEAA gave me is going to be gone. I am going to have to terminate those 30 people July 1 if I don't get money from either the Federal Government or the city government. And listening to the city administration, they said an additional \$400 million is going to have to be cut out of the city's budget, and they

are going to be making cuts in the criminal justice system, and if they make cuts in the criminal justice system, then that is going to affect me directly, and it is going to affect the people of the city of New York directly.

Mr. MORGAN MURPHY. Well, obviously the message is out on the street, when pushers openly barter for each other's goods. They know they have immunity. By the time they get to trial under the system, even with a full budget—

Mr. JOHNSON. That's correct; there is a total lack of respect for the law, for the criminal justice system. What will happen is if we arrest a pusher, he will get out on bail, he will go back out into the community, a living example of how we have failed.

Mr. MORGAN MURPHY. And the youngsters see this.

Mr. JOHNSON. And they see it. He will continue to sell drugs to pay for his lawyer or to save money for his family if he goes to jail. And enforcement is not going to spend any additional enforcement energies or moneys to arrest him again, because they have new targets to go to. It is just a waste of time.

Mr. MORGAN MURPHY. For the record, I would like to ask you to explain, Mr. JOHNSON, the story you told me at lunch today about the kids and their basketball games, and what they bet.

Mr. JOHNSON. We know of a case—and it is not an unusual case—or cases, where kids who are in the drug traffic will bet \$5,000 on a basketball game, a schoolyard basketball game. Kids are riding around in Mercedes Benzes and Rolls Royces, Cadillacs. The big hero for the kids in this community is not the lawyer or the judge, but he is the drug peddler. Mothers who don't have a job and have to support a family are not going to turn down an opportunity of putting some white powder in a glassine envelope and making herself \$500 or \$1,000 if the opportunity came. The economy being what it is, the housing being what it is, drugs is big business, and people who have never been in the business before are going into the business. Numbers runners are leaving the numbers and going into the business. Fences are leaving fencing and going into the business.

Mr. MORGAN MURPHY. Well, in the light of the budget cuts and everything else, I would like to commend you for your fortitude in staying in there.

Going back to Chairman Rodino's remarks about LEAA, I hope you do come down to see the chairman. I know he will try to do something about restoring the LEAA funds to you.

Mr. JOHNSON. Well, until we get some funds, I intend to knock on every door and do everything I can to get the resources to do the job that I was sworn to do. I will stay here until the ship goes down, or at least until we get some additional funds and I can pass the torch to someone else.

Mr. MORGAN MURPHY. I would also like for the record to show that on top of all his other difficulties, there exists, I am told by reliable sources, a contract on this man by some innovative peddlers wanting to demonstrate their powers in the market.

Again, all I can say is God bless that we have men like you.

Mr. JOHNSON. Thank you, Mr. Murphy.

Mr. RANGEL. Mr. JOHNSON, you are the chief prosecutor of narcotics cases for the city of New York, is that correct?

Mr. JOHNSON. That is correct, Congressman Rangel.

Mr. RANGEL. And on more than one occasion, as you testified, you have walked the streets of the areas where there is the highest density of narcotics trafficking in the city of New York, is that correct?

Mr. JOHNSON. That is correct.

Mr. RANGEL. And you have testified that the failure of policemen to make arrests when these sales are so overt, taxed the credibility of law enforcement generally, is that correct?

Mr. JOHNSON. That is correct.

Mr. RANGEL. Now—

Mr. JOHNSON. I am talking about the arrests are being made by the narcotics squad itself. There are no arrests by the uniformed force.

Mr. RANGEL. Well, my question, Mr. Johnson, is if you cannot pay your rent, you cannot hire an accountant, you have no investigators, that unless you get Federal assistance over half of your attorney staff is going to have to be dismissed, if the police department were making arrests for felonious narcotics trafficking taking place in their presence, uniformed or undercover, then what would your office be prepared to do?

Mr. JOHNSON. With this lack of resources, and they made arrests, there is no way on God's earth that I could handle these arrests. I heard President Sutton make the suggestion that the police department should be making these arrests and getting these 200 and 300 pushers off of the street corner, and take these arrests and bring them to the U.S. Attorney's Office, and let him prosecute them. I am for that idea 100 percent.

Mr. RANGEL. Well, is there a policy between the district attorney's office and your office that you alert the police commissioner or the police department as to how many arrests they should make in order to keep that in line with your ability to prosecute?

Mr. JOHNSON. No, there is no—if you are talking about a quota, you make a certain amount of arrests, no, we do not.

Mr. RANGEL. Well, if you don't communicate your ability to enforce that part of the law over which you have jurisdiction, then what would you really do if, as a matter of their own internal policy, the police department started to enforce the law as they saw it and they bring the defendants into your office? Then what would you do with your present resources?

Mr. JOHNSON. I think we would probably go back to the way we were in the late sixties and early seventies, in those times when you made, from August 1969 to August 1970, where there were 50,000 arrests for narcotics, and there were only 40 trials. People would be allowed to plead guilty to much lesser violations. Many of the cases would be dismissed—several bench warrants.

Mr. RANGEL. Why would anyone plead guilty when they know, and they do know, that the district attorney's office cannot prosecute?

Mr. JOHNSON. You have a few people who will say "Let me plead guilty to carrying a amount of drugs. I will get a misdemeanor," time served, and they will be back out on the street not worrying about a bench warrant sometimes.

Mr. RANGEL. Is there any question in your mind that the drug traffickers are aware of the problems faced by the police department and the district attorney's office and your office and know, as Congressman Murphy said, that there is immunity?

Mr. JOHNSON. There is no doubt in my mind. And then when we have access to informers and we speak to them, they will tell you this to your face. They laugh at the police, they laugh at the prosecutors. And they are having a field day out there.

Mr. RANGEL. And it is your opinion, as a lawyer and prosecutor, that you cannot violate New York State narcotics laws without at the same time violating the Federal narcotics laws, is that correct?

Mr. JOHNSON. That is correct.

Mr. RANGEL. And I think you testified today or before that the Federal Government, Department of Justice, U.S. Attorney's Office, are selective in the cases that they elect to enforce the law, is that correct?

Mr. JOHNSON. That is correct. There have been occasions where—and I don't know if I will be able to continue to do it—where the Drug Enforcement Administration will come in with a 1-ounce buy and they feel that this is not the quality of case that deserves Federal treatment, and they will decline prosecution. That case will then be referred to me. Because of what we call our 30-30 motions and speedy trial provisions, if the case is not in jeopardy of being dismissed for lack of a speedy prosecution, I am obligated to take that particular case.

Mr. RANGEL. Counsel.

Mr. NELLIS. Mr. Johnson, you were in the room, were you not, when I spoke with Mr. Scoppetta?

Mr. JOHNSON. That is correct.

Mr. NELLIS. I asked him for his opinion of the New York State drug laws. I would like to get your opinion. It is widely conceded that the new laws passed in 1973 were among the most severe of any drug laws in any State, is that not correct?

Mr. JOHNSON. I think it is the most severe.

Mr. NELLIS. All right; in your judgment, is the severity of that law any deterrent, not only to the street scene that we have been talking about, but to the wholesale and the import scene in drug dealing?

Mr. JOHNSON. It is no more of a deterrent than murder laws are a deterrent to murder, robbery laws a deterrent to robbery, et cetera. The only person or class of people that it deters I would say are the people who have been arrested, convicted, and sent to jail, and some of those deal drugs right out of jail. And then those individuals who might think—who can make a rational and conscious decision as to whether to go into drugs or not. Those people who don't have poor housing and unemployment and underemployment, for the most part it might deter them. But I would have to answer your question generally, no, it is not a deterrent.

Mr. NELLIS. So that harsher penalties and stiffer confinements don't necessarily deter this traffic.

Mr. JOHNSON. Harsher penalties alone will not solve the problem.

Mr. NELLIS. All right; now, Mr. Johnson, it is said that the New York State drug law has produced a great number of new informants. Is that a correct statement?

Mr. JOHNSON. That is.

Mr. NELLIS. My question, then, is if you have more information, more informants, and pile up your cases, and you cannot prosecute them, as you have been testifying, what good is this additional information?

Mr. JOHNSON. Well, one of the things that we have been doing—you cannot turn down information. You get this information. I am reluctantly turning them over to the Federal authorities.

Mr. NELLIS. What do they do with them, Mr. Johnson?

Mr. JOHNSON. They try these cases. In fact, I would say in the last 3 years some of our biggest cases, narcotics cases, those big individuals, that Mr. Big who you cannot catch with the smoking gun, we have turned those over to the Federal authorities, and I would say maybe 400 to 500 individuals have been tried, convicted, and sentenced to jail.

This is what I do with the information.

Mr. NELLIS. In other words, the information has helped the Federal authorities, but it has not helped you very much.

Mr. JOHNSON. Not a bit.

Mr. NELLIS. All right; now, about a third of your backlog of cases, amounting to about 1,200, you said—

Mr. JOHNSON. That is correct.

Mr. NELLIS [continuing]. Are class A-1 cases; that is, an ounce or more of heroin is involved, is that correct?

Mr. JOHNSON. Right; using that Mr. Big as a criterion—an A-1.

Mr. NELLIS. All right; I want to talk about those cases, because Chairman Rodino asked you about them, and it is very significant to determine how we are going to get the street level taken care of if we don't go after the Mr. Bigs.

You have about 400 cases of that kind, do you not?

Mr. JOHNSON. About a third, yes.

Mr. NELLIS. How many of these people are out on bail?

Mr. JOHNSON. I would say the majority of them. If you are talking about people selling drugs, anywhere from \$1,500 to \$2,000—what we usually do is make two buys on a case, he can post bail, and he will be back out on the street and he is back in business selling drugs at a fever pitch, not worried about being arrested again, because he was already arrested once and he can only do 15 years to life, say, one time. If he does get caught again, what they will do is to run the sentences concurrently.

Mr. NELLIS. Mr. Johnson, isn't that an indictment of our criminal justice system, that even if you arrest them and you make a class A-1 case against them, if they meet the bail requirements, they are pretty well assured that they are not going to get a speedy trial? And wouldn't that be a fact whether your budget was \$2 million, \$4 million, or \$20 million a year?

Mr. JOHNSON. At this particular time, I think it might make a difference, or the attitudes might change, if we were certain that after we arrested them, that they were going to get a speedy trial, and that they were going to go to jail. That would be the problem. It is even worse over in the Federal court. In the Federal court, if you arrest an individual—we had one person who was arrested, well-known Harlem drug peddler, sentenced to 10 years in Federal court. He did something like 2 years and 9 months, and he is back out on the street. Now, this individual used to dispose of and sell 20 kilos a week. That is 80 kilos a month, 160 pounds of dope a month.

We had an individual who was a former police officer, a former bail bondsman. My office indicted him, and the southern district of New York also indicted him. He went over to the Federal court and pleaded

guilty, rather than go to trial in my particular court. And because he pleaded guilty in the Federal court first, there is a statute that precludes my office from trying him. It is a statutory double jeopardy rule. But he would much rather plead guilty in that Federal court than go to trial in my court. He was facing 15 years to life. The judge in that particular case gave this individual 30 years. The case went up to the Second Circuit Court of Appeals, and the Second Circuit Court of Appeals found fit to say that they thought that the sentence was excessive, and they remanded it back to a different judge.

So it is much worse in the Federal court.

Mr. NELLIS. You have made my point. If you had all the money you could use, all the investigative units you could use, the accountant, the rent money, everything that Chairman Rangel mentioned, you would still be faced with a tremendous problem in the criminal justice system itself. I assume you wouldn't have the number of judges required even if you had the 1,200 cases ready for trial, would you?

Mr. JOHNSON. That is correct.

Mr. NELLIS. All right; and second, with the bail system that we have in effect, it is pretty well conceded that a well-heeled dealer can put up his 10-percent security, get out on the street, and the chances are 9 out of 10 that he will never be tried, no matter how many people you have in your office. Isn't that a fact?

Mr. JOHNSON. That is correct.

Mr. NELLIS. So you are talking about an indictment of the criminal justice system, are you not?

Mr. JOHNSON. I really am; and another thing—while we are going into this—one of the things that we need, as President Sutton had said, if you are talking about drugs in New York, or Chicago, or Detroit, you are really talking about drugs in the urban areas, into the ghettos. And to buy drugs effectively and to go up the ladder you need minorities—you need blacks, you need females, you need hispanics. You don't have them. The blacks, females, and hispanics we had in the New York City Police Department, a lot of them have been terminated because of the fiscal crisis.

As far as the drug enforcement is concerned, they don't have them.

Out of 2,200 to 2,300 agents, they have about 120 black enforcement agents to service the whole world.

You have cities like Detroit with one black DEA agent, none in Cleveland, one in Newark.

So we don't have the tools or the resources.

And that is why I continually say, as far as the Federal Government is concerned, as far as the city government is concerned, drug enforcement, and drug prosecution is simply not a top priority, notwithstanding the fact what anyone says.

Mr. NELLIS. Thank you, Mr. Chairman.

Mr. RANGEL. Thank you, Mr. Johnson. The committee commends you for your uphill struggle. As stated by Congressman Murphy—it appears as though neither the city nor the Federal Government has attempted to assist you with the problem that you do have. We do hope that you will follow through on Chairman Rodino's request that you get those papers in to us and know that there are those of us in Congress that are struggling to bring the type of resources that are necessary in order for us to be able to do a more effective job.

Mr. JOHNSON. I thank you, Mr. Chairman, and I thank the committee for allowing me to speak. I will follow up Monday morning to get those papers to you. And I hope we will be able to do something to alleviate my particular problem.

Thank you.

Mr. RODINO. May I ask one question. In connection with LEAA, do you believe, Mr. Johnson, that if we did establish that LEAA should allocate more of its resources to fighting drug-related crime, would you then suggest or recommend that the Congress should set up a formula that would mandate money;s to urban high drug abuse areas in proportion to the problem that exists?

Mr. JOHNSON. I would welcome that, Congressman Rodino. What I face when I go to Washington to speak to LEAA—they tell me “What we usually do is we fund the project for 2 years. If it is exceptional, maybe 3 years. We have been funding you for 5 years. Let the city do something.”

Now, what they say is true. But these are terrible times. There is no money in the city. What little there is they are taking from me. And somebody has got to do something. And they have to bend their policy or they have to do something. Because although the problem is here in New York, it is a symptom, it is a problem that affects the whole Nation. It is not just New York in a vacuum.

So anything that you could do to jolt LEAA into loosening some of its moneys or changing its priorities, or changing some of its programs, I would welcome.

Mr. RODINO. Thank you very much.

Mr. RANGEL. Thank you again, Mr. Johnson.

At this time the committee would call Mr. Joseph Preiss, deputy chief inspector of the New York Police Department Narcotics Division, and at the same time ask that he be joined by Deputy Police Commissioner James Taylor.

TESTIMONY OF JOSEPH PREISS, DEPUTY CHIEF INSPECTOR, NEW YORK POLICE DEPARTMENT NARCOTICS DIVISION; AND JAMES TAYLOR, DEPUTY POLICE COMMISSIONER, NEW YORK CITY POLICE DEPARTMENT

Mr. RANGEL. Do both of you swear that the testimony you shall give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PREISS. I do.

Mr. TAYLOR. I do.

Mr. RANGEL. I know that both of you have prepared testimony. You can have the statement entered into the record or proceed as you would find most convenient.

You know that this committee has heard testimony this morning that has so far been undisputed that drug traffickers have occupied certain areas of our city and are trafficking with so-called immunity, as Congressman Murphy referred to it. You have just heard the testimony of Sterling Johnson, who indicates that he cannot prosecute the caseload now and may in the future have to reduce the prosecution in those pending cases. And earlier this morning, Mr. Scoppetta, from the mayor's office, had indicated that the police department, as other

city agencies, has received across the board a cut, and that any policies as related to not making arrests would remain within the police department as opposed to the mayor's office.

And of course you are familiar with Mayor Beame's plea to the President or the Attorney General that there should be a federalization of our narcotics law enforcement efforts.

So with that in mind, I would ask the commissioner to proceed. And we would then question both panelists at the conclusion of your testimony.

Mr. TAYLOR. Thank you, Mr. Rangel.

I welcome this opportunity to appear before you and to assist this committee in the formidable task of controlling the distribution of narcotic drugs. I bring to you the best wishes of Police Commissioner Michael J. Codd, who unfortunately could not be here. He asked me to convey his regrets personally.

He has asked that myself and Deputy Chief Joseph Preiss on my left, the commanding officer of the New York City Narcotics Division, present the thoughts of the police department in the narcotics enforcement area and to assist you. You are assured of our fullest cooperation.

Chief Preiss will read to you a statement that we have prepared, and we will respond to any inquiries that the panel may have of us.

Mr. PREISS. Gentlemen, 3 weeks ago Mayor Beame sent a letter to the Attorney General, requesting a meeting to discuss greater Federal involvement in an effort to resolve the narcotics problem in the city of New York. The mayor, in a very conservative estimate, stated that 35 to 40 percent of the narcotics addicts in the country are in the city of New York. At that time the police commissioner pointed out that the number of opiate addicts in this city is estimated to be at least 100,000, and if other drugs are included and we speak of drug abusers rather than addicts, the figure is easily two to three times that amount.

The nature of the problem can also be illustrated in other ways. For example, the medical examiner reported 848 overdose deaths in this city in 1974, and 338 for the first half of 1975. The number of persons in New York City in drug treatment programs is 41,000, with about three-fourths of them receiving methadone maintenance. In the past 5 years there have been 116,934 arrests for narcotics violations recorded by the police department in the city of New York, and these figures do not include those arrests made under Federal law.

I think it is also useful to consider the economic impact of this problem. If we limit ourselves to just those addicts included in our minimal estimate of 100,000, and then ascribe to them a moderate habit of about 30 milligrams of narcotics each day, about \$4 million is needed each day to supply their habit. But this is only part of the total cost.

The addict is normally unable to support his habit from his own resources, and he then turns to some sort of theft to provide funds. It is customary for the addict to receive only about one-fourth of the value of the stolen property when it is sold, and this further compounds the cost to society. Add to this the cost of supplying the needs of all the other drug abusers not included in this conservative estimate, and it becomes apparent that within a very short time we are dealing with a cost of \$1 billion. And this doesn't even include such things as treatment costs, police costs, court costs, et cetera.

A question frequently asked about the narcotics problem in the city is whether it is improving. The statistics I have just cited would not be so staggering if I could also report that we are making significant progress in controlling the problem. It is very difficult to make any estimate about trends because there are so few reliable indicators to use. The number of overdose deaths is one barometer, and if the 338 deaths for the first half of 1975 were projected for the full year, it would represent a big improvement over the 848 deaths in 1974. However, even though these are the most current figures available, it must be considered that they are over 1 year old. The price/purity index of heroin purchased by the narcotics division is a good barometer of the market conditions. A careful analysis of over 1,000 heroin buys since December 1974 shows virtually no change. A similar study for cocaine shows some fluctuations in price, but no discernible trend.

This suggests that any changes in supply and demand have not been precipitous. On the other hand, information from our investigators and from other intelligence sources is that drugs of all types are somewhat more available than in the recent past. Indeed, sales are sometimes made at the street level quite openly, in spite of numerous arrests at such locations. On the basis of this somewhat contradictory information I am inclined to believe there has been some deterioration in the narcotics situation in the recent past.

I think it is important to point out that the New York City Police Department effort to control the drug problem is directed primarily toward the arrest of those who illegally possess or sell drugs within the city. We are not normally involved in enforcing laws dealing with the importation or manufacture of drugs. Our enforcement effort takes 3 forms: The narcotics division, consisting of 485 members; the drug enforcement task force, consisting of 99 members; and all of the other department units, not specifically assigned to narcotics enforcement.

The narcotics division handles covert investigations at all levels of the drug trade, with an allocation of about one-third of its effort to each level of the drug traffic: low, middle, and high. The drug enforcement task force consists of 99 police department members, 39 drug enforcement agents, and 13 New York State police officers. It operates primarily against mid- and high-level traffickers, especially when the violations extend outside of New York City. The nonspecialized units make narcotics arrests where covert investigations are not needed. These units have accounted for about 90 percent of the total narcotic arrests in the first 8 months of this year.

This trimodal enforcement effort has produced a sizable number of arrests. The narcotics division made 1,421 drug arrests through the first 8 months of this year. The task force made 227 arrests under State law and 65 under Federal law. And during this time the entire department recorded a total of 13,751 drug arrests, almost one-half of them being on felony charges. This is an increase of almost 25 percent over the preceding year. These figures, I think, lose some of their meaning because they are given on a citywide basis and it is difficult to relate the numbers to an area of a particular size. For that reason I wish to cite one more statistic. The incidence of drug violations in the 28th precinct is quite high, and much of our effort is concentrated there. This precinct is quite small in area, consisting of only 0.49 square mile, and since the first of the year there have been over 2,000 arrests on various drug-related charges in that precinct.

With such a high level of arrest activity it is reasonable to ask why the problem still persists. The answer is that the impact of local law enforcement is not—and cannot be—sufficient to offset the tremendous demand, the tremendous profit, and the seemingly inexhaustible supply of drugs. An arrest made at the very lowest level of the distribution system, assuming there is a conviction and a prison sentence, simply removes the individual arrested from the scene. We have no information to show that such an arrest has any deterrent effect on the subject's associates. Perhaps that is because of the rather long time lapse from arrest to disposition of the case. However, when you consider that most of the subject's associates are also drug users I do not think we should expect much deterrent effect even if the cases were disposed of quickly. Therefore, to simply stay even, one person must be removed from the drug population for each new entrant. I think the difficulty of this task is obvious.

On the other hand, when we arrest at the midlevel, taking this to be the weight range of about from one-quarter ounce up to 1 pound, and again assuming an arrest, conviction, and a prison sentence, we find no shortage of replacements rushing to take our defendant's place in the supply structure. The replacement simply is not deterred; the size of the profits outweigh what he perceives as the risk. Even in those situations where we have been successful in investigations of high-level dealers, no protracted shortage of drugs has ensued following their incarceration. There are what might be termed parallel supply systems which quickly adjust to the new situation. In addition, we have even found some evidence of major dealers continuing to direct their organization's activities from prison.

I think we cannot expect to see a great improvement in the drug situation resulting from increased arrests at the local level. The police department mission must be to suppress the problem, effecting temporary improvements as we achieve success in a particular area. If we are to find significant solutions to the problem we must look elsewhere.

Let's first consider some basic facts about the drug problem: First, drugs are not produced in this city, and the primary drug of abuse, heroin, along with many others, is not even produced in this country; second, there is a tremendous demand for illegal drugs, particularly heroin; and third, there is a huge supply, potential or actual, of illegal drugs, particularly heroin.

Therefore, if we prevent drugs from coming into the country and into the city and if we reduce the demand for drugs and if we destroy the supply of drugs we have solved the problem. Obviously these are formidable tasks and stating them in this simple fashion doesn't make them any easier to achieve. However, no useful purpose is served by turning away from them and directing our efforts toward more arrests at the local level because these are easier to accomplish. In my judgment, no significant progress will be made until there are some important breakthroughs in these three areas of concern. I do not profess to have expert advice regarding the accomplishment of any of these tasks, but such advice is readily available. Control of the importation of drugs is within the jurisdiction of Customs, and there is surely ample information available on what this agency needs to reduce the level of smuggling. With respect to the demand for drugs, there are two matters to consider, prevention and treatment, and here too there

is an abundance of expert advice available. Finally, there are a number of Federal agencies that can provide help and guidance with respect to means to be used to curtail supply. In fact, I believe this committee possesses considerable expertise on this subject. To the extent that improvements can be made in these three areas of concern, efforts at the local level will be enhanced.

I would like to return now to the mayor's request to the Attorney General, asking for Federal assistance in solving the narcotics problem. I have already cited three ways in which the Federal Government can provide assistance. The mayor indicated another means, that is, by assuming a more equitable share of the costs incurred by the city in its several narcotics control programs.

There is an obvious logic to this request. Control of dangerous drugs is an acknowledged responsibility of the Federal Government. To the extent that such control is imperfect, the drug problem exists in this city. Therefore, the Federal Government should equitably share in the cost of handling that problem. The annual cost of operating the narcotics division, together with the city's contribution to the task force, is \$22 million, exclusive of the cost of the various support services provided to these organizations. The Federal Government pays \$1 million of that cost. I am sure the mayor would be happy to have a representative discuss with the committee the specifics of a funding proposal.

Mr. RANGEL. Thank you.

Now, we have the mayor's office here. My question, Inspector, is how much discretion do you believe the New York City Police Department has in making arrests, or in any other ways enforcing existing criminal law?

Mr. PREISS. I don't think there is a great deal of discretion. Our people are sworn to support the law. If they see a violation in their presence, where there is legal basis for an arrest, they should make an arrest. And I don't believe we can instruct them not to do it.

Mr. RANGEL. Well, you have made it very clear that you do not believe it is very progressive to increase arrests at the local level. Have you enunciated this to your line police officers, your philosophy as relates to the effect or the impact that arrests will have on drug trafficking?

Mr. PREISS. No; I have not. Our job is to make arrests, and that is what they are doing. I am giving you the benefit of my views, not that I am telling the men to hold back arrests because it will have no strong improving effect.

Let me point out—and I don't know whether this was quite clear—each time we make an arrest, we have done some good. If we have taken the person off the street only for 2 days, 3 days, until the processing turns them out again, some good has been done.

Mr. RANGEL. But you don't have any problem in identifying street corners in the city of New York where, as you have testified, drug traffickers are trafficking. You don't have any problem with the fact that they are hawking their wares with trademarks, that this is being done on a daily basis in the city of New York. I mean, that is occurring.

Mr. PREISS. Yes, certainly.

Mr. RANGEL. Now, as bad as things are in the city of New York, you don't have any problem in telling this committee how many foot

patrolmen or squad cars—and that is why it is a panel, so anyone can feel free to answer—how many policemen we have in this area during this same period of time. I mean we do have police that are visible, isn't that right, Chief? Uniformed officers, police cars.

Mr. PREISS. If I understand, you are asking do I know how many uniformed officers are assigned in this particular area at this time. Is that the question?

Mr. RANGEL. Well, when you say "this area," the areas where you have the high density of overt drug sales. We know those areas.

Mr. PREISS. Yes; but I could not say how many uniformed people are assigned to any one of those areas at a given time. I don't know that.

Mr. RANGEL. Well, within a 10-block area, a 5-block area. Just if someone was to walk in this area, would they be able to see a squad car or police car, or uniformed police officers?

Mr. PREISS. I don't know what the complement of the precinct is and what the demands would be at any particular time. I simply don't have that information.

Mr. RANGEL. Would you have any information to indicate where these sales are taking place openly, whether you would expect a foot patrolman to walk by every other day in that area, or a squad car to go by once a month?

Mr. PREISS. Well, by statistics, I think we can draw a conclusion that there are uniformed men there.

Mr. RANGEL. On what basis—the uniformed men—would they be in the general location where these high density sales are taking place?

Mr. PREISS. We can be quite specific, I think. This precinct takes less than a half square mile in area. There are 2,000 arrests for drug crimes made in this precinct since the first of the year—more than 2,000. I am not sure what the breakdown is between those made by us and those made by uniformed. But I think I would not be far wrong if I said it was about a 10 percent to 90 percent division, 10 percent by us and 90 percent by uniformed. So I think the conclusion then is inescapable that there are uniformed men there working, yes.

Mr. RANGEL. Yes; but as relates to the corner sales that I am talking about—because you speak a great deal about drug-related arrests—I am having a problem with there being no policy not to arrest, sales are taking place, and we have police officers in the area. Now, they are not making the sales in the hallways, they are not making them in the basements. They are making them on the street. And in fact, the people that are selling are calling to the prospective purchaser, they are vying for the trade. And I think what you and I are saying is that within this given area, where the sales are taking place daily, we do have squad cars and uniformed police officers.

Mr. PREISS. I think that is obvious; 2,000 arrests were made there.

Mr. RANGEL. Now, are you saying that there is no policy—a patrolman seeing the sales taking place on the streets on his beat is authorized to make an arrest?

Mr. PREISS. He is not only authorized—he is required. The policy of the department is that where an officer sees a violation in his presence, and there is ample evidence that there is reasonable grounds to believe the crime is being committed, he can make the arrest, he must make the arrest.

Mr. RANGEL. He doesn't have to call for a superior officer?

Mr. PREISS. No, sir, let me elaborate on that—reasonable grounds to believe.

We have to be guided by what the court tells us is probable cause. And the court has not told us in step-by-step fashion what is probable cause.

Mr. RANGEL. I am not getting into that technical area, because from what has been testified to, and what I witness on a daily basis, certainly to the point where I was a prospective purchaser—we are talking about people with shopping bags reaching in and selling it. I know the problems you have with the court. But it certainly would not be in the type of crimes I am talking about.

Mr. PREISS. Well, I am not certain, but I won't pursue the issue.

Mr. RANGEL. Well, from a law enforcement point of view, if in fact arrests were made that may not stand up in court, on these corners where we have reason to believe that narcotics sales are taking place, the only reason that you may not be able to get a conviction is because you may not be able to attach the narcotics that you would confiscate to the particular defendant, is that not so?

Mr. PREISS. No, that is not so. The question is usually can we prove that a sale took place, did we have reasonable grounds to make the arrest.

Mr. RANGEL. Well, you don't need a sale conviction if you have a possession conviction, do you?

Mr. PREISS. Well, we need reasonable grounds to believe the person was in possession of the drugs, then. It's the same thing. We cannot search until the reasonable grounds are there.

Mr. RANGEL. Now, you are not saying that the foot patrolman—right now we can leave this building and take him in any six areas, that just because he had good vision, that he would not have reasonable grounds to believe that they are in possession, if not selling, of narcotics. You would not have any law enforcement problems in accepting that statement, would you?

Mr. PREISS. Yes, I would. I was advised by one of Mr. Johnson's assistants, when we questioned him about observation arrests, where we did not use our undercover man to make a buy, what would constitute probable cause. He showed me two court cases. One of them involved a man who observed a transaction, a uniformed man, and he followed up and made the arrest on the basis of observing this transaction, and he was told this is not probable cause. The second case he showed me involved a man who testified first of all that he had expertise in the area of narcotics enforcement; second, he was in an area where there was a narcotics prone condition; third, he observed several transactions; fourth, he arrested the buyer and then only did he arrest the seller. This according to the court was probable cause.

Mr. RANGEL. Well, you don't have any problem that even if the cases did not stand up in court, that at any given time you would be able to get a substantial amount of heroin that is being sold at known areas, known sale areas in the community.

Mr. PREISS. Well, I think the 2,000 arrests shows that.

Mr. RANGEL. You say you have 485 men with the narcotics division?

Mr. PREISS. That includes the entire staff, yes, sir.

Mr. RANGEL. And you say that you have 90 percent of the arrests made by police officers outside of the narcotics division?

Mr. PREISS. Yes; in the first 8 months—outside narcotics and the task force, taking the two together, 90 percent is outside.

Mr. RANGEL. And you believe in order to have a more effective conviction rate, that you would have to substantially increase the undercover and the narcotics squad operation from 485?

Mr. PREISS. Well, not all of those men are undercover. That includes—

Mr. RANGEL. Whatever you have—do you believe you have a sufficient number of men to effectively carry out your mandate?

Mr. PREISS. Well, last year the courts in New York City, all courts taken together, disposed of 2,100 drug indictments. The task force and the narcotics division alone, ignoring all the other units in the department, can give that number of felony arrests this year.

Mr. RANGEL. Do you condition your arrests based on the ability of the courts to handle cases?

Mr. PREISS. No.

Mr. RANGEL. Based on the ability of the prosecutor to prosecute?

Mr. PREISS. No; that is his problem. It has been suggested to us already that a great deal of low-level arrests are going to clog the courts. But we have had to make our arrests based on the circumstances that we found.

Mr. RANGEL. What percentage of the narcotics trafficking in the city of New York takes place in the black or hispanic community?

Mr. PREISS. I don't know, but it has to be more than 50 percent. I don't know that I have made any kind of study like that. So I am just giving you a guess.

Mr. RANGEL. What percentage of the narcotics sales would take place in Harlem, Bedford-Stuyvesant, and south Bronx and Jamaica?

Mr. PREISS. I don't know what the number is. It is sizable. Most of it, let's say.

Mr. RANGEL. Much closer to 70 or 80 percent.

Mr. PREISS. I wouldn't quarrel with that.

Mr. RANGEL. What percentage of your narcotics squad or division is black or hispanic?

Mr. PREISS. I have the figure here someplace. Nineteen percent.

Mr. RANGEL. What percentage of the law enforcement officers of your division that were laid off were black or hispanic?

Mr. PREISS. I don't know.

Mr. RANGEL. Substantial?

Mr. PREISS. Not more than 50 percent.

Mr. RANGEL. Do you believe that you could be more effective in law enforcement if the undercover police officers could more easily blend within the community where the crimes take place?

Mr. PREISS. Yes.

Mr. RANGEL. What is your department doing in order to increase the number of blacks and hispanics? Are you restricted by the civil service laws?

Mr. PREISS. Well, yes; there has been no hiring for 2 years, I guess. So there has been no one coming into the department. When there was hiring, there was a concerted effort to hire minorities. With the group that we have in the department, after the cutbacks were made and we lost black and hispanic undercover people, we campaigned within

the department to get more, and we have gotten more. And that is how we have gotten back up to this 19-percent figure. We were lower than this at one time.

Mr. RANGEL. Could you not make transfers even without hiring new people in order to increase the number—first, do you believe that it would be more effective law enforcement if in fact the undercover agents could assimilate to the community where they are enforcing the law?

Mr. PREISS. Yes; we could make more arrests and perhaps better arrests if we had more black and hispanic undercover people.

Mr. RANGEL. So there is no civil service problem in terms of the black and hispanic and female officers you have now being transferred to your specific division, is there?

Mr. PREISS. Well, all of the undercover people are volunteers, and we have canvassed and tried to get people, blacks and hispanics, and we have gotten some, but there is not a great rush to this division.

Mr. RANGEL. When a police officer takes the oath, does he or she restrict themselves outside of enforcement of the narcotics laws?

Mr. PREISS. Well, when I said they are volunteers, I am speaking about the undercover officer, the one who has to negotiate and give up his identity as a police officer.

Mr. RANGEL. Is that part of their civil service protection, that they cannot be assigned—

Mr. PREISS. A man would not be effective if he was a nonvolunteer. He has to work on his own.

Mr. RANGEL. What do you do when a person is not effective in law enforcement?

Mr. PREISS. Well, if he is not effective, and I can see what he is doing, a man in uniform, obviously I can prefer charges against. But when I tell a man to go in and infiltrate an organization, if he is not going to use his own initiative and work on his own and he comes back and tells me "I could not make the buy," how can I be sure of this? He is on his own.

Mr. RANGEL. How can we talk about people—the mayor's office testified that 80 percent of the crimes being committed in the city of New York were drug related. And if you have the mandate to enforce existing law, how do we talk about people volunteering to enforce the law?

Mr. PREISS. I don't think that is exactly the same thing I am saying. The undercover officer who must go very often unarmed, on his own, to negotiate with drug dealers, is a volunteer, and I don't know any other way that it could be, because if we order someone to do it, we have no way of supervising what he is doing to tell whether or not he was doing an effective job. And the undercover officers have always been volunteers.

Mr. RANGEL. I know that. I just don't understand the reason.

Mr. PREISS. I don't think it can be done any other way.

Mr. RANGEL. Chairman Rodino.

Mr. PREISS. Excuse me.

Mr. RANGEL. I hope we can go into some other questions. But I have taken advantage of the Chair.

Mr. RODINO. I will reserve my questioning to later.

Mr. RANGEL. Congressman Murphy.

Mr. MORGAN MURPHY. Thank you, Mr. Chairman.

There was testimony this morning, Mr. Preiss, that there were only 10 black undercover agents in this area. If they work a normal 8- or 10-hour shift we are left with the proposition there was a sergeant, and maybe one or two undercover agents in the neighborhood. Just in this precinct alone, from what we have seen on the film, they would have a hard time just directing traffic, let alone doing any effective work. It seems to me that if we have that much trafficking going on in a particular area, the police department and city would put a greater percentage of black officers there and then go out and hire, train, and recruit more officers for this area.

Now, you say you have had 2,000 arrests. From the movies and films I have seen, and from the testimony of President Sutton and the undercover agents, we know where the problem is. That is no secret. You can look out the window and see it. And you have to deal with it through black officers.

I am an outsider, from Chicago—but I get the feeling that in their financial crisis the city administration is saying, "We have to cut everything." I can understand that. But then they must look at certain important areas. They must look, for instance, where the major crimes are occurring.

I saw some pictures of ladies walking with their children through a crowd of pushers. I can imagine what the people think of a city administration that has almost allowed the pushers to take over the streets.

[Shouts of "They have" from the audience.]

Mr. PREISS. Congressman, the police department makes arrests. The police department made 2,000 arrests in this one-half square mile area for drug crimes this year. I think the question of whether we can make arrests or not is within the numbers.

Mr. MORGAN MURPHY. Well, you make arrests, but you are doing it with less than maybe three or four officers in any one shift on the street. What I find hard to accept—and I don't want to inject myself into city planning—if we are going to take over funding, as the mayor suggests, Congress will need better plans. We need to know what would be done with the money if we assumed some of the burden. Obviously we could not send white police officers into that neighborhood. Even Sherlock Holmes would have a hard time operating there.

Mr. PREISS. If I can refer back to the statement I made, the narcotics problem involves supply and demand. And in my personal opinion—this is not the city's position—we have for too long thought that simply by increasing the number of arrests out on the street we were going to solve the problem. And in 1970 we made 50,000 arrests out on the street. As Mr. Johnson pointed out, the problem was not solved. From 1971 through 1975 we made 116,000 arrests. Now, if there were only 100,000 addicts, we have arrested every one at least once. Isn't he finished after one shot? How many shots does he get? We have made the arrests. We can continue to make the arrests. Give us more people and we will continue to make more arrests. But if you think that is going to cure the problem, I don't agree.

Mr. RANGEL. Will the gentleman yield. Inspector, I am getting the clear impression that you have reached a conclusion that arrests will not solve the problem.

Mr. PREISS. That is my conclusion, yes.

Mr. RANGEL. And you are saying that this has not influenced the policy of when to make an arrest.

Mr. PREISS. Absolutely not; and I think the figures show that.

Mr. RANGEL. I'm sorry—thank you.

Mr. MORGAN MURPHY. Mr. Preiss, that may be your conclusion. You know, sometimes we get involved in a job and it looks like it is so overwhelming that we lose faith. We get too close to the forest to see the trees. But I think that if the city administration saw that film I saw here this morning showing the crowds going from street corner to street corner—

Mr. RANGEL. They made it.

Mr. MORGAN MURPHY [continuing]. Even if we had to arrest them 10 different times, and take them off the streets for 1 week or 2 weeks at a time with a concentrated effort. But I would know that my wife, walking with my kids, wouldn't have to fight her way through almost a convention of drug pushers. I know you are never going to get rid of every criminal problem. We have faced these problems from time immemorial. In Chicago we have some crime problems but they do it clandestinely. They are not at State and Madison, and they don't have trademarks.

I get the distinct impression as an outsider here that the city administration in this financial crisis is saying "We are cutting out all prosecution and all police work on narcotics. We will hand it over to the Federal Government and let them pick it up."

Maybe Congress is at fault for not giving you enough money to handle the problem. But I don't think the two things are compatible.

In other words, I would like to see the city say, "We want to hit them and hit them hard, and we are looking for some money to do that." But I don't get that impression.

Mr. PREISS. I am not able to comment on city planning or how budget cuts were formulated. I am only staying within the area of law enforcement. And I return to the statistic I cited of 2,000 arrests within less than half a square mile. I don't know if there is anyplace else you can find a concentration of arrests like that on narcotics charges. Of course, the concentration of the problem is greater than elsewhere.

Mr. RANGEL. But you don't have any problem with saying that you and I could go on any given day in these areas and there would be open narcotics sales and there will be uniformed police officers in that area. You don't have a problem with that, do you?

Mr. PREISS. As far as the uniformed police officers are concerned, they have an obligation to make an arrest when there is a legal basis for making that arrest. If anyone, any individual, does not make that arrest, he is not carrying out his duty.

Mr. RANGEL. Well, don't you have pictures of transactions taking place with uniformed officers there?

Mr. PREISS. I don't recall such pictures.

Mr. TAYLOR. We would take a very hard look at it if we did.

Mr. RANGEL. Then how can this committee, and this Member of Congress specifically, walk with you on any given day, or even today, for that matter—I don't know whether you were here when the borough president testified—with two of your own men—and we really didn't need them, but it was thought best for security that they be with us, and they were kind enough to join with us. But they

were trying to sell to the four men who understandably didn't make arrests. They were trying to sell to me and trying to sell to the borough president. And this went on for 3 hours. And even after we were identified by name, if not by title, they persisted in trying to sell.

Now, I am not involved in law enforcement. But we didn't pick a specific corner. We walked in half a dozen areas. I have too much respect for the New York City Police Department to believe that this is not occurring every day. And we did see, to the police officer's credit, the visibility of police officers, that has been a problem in our community for years. But we did see the foot patrolman. We did see the squad car. What bothers me is that you don't know that this is happening every day, when I don't know a police officer that doesn't admit to it happening, that doesn't feel that he is restrained in doing anything about it because he does have priorities himself.

Now, if you want to tell this committee, and we can tell the Congress, that making this type of arrest would tie him up in the court, if you want to tell this committee that even if we were arrested, that Sterling Johnson cannot prosecute—if you want to tell the committee that there is too much redtape involved in the administration of justice—or if you want to add that you don't really believe that increases in arrests are having any impact on the degree of the problem, we are prepared to take this to the Congress.

But if your testimony is today that the police on duty, upholding their oath, by making arrests when a crime is being committed in their presence—it won't take but a couple of hours for you to be fully informed that for whatever reason, they are not arresting when known narcotics trafficking is taking place on their beat.

Mr. PREISS. Congressman, how did the 2,000 arrests come about?

Mr. RANGEL. Congressman Murphy made the point that we are not here as criminologists to indicate just how many arrests you should make. But if I follow the theory that when a crime is being committed that it is not the police department's discretion to determine the impact on an international problem, and it is not their discretion to say it is a Federal problem, it is not their discretion to talk about the length of sentences or the administration of justice—but they must make the arrest because they have taken that oath.

Now, if you told me that 10,000 arrests were being made, that would not impress me as a resident of this community when I can see that the sales are taking place. The fact that I have never seen an arrest being made on these corners would not allow me to attack your integrity or that of your answer. Obviously the arrests have been made. But what does that matter if you have 100,000 people and 2,000 arrests?

If you are testifying that in order to make more arrests you need more men, we are here to listen. But you are saying that police officers—you are not saying that you need more men. You are saying that you are making arrests.

Mr. PREISS. I don't think I was asked the question whether I need more men. What I said about the arrests is if more arrests are made, it will have an effect, because even if you take the person off the street for an hour, for a day, 2 days, whatever it is, it has some effect.

Mr. RANGEL. Do you believe that arrests may not have been made because of a feeling within the police department that there was lack of community support which may prevent—

Mr. PREISS. No, I don't think so. I think every policeman realizes there is strong community support for drug arrests.

Mr. RANGEL. Haven't you stated earlier that you had felt that arrests being made in these areas might cause a riot?

Mr. PREISS. No; the question at that time was a different question. The question was why the streets were not swept clean. And I take that to mean that we were to run some kind of a dragnet down the street and scoop everyone up. I said that this could cause a riot. But I recognize and I think every other policeman recognizes, especially in the Harlem community, there is strong support for narcotics enforcement.

Mr. RANGEL. Well, I don't know whether I have ever heard anybody sweeping the streets clean, whether in Harlem or any other civilized—

Mr. PREISS. I believe that was the question.

Mr. RANGEL. Didn't you gather that the question was when people on the corner are selling and buying, that this is where the area should be swept clean? Could you not do that in those areas, make arrests on those corners where you know they are selling?

Mr. PREISS. We do make arrests there. You are asking could we make more arrests.

Mr. RANGEL. More arrests.

Mr. PREISS. Yes, we could.

Mr. RANGEL. Could you not make it a deterrent for people to sell drugs on our street corners?

Mr. PREISS. It can be done for short periods of time.

I wanted to respond to Congressman Murphy's question. We did have a series of enforcement drives March to May 1975, May to June 1975, 3 weeks early in October 1975, again in January to April 1976, in that very area at 8th Avenue and 116th Street. After these drives there was a notable improvement on the street, but not a permanent improvement.

Mr. RANGEL. Let me ask you a question.

Mr. PREISS. It just went to the next corner.

Mr. RANGEL. This is a very sensitive question. If this trafficking was taking place on 68th Street and Park Avenue, and we took six corners, and had this type of drug selling, you would still have your same constitutional problems, you would still have your same lack of impact on the overall drug problem. You would still have your limited number of law enforcement officers. But just as a New Yorker, do you think the situation would continue at 68th and Park the same way it continues on the corners we are talking about?

Mr. PREISS. The police response would have to be arrests. We would make the arrests. And I think that the 2,000 arrests would be made down there just as they were made here. I think—and I am only suggesting this on my own—I don't know what would happen, but I think probably they may be dealt with more severely after we get finished with them. But that is not our business. Our business is arrests.

Mr. RANGEL. Well, I am going to stop.

Do you think that you would have to be undercover in order for me to show you crimes that are being committed on our streets? I mean you made it possible for a number of Members of Congress to go out—

Mr. PREISS. Of course not. We took you through Harlem. One of the vans that the Congressman was in—someone tried to sell him drugs.

Mr. RANGEL. But he was undercover. I don't know whether we reported to you or whether you knew that we saw a lot of policemen, too, while we saw the sales.

Mr. PREISS. I am referring to last September, I believe it was, when the committee was here.

Mr. RANGEL. But the Members of Congress saw policemen there, and we saw sales from the vans.

Mr. NELLIS. Right in front of the policemen, I might add.

Mr. PREISS. How did we make the 2,000 arrests?

Mr. RANGEL. Please don't think I am saying that you are not making any arrests. We are saying that on these street corners—or to put it another way—what is the probability of being arrested selling drugs on any of these street corners? What is the probability of ever being arrested?

Mr. PREISS. Well, if we made only 2,000 arrests this year there probably were millions of transactions, so that it is 2,000 in 1 million or 2,000 in 2 million, or whatever it is.

Mr. RANGEL. Now, this committee is really asking what does it take to make arrests when crimes are being committed—not whether or not it is going to have any impact on the international trafficking of drugs. What would it take to clean up the corners where you know that millions of transactions are committed, and that you would know because of your professional background how to hire people, whom to hire, and how to make arrests? The rest of the problem would be up to Sterling Johnson and the department of corrections. But if we don't hear talk about wanting to arrest the felons, then some of us believe that there is a policy not to arrest the felons.

Mr. RODINO. Mr. Chairman, in the conclusion of the statement, you referred to the request—

Mr. RANGEL. Could I interrupt to thank Congressman Morgan Murphy, who came to us from Chicago, and he has to leave now. I want to personally thank him for coming here to be with us today.

I am sorry to have interrupted you.

Mr. PREISS. Excuse me a moment, please.

Mr. RODINO. Recognizing the fact that your statement talks about the need for an effort on all fronts, and that arrests alone may not solve the problem, you, however, in the conclusion of your statement, make reference to the mayor's request, and you say there is an obvious logic to this request, that control of dangerous drugs is an acknowledged responsibility of the Federal Government.

We are prepared—at least I am prepared—to assume that the illegal traffic in New York City, the importation into New York City, of narcotics is the responsibility of the Federal Government. And beyond that, of course, when it gets into the local areas, it becomes a responsibility there.

Then you go on to say—to the extent that such control is imperfect, the drug problem exists in this city, and therefore the Federal Government should equitably share in the cost of handling that problem.

Now, if the Federal Government were to equitably share in the cost of that problem, what would you do with the funds that would be allocated.

I hear you talk about arrests. You are talking about 2,000 arrests. However, it seems to me and I get the clear impression that no matter how many arrests you make, that it really isn't going to make a sizable dent. And that seems to be your conclusion.

Now, I am wondering, if you were to get these funds, since you support the mayor's request for an equitable share of the costs in handling the problem, what would you be doing with them?

Mr. TAYLOR. Sir, I would like just to respond, to put at least the background of the police department in its proper perspective. It might be helpful to the committee.

In 1975, June, we had 31,000 sworn police officers in New York City. Today we have 25,800 sworn police officers. We had a cutback to do the same job in this city. The crime rate has gone up 17 percent in the last year, I think the highest rate of increase anywhere in the country. And we had to do the same job with fewer people.

At that time, our narcotics division at its peak probably ran close to 770 people. Today it is some 480 people.

These are the problems we are facing.

Last year we got a grant through the Department of Commerce from the Federal Government of \$5,500,000, a grant award, C-106029, to rehire laid-off police officers. We rehired 205 police officers. That grant stipulated that we use these officers in certain areas of law enforcement, and of those areas, 37 of them to narcotics.

If we were to get more money today, we could put more money in the narcotics enforcement.

Mr. RODINO. What would they do?

Mr. TAYLOR. Make more arrests.

Mr. RODINO. But the clear impression I get is the making more of arrests is not going to make any sizable dent in the problem. At least that is what I get. And that amazes me.

Mr. PREISS. Congressman, I think what the mayor had in mind—and he didn't discuss this with me—was that some of the costs of the present narcotics enforcement effort should be borne by the Federal Government. If we were to remove that enforcement effort completely, I think that the traffic would be even more open on the streets, considerably more open than it is now. I think the best we can hope for with arrests is a suppressive effect. I don't think you are going to cure the problem with arrests. And I think that that is a mistake that has been made year after year, with everyone studying the narcotics problem. They thought more arrests would do it.

Mr. RODINO. But what would you do, though—unless I don't really comprehend what you are trying to say—I think up until now the clear impression that you made on me is that, fine, the Federal Government has a responsibility, narcotics are coming in, there is an inexhaustible supply, drug users, et cetera, and then you go on to say that arrests, no matter how many you make, are not going to make any difference.

Mr. PREISS. No, not that it wouldn't make a difference, but it wouldn't cure it.

Mr. RODINO. I don't know about a cure. I am sure there are many, many other factors that relate to the question of drug addiction, drug abuse and drug-related crimes.

Mr. PREISS. Absolutely.

Mr. RODINO. But very frankly you have put me in a very awkward position as a member of this committee. Understanding what I have heard today, and what I have seen today, and the fact that two undercover agents were here and related the various events that took place within a period of time, so openly, it seems to me that I would have to say to myself that even if the Federal Government were to assume a greater share of responsibility here, what would they be doing? We would be giving them money to do what? To put more men on, who are not going to make arrests because arrests don't mean anything?

Mr. PREISS. I don't believe the mayor intended for the funding to be exclusively law enforcement. I think he meant a broad-funding program, to take care of the city's narcotic expenses with respect to treatment, with respect to prosecution, with respect to enforcement. I don't think he intended it only for enforcement.

Mr. RODINO. Well, I wish that would be clarified. As one who has followed this problem—and I don't have an expertise here, but I do recognize that there are a lot of causes for this drug addiction and the crime which arises from it, and then the abuse that takes place as a result—a lot of other root causes that we have to deal with. But when we are talking about one aspect of it—and we have talked about law enforcement—and the mayor's letter—and I know that the mayor certainly intends to do that which is going to be helpful to the citizens of the city, to try to reduce crime. But I don't see a clear picture of what in the mayor's request there would be to justify then the Federal Government making a greater allocation if there isn't some showing that these arrests are being made that substantially deter the drug traffic.

Mr. PREISS. Congressman, in the mayor's letter, which I don't have here, he made reference to the amount of money spent on treatment and what the Federal contribution to it was. So that I take it from that that he was not speaking only of law enforcement.

Mr. TAYLOR. In the second paragraph of his letter, Mr. Rodino—

Mr. RODINO. It has been called to my attention by counsel—and this is a quote from the mayor's letter to the Attorney General where he called on the Federal Government to take the following actions:

At a minimum, the Federal Government should assume the funding of the police department narcotics division and other elements of the criminal justice system dealing with narcotics-related crime.

Mr. TAYLOR. Sir, I call your attention to page 2, the fourth paragraph. He refers to the whole spectrum. And I think that is a very real thing in the treatment of narcotics. What are you going to do with these people?

Mr. RANGEL. This is the minimum.

Mr. RODINO. We are talking about the police department narcotics division. Now, that is your division, that deals with the trafficking in narcotics, isn't it?

Mr. PREISS. Yes. At that point, isn't what he is asking for is that the Federal Government assume the expense of operating it?

Mr. NELLIS. Certainly.

Mr. RODINO. Completely.

Mr. PREISS. I believe that is the final goal. I am sure he would settle for less.

Mr. RODINO. My question, then, is, again, what would you do with it?

Mr. PREISS. I don't know that that would change the circumstances. I would have the same number of people. But the Federal Government would be paying them.

Mr. RODINO. And accomplish what?

Mr. PREISS. Accomplish turning over sufficient indictments to keep the court system busy.

Mr. RODINO. Arresting more people?

Mr. PREISS. What do you mean by "more people?" We cannot arrest more with the same number of people. We would arrest the same number of people, which is enough to supply all the indictments that all the courts in the city of New York could dispose of.

Mr. RANGEL. Again, I asked you before whether or not your arrest was based on the ability of the courts to handle them.

Mr. PREISS. It is not.

Mr. RANGEL. But you did say you are now furnishing enough to keep the courts busy.

Mr. PREISS. What I am saying is that the narcotics division all by itself, with the task force, makes enough felony arrests that it equals all of the felony indictments that were disposed of by all the courts in 1975. And we account for only 10 percent of the total arrests in the city.

Mr. RODINO. Well, that doesn't mean to say we should stop arresting and try to take these people off the streets, and try to dry up the supply that there is, because every time you make an arrest, I would assume that there is a quantity of the drug, is there not, taken into possession as well?

Mr. PREISS. The amount of drugs taken by us in all of the arrests that we make, if you figure out how much is needed, amounts to about 1 percent of the total need. So if we were 10 times better, we are only taking 10 percent of the supply.

Mr. TAYLOR. Of course we are dealing with the police department. You are now. But Mr. Johnson made a very real point when he has 1,200 people backed up because he doesn't have the capability of trying them. Across the whole criminal justice system in New York City that is the same answer, whether you are dealing with homicides—if you talk to a district attorney. We are working with a police department pushing stuff into the end of the funnel and the system is not capable of adequately handling it. That is the basic problem, whether you are talking about narcotics, rape, or burglaries.

Mr. RANGEL. Chief, we agree with you. And this is not restricted to giving assistance to the police department. The chairman of the Judiciary Committee is concerned with the entire criminal justice system and the judiciary. We can hear the prosecutor's plea for not having adequate manpower. We can understand the judges when they say there are not enough judges. We can understand it when the department of corrections says they don't have enough cells. What we don't understand is how you are saying that you are not conditioning those arrests to this situation that exists down there.

Mr. NELLIS. Mr. Chairman.

Mr. RANGEL. Counsel.

Mr. NELLIS. Mr. Taylor, I think you have probably been inadvertently ignored. But I would like to ask you a question about a

very important article that the police commissioner of New York City wrote and published in this issue of "Drug Enforcement" magazine. And I would like to read you a quote that seems to resolve this problem of arrests. Here is what he says:

It is well-known that successful investigations at the higher levels have a more severe disruptive and deterrent effect than those at the lower levels. But there are other considerations to be taken into account. The absence of any enforcement at the street level would in effect legalize street level sales conducted outside the view of the patrol officer. In order to maintain enforcement pressure at every level manpower is allocated roughly on the basis of one-third to each broad level of illegal traffic. That is, one-third to street, one-third to middle and one-third to the higher-level traffic.

The commissioner is saying that it is that policy of the police department to enforce the law at the street level—is that not correct?

Mr. PREISS. Yes, sir.

Mr. TAYLOR. That is part of the problem. Realistically—can I explain—the narcotics division basically—those are the figures of commitment in the manpower of the narcotics division, not talking about the police department across the board. It is more realistic to put more time, work, into trying to infiltrate a distribution system and take somebody out at the high level—that is where we get the most benefit.

We take one man out and that covers an awful lot of street people. It doesn't clog the court up. But that is the main direction of the narcotics division per se. Uniformed people on the street don't have that capability. They cannot infiltrate. They have to make the type of arrest that is offensive to the public, that they see out there, that Mr. Rangel sees.

Mr. NELLIS. Commissioner Codd saying in effect that the failure to enforce the felony laws on the city streets of New York breeds disrespect for all law. How can you gentlemen sit there and tell this committee you need more money when all you can do is make arrests? If given more money, you will make more arrests. But then we are back in the cyclical proposition, aren't we? Because you say arrests don't affect street traffic.

Mr. PREISS. Counsel, are you suggesting we don't make more arrests?

Mr. NELLIS. What I am suggesting is that there is open and defiant lawlessness on the streets of New York, in Harlem, in Bedford-Stuyvesant, in south Bronx, wherever you want to look. And something has got to be done by the police department of this city to control it. That is what I am saying.

Mr. TAYLOR. We are doing the best we can with the capability we have. We have to do that.

Mr. RANGEL. Well, Chief, this is the type of testimony that we hoped to get in order to have a cooperative effort with the Federal Government and local police. But it seems to me that when we have superior police officers saying that arrests really in the long run don't make a difference—because our citizens are concerned with their day-to-day survival. And I just don't believe that there is that much discretion in the police department to decide which laws are going to be enforced, once it has been decided that that police officer will be assigned to a particular community. And we do find selective law enforcement. And if more men, whether you like the end product or

not, are necessary—that is why the committee is here, to respond to the mayor's plea.

Mr. TAYLOR. When we cut back our people by over 5,000, close to half of our undercover people were laid off. These were young people. Historically we pick our undercover people from the incoming classes. That source has been entirely cut off to us for 2 years now. So we had to go in the field, trying to create, if you will, people who would work undercover. If a man has been working in uniform for 4 or 5 years, he is taking an awful risk when he puts on civilian clothes, and tries to infiltrate a drug situation.

Mr. NELLIS. Commissioner, isn't it a fact that only about 10 percent of all arrests are made by the narcotics division?

Mr. TAYLOR. Approximately, yes, sir.

Mr. NELLIS. If that is the case, the 90 percent being made by the nonnarcotics units certainly must be made by uniformed officers, are they not?

Mr. TAYLOR. Yes, sir.

Mr. NELLIS. They are certainly not doing it in Harlem, because I was a personal witness to transactions.

Mr. TAYLOR. We are getting into individual cases.

Mr. NELLIS. I saw a police officer on a street corner and transactions taking place within 10 feet of him.

Mr. TAYLOR. If I saw that police officer, I would lock him up. He shouldn't be doing that. Maybe we need a supervision thing here.

Mr. RANGEL. We are going to have to go into the street. If the inspector's logic follows, that an increase to 2,000 has little or no impact on the narcotics problem, would it logically follow if there were no arrests at all on the street level—

Mr. PREISS. No; I think you are extending from what I said. The point of my remarks about the arrests is that arrests are not going to cure it. And I think what happens too frequently is that when a narcotics problem is recognized—if we think now more arrests are going to take care of this, that is not the complete answer.

Mr. RANGEL. That is what I don't want in the street. I want in the street what the commissioner said—that if a crime is being committed in the presence of a police officer and he does not make an arrest, he should be arrested. Now, that word has not gotten out. You can take my word for it. And I will put myself under oath. That word is not out in the street. And if it were, they would not have these corners.

I think that this committee will give you an opportunity to insert in the record an adequate answer from the division of narcotics, that if the mayor's plea for Federal assistance—and not to assume the fiscal responsibility of the division as it now exists—because that is not going to happen. But if we are talking about a program to eliminate the drug trafficking off the street—and I am assuming that you would be in charge of that program—there has been no testimony in the record as to what you would do or what you would want to do if the Federal funds were available. The only thing that the record would indicate—and you can correct me if I am wrong, Chairman Rodino—is that the mayor is asking that the city pick up the tab for that part of the city dollars being used for your division. And that is not the purpose of this hearing.

Mr. PREISS. I don't know what the mayor's specific proposal is.

Mr. RANGEL. Then Chairman Rodino was asking, that assuming that Federal resources were made available, what would you do with those resources. And you said you could do no more and no less than you are doing now.

Mr. PREISS. No what I said was that if the Federal money simply replaced the city money and we had the same number of men, I could not do any more.

Mr. RANGEL. We are not talking about replacement. We are talking about a Federal effort to assist in the New York City Police Department.

Mr. PREISS. If the Federal money were to provide additional men, and assuming the Federal money is also going to take care of Mr. Johnson's problem and the court problem, now we have a different situation.

Mr. RANGEL. Why would you be concerned with Mr. Johnson's and the court's problem?

Mr. PREISS. I am talking about the total effect of this.

Mr. RANGEL. Your arrests would not be tailored to Mr. Johnson's problem.

Mr. PREISS. No; but the arrests we are currently making and the arrests which additional manpower would enable us to make would confine the people for a longer period of time, so instead of a day, they are confined for a month, for a year.

Mr. RODINO. But they are off the streets. They are the people that have been responsible for the drug traffic. And even though you do say—and I guess you have more knowledge than I do that there are others who will replace them—but nonetheless, they will be off the streets.

Mr. PREISS. Certainly. I am not saying that an arrest has no effect. I have said this before, and I will say it again. If we take the person off the streets for even 1 hour, there is some effect—2 hours, 2 days, 3 days.

Now, if you can say we can make more arrests because we have more resources and if because the courts and the prosecutor have more resources they can be taken off the streets for a longer time—even if the law has no deterrent effect on that one who is standing next to him, it has incarcerated this person, so that there is an improved situation to some extent.

Mr. RANGEL. Commissioner, I hope you will be able to supply for the record that arrests—all we ask in our community is that it is remotely possible for them to be arrested for selling narcotics. That is all we are asking. If they believe that it is possible, that for going into the business of selling narcotics as opposed to bagging up for the supermarkets, that it is possible in the city of New York to be arrested. I am not saying that you have not made 2,000 arrests. I am saying if you look at the problem, and you look at the arrests, there is no reason to believe that you are in jeopardy for electing to go into narcotics sales as opposed to the few jobs available in the community. And this committee needs that type of testimony for the record in order to make our case in the Congress.

Mr. RODINO. I want to echo what Chairman Rangel has said. It would appear to me that if we are to do anything at all to be of assistance in this area, we certainly would want to have the assurance

that what we saw today is not a matter of policy; that one's eyes are closed to what is taking place, which is as we have seen actually a violation of the law, actual trafficking taking place on a daily basis. And we would want to see before we could present a case to the Federal Government for more substantial assistance that there is this input on the part of the city and local law enforcement. Because while you contend, of course—and there is a great deal of justification to what you say—at least controlling the illicit and illegal traffic coming to the shores of the country, into the country is a Federal responsibility.

Nonetheless, the violations that occur in the local communities are local community responsibility. There is no other national policy in this area. And I think you have got to understand that we are here for that reason—first, to understand what your problems are, and to see whether or not we can be of assistance. Otherwise this hearing is going to be futile.

Mr. TAYLOR. If we stick to the \$22 million, the figure that is there, that basically means hiring 700 or so police officers. That would give us more police officers to put into the narcotics division. We would have to do that—as we did with the Commerce people.

Mr. RANGEL. The chairman has indicated that he is receptive to any type of proposal that earmarks and zeros in on the narcotics. And no proposal where the administrator really believes that the enforcement of the law won't have any impact can really be successful unless it is felt that men can make promotions based on making arrests, that it is really in the spirit of the police department to do it.

Now, I admit it becomes discouraging to see defendants on the street go back on the corners before the policeman gets there. But we didn't create the oath of office for a police officer. When a man takes the job, he would like to believe he has the resources to enforce the law and to uphold his oath. And as everyone has pointed out, it deals with the credibility and respect of the entire law enforcement system when people and children see the law being broken and not see it being enforced by those who take the oath.

Mr. TAYLOR. I assure you, Mr. Chairman, we will look very closely at the problem. We have come in there time and time again with what we call a task force approach. Every narcotics man I put up there I have to take from someplace else. That is the type of situation we are into with our decreasing manpower. We can go back again and do the same thing. We will knock them off 124th Street and they will go down to Lenox and 116th Street.

Mr. RANGEL. You will see we will spend more time arresting police officers, if that is the criterion.

All I am saying, commissioner, is that any day you can call me and we will walk—because your color is no impediment to the sales.

Mr. TAYLOR. I have walked these streets for 10 years.

Mr. RANGEL. They don't care.

I want to thank you both and hope you can draft a type of proposal that you believe we can sell to the Congress, because it is in New York, it is in Chicago, and we all are on different committees and intend to go after this.

Thank you very much.

Mr. PREISS. I am a little puzzled about the proposal. That would come from the mayor; wouldn't it?

Mr. RANGEL. You see, the problem I am having, inspector, is that the mayor is talking about Federal dollars, as I understand it, to underwrite existing programs. I hope that all of us are saying that existing programs are not working, and that we hope that you specifically, or someone that is designated by the mayor, through the police chief, would just tell us what you would like to do as relates to enforcement of narcotics laws, in an attempt to make our streets safe for the people.

I know that is a difficult responsibility. But we just cannot go down there and say it is bad but they still want you to underwrite it because it can get worse. That won't fly, and we cannot sell it. And if you can't do it, then we will just have to tell the mayor that we have no program to send to the Federal Government. But I am certain the mayor will find some way to get something to us.

Mr. TAYLOR. We will address something to you and get something back to you.

Mr. RANGEL. All right; again, thank you very much.

Now, we had intended to wrap up the testimony, but we cannot do it unless we hear from Charles Kenyatta, who has been on the streets here for a number of years and has seen and known the effect of narcotics on this community.

Mr. Kenyatta, you have earned for yourself over the years the right to speak out on these issues.

After hearing this testimony, we would like to hear your response.

TESTIMONY OF CHARLES KENYATTA, RESIDENT OF HARLEM, NEW YORK CITY

Mr. KENYATTA. Mr. Chairman, from what I have just heard from the previous speaker—I can understand how you are saying that you are hoping that it will not get to the street level, the type of attitude that he reflected up here this afternoon. Well, that type of attitude already is out on the street corners at a rate of 2 miles in any direction. As a result of that, it has brought internal strife, even with those youngsters that range in that field—it has brought about nobody gives a damn.

As you know, in Harlem, in the last 10 years, I was somewhat taken when the former speaker said that if they had more dollars and more manpower. But I as one have seen when they had a 35,000-man force, and some of the best so-called undercover agents, the crimes still went on as usual. The sales still went on as usual. And as a result, I have seen the morale inside of the police department falling to an alltime low.

And I heard one speaker say no man wanted to volunteer to take undercover jobs, when I know as an individual that people outside of this community made certain connections to make sure they got into this community because it was the only community that one could have an opportunity to maintain his upkeep in Queens and other areas, because it was the best area that one would accumulate a financial base very quickly.

Inside of the police department there become arguments between the narcotics people and the uniformed people, when arrests were made, "You are stepping on my turf." In other words, they got to the point they were fighting between each other—"That's my area,"

I would like to say, as you know, that Harlem in the last 10 years—we have more churches than they have in the city of Jerusalem, where all religion got its birth. We have more precincts than Scotland Yard ever dreamed about. We have more community organizations. But, again, business goes on as usual, especially when it comes to the field of drugs.

I have involved myself all the way from Turkey, all the way through Marseilles, France, watching and wondering how this problem could be attacked. And I have said on many occasions—and after hearing the police officer testify here today—I still maintain my feeling that the only way that this problem of drugs can be tackled, that they have got to take the profit out of it. It is the only way.

The Federal Government has become a part of this disrespect.

And after hearing the police officer testify here, I am now satisfied that as long as the Federal Government—they either got to get in or get out. They can no longer stand on the sideline and hand down bundles of dollars to agencies, such as to police departments and other agencies, if they don't oversee those agencies to make sure that this is taking place. Because as a result of this—you heard inflated numbers up and down. And every time various agencies can come back again and again and continue to ask for funds, and then cannot give you an assurance where the problem is being overcome, in no areas—because as a result of this type of funding; they have shown time and time again that the problem has become a financial base. And in this community, such as Harlem, there is not a family in 2 miles in any direction that is not involved in this traffic one way or the other—not a family. They are either involved in purchasing it, selling it, or they have a victim.

Mr. RANGEL. You say not a family in the 2-mile radius that is not buying, selling, or addicted?

Mr. KENYATTA. In one way or another victimized.

Mr. RANGEL. As a result of the addict.

Mr. KENYATTA. That is right. So it has become a way of life. As a matter of fact, if one said that we will set up a program—and I want someone to tell me, how can you take a youngster that is making—some of them make up to \$700 and \$800, \$1,000 a day—how can you take that youngster and put him in a program at, say, for instance, \$100 a week? How could you take that youngster and revert him back?

Mr. RANGEL. For the record, how long have you been doing community street work?

Mr. KENYATTA. For the last 15 years.

Mr. RANGEL. And during those 15 years, and more particularly in the last 10 years, how much of the day are you out on the street, approximately?

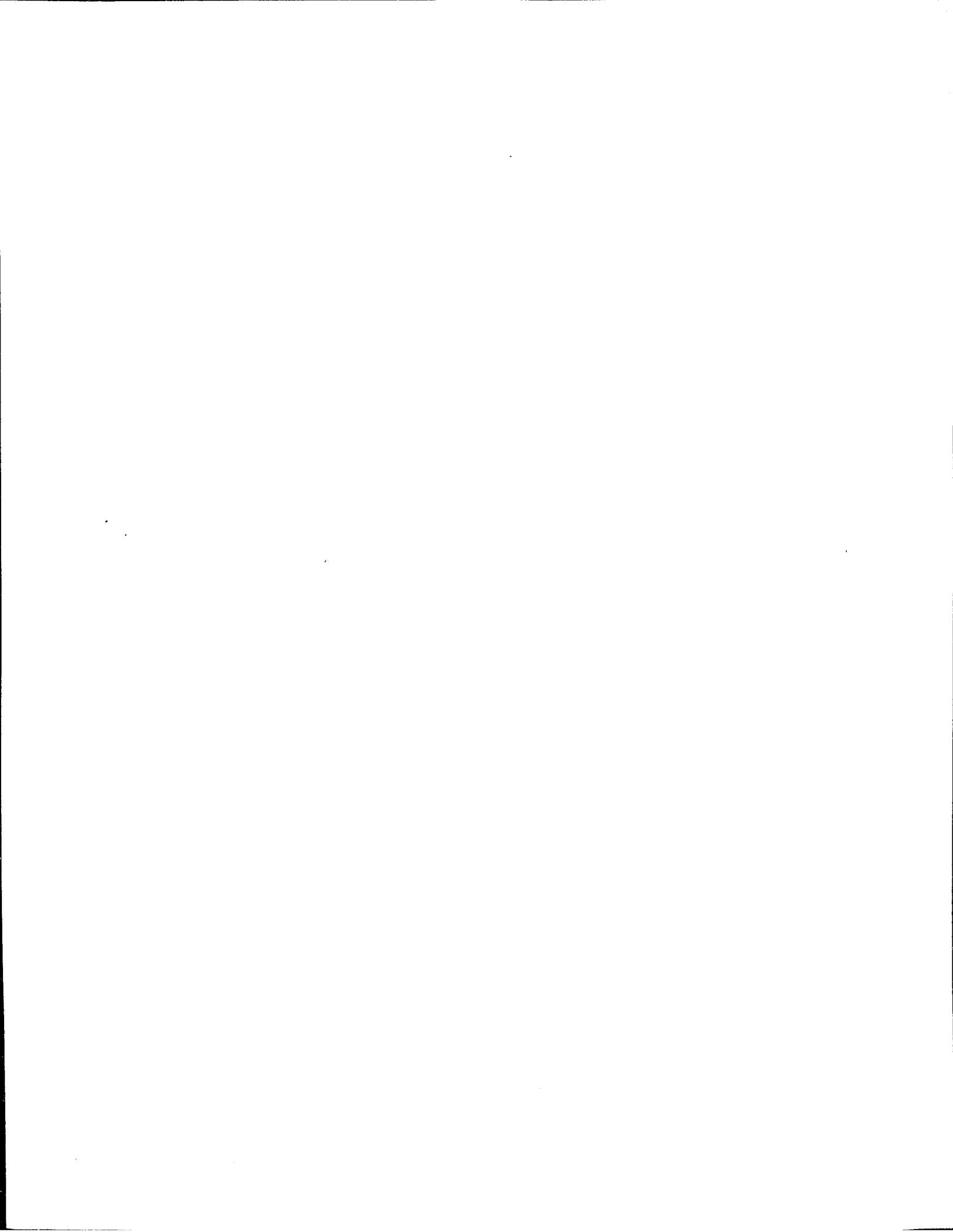
Mr. KENYATTA. Twenty-four hours a day—24 hours a day.

Mr. RANGEL. You sleep, I assume.

Mr. KENYATTA. I sleep it, I eat it. I know every youngster out here.

Mr. RANGEL. I asked that for the record, to ask you to respond to the inspector's response that where sales are taking place in a police officer's presence; that arrests will be made. Has that been your experience?

Mr. KENYATTA. No; it has not been my experience, because in the last 2 years the police officer—I have heard words to this effect from the police officer, to tell the large crowd, what I call the herd—"tell



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1 OF 2

the herd to take a walk for 5 minutes while I take my break." This has the result that disrespect toward the police officer—and I have seen it on many levels—many of the undercover agents who came in as an undercover officer became a victim himself.

They didn't tell you that amount of numbers, who became a victim as a result of being involved in certain units and seeing how they operate. Because the undercover officer himself is not trained properly to even know when a sale is being made. I have seen it being made in their presence. Not because he didn't care. He just didn't understand the type of transaction—the way the operation went.

Mr. RANGEL. How did he become a victim?

Mr. KENYATTA. He became a victim because he became a user. He became a user. I know personally about seven or eight officers who became addicts themselves trying to be involved and trying to find out who was the lead man. And the main thing about the traffic in Harlem—there is no such thing as a lead man. They just don't understand how it operates.

No one can tell me that the amount of drugs that is on the street today, that there is one or two individuals that oversee it. It is not like that. Because youngsters today, with the amount of youngsters that is now down in Mexico, that are in jail, who have taken the risk upon themselves—this is the type of traffic that is going on today.

Mr. RANGEL. Before Chairman Rodino inquires, I just want to state for the record that the testimony we heard today is going to be made public to the community, and I intend to hold full day hearings for the community to respond specifically. Before that time, however, we intend to have hearings in Washington to get a response from the Federal Government to Mayor Beame's request for more Federal funds, and that, too, will be made available to the community so that we can respond specifically to testimony that we have heard today.

Chairman Rodino.

Mr. RODINO. Mr. Kenyatta, in view of the fact that you have dealt very intimately with this problem—as you say, you eat it, you sleep it, and really know it—and then you suggest that the Federal Government should get in or out—what can we do?

Mr. KENYATTA. Well, first of all, sir, I foresee that the only way that I feel that the injury that the Federal Government has done so far, blindly, without even going out, studying the problem on a local level, to find out what is really going on—they had a tendency to give, especially here in New York City, the police force large sums of money, and as a result of that, I said that they caused the price to go up higher and higher. So what I am trying to say, sir, is that I feel at this point—

Mr. RODINO. Excuse me. May I interrupt you. Are you making reference to police purchases?

Mr. KENYATTA. Such as that—the nature of police purchases. Because, you know, when you see how wide open it is for a police officer to be trusted with large sums of funds, which doesn't even talk about on a level where you pay what we call the stool pigeon a little money—but a police officer taking large bundles of funds—as you see in the "French Connection"—one gets ideas. It is natural, it is human nature. One gets ideas.

Mr. RODINO. You mean you attribute that in great measure to the continued traffic?

Mr. KENYATTA. I attribute that, sir, to what I call a breakdown. It is a breakdown, because undercover agents such as that are not accountable. He is not accountable. And naturally the individual that he is dealing with maybe from time to time does not really understand the full implication of it.

Mr. RODINO. You said to take the profit out of it. What do you mean?

Mr. KENYATTA. When I say to take the profit out of the drug traffic, sir, I mean just that. I believe that the only way that this problem can be dealt with, such as it has gotten out of hand—and Harlem is just absolutely the breeding ground for it, because there are other areas where laws are a little more strict—you just cannot operate there like you can operate in Harlem. Harlem is the only place in the world that you can just operate like that. I am saying I believe the only cure to this—that the profit must be taken out of this drug traffic, and it must be put into the hands where—I am saying something like England has. It may not—

Mr. RODINO. You mean a heroin maintenance program?

Mr. KENYATTA. Correct. Now, this will not be—

Mr. RODINO. You mean you are suggesting that the Federal Government would provide a maintenance system to those who are heroin users?

Mr. KENYATTA. That is correct, sir—due to the fact you have an open market out here today. Somebody has to fill that market. This is what the youngsters today are fighting for, their turf, that they want to maintain that market, because they know it is out there.

Mr. RANGEL. Have you decided how much heroin the Federal Government should supply the individual?

Mr. KENYATTA. No; I have not.

Mr. RANGEL. Should it be unlimited?

Mr. KENYATTA. Should it be unlimited?

Mr. RANGEL. I mean as long as the person wants it, do you believe the Federal Government has a responsibility to furnish it?

Mr. KENYATTA. Well, for a good example—let me give you a good example. When the average individual out here on the street, with the quality of drugs that is on the street right now, the average individual out here today, when a guy is going into an OD, the most of all of them individuals around him gets down on their knees, or whatever position he is in, to ask him where did he get it from, because 9 times out of 10 it is a better quality.

Mr. RANGEL. So you are saying the more fatal the dose, the more the Federal Government should be involved in giving quality drugs.

Mr. KENYATTA. Quality drugs—because every youngster out here on the street today—this is why there are so many deaths—the average youngster out here today has become a chemist in his own right.

Mr. RANGEL. Do you suggest we distribute through the public school system?

Mr. KENYATTA. No; there must be some type of control. You just don't open the market like that.

Mr. RANGEL. Who is it that would not have it available to them? I mean if the Federal Government is giving away anything free, I assume some people would want some. And you said it should be controlled. Who is it that would be denied—

Mr. KENYATTA. I am speaking in terms of those who have been exposed to it to the degree where some medical supervision would know that this is the case.

Mr. RANGEL. So nonaddicts would not be eligible in the program, is that right? If you are not addicted, then you would not be able to get it.

Mr. KENYATTA. You would not be eligible for the program.

Mr. RANGEL. Now, suppose—I am just asking because you are the expert. Suppose one is not addicted and finds all of his brothers and sisters getting high off Federal heroin. Now, what does he do, or where does he go in order to qualify for the program?

Mr. KENYATTA. Mr. Congressman, what it would do—I am saying you would take the attraction out of it.

Mr. RANGEL. Mr. Kenyatta, you have given more of your life and exposed yourself more than anyone in the community to physical violence in order to do what is best for this community. And only because I know you so well I am asking you—you are going to think this one out with me before we reach any solid conclusions. But we know we have to do something with what exists now. And we certainly believe that you, far more than anyone that I know of, have said that the local law was not being enforced. And long before the Knapp Commission, you made some statements which caused you some hospital time, indicating that not only would the police not enforce the law, but they were part of breaking the law.

Mr. KENYATTA. That is what I am saying. And certainly with one who labored under such circumstances—when you find the law is not being enforced, then you must come up with some alternative. If you keep handing down large amounts of funds to the law enforcement agency and you still see nothing is accomplished there—therefore the individual who sees that he is not going anyplace, he has no alternative—

Mr. RANGEL. This is the first time that the Congress has put together any committee specifically to deal with the question of narcotics. But more importantly, the committee was put together by members that were appointed by the seven committees that have the power to legislate. Chairman Rodino is the chairman of the Judiciary Committee, and besides being in the business of getting rid of criminal presidents, he also is in charge of the criminal justice system, as well as LEAA. We have members on the Rules Committee, on the Ways and Means Committee, on the Education and Labor Committee. And all I am suggesting, Mr. Kenyatta, is that we came into existence in September—and it could very well be that many of us will be throwing up our hands, as I think you are attempting to do, and say no matter how many policemen we have, we cannot handle it. But until we attempt to do it, I hope that you would join with me and not say that we should just dispense it because we cannot control it.

This country has been able to do many things, made many medical and scientific achievements. We have made it to the Moon. We can kill anybody in any part of the world today, due to our new technology.

Please give the committee an opportunity to review this.

I think the chairman has said time and time again we have no national policy as relates to narcotics—none. It is left to local law enforcement. And it is clear from the testimony we received today that local law enforcement cannot or will not deal with the problem.

Mr. KENYATTA. Well, I am saying, Mr. Chairman, that I am hoping very seriously, if I could be assured that maybe not tomorrow, day after tomorrow, that I could walk in these areas and see a certain amount of law enforcement being enacted, then I could become a supporter of that. But I am saying if this is not coming about, then I am saying that the people of this community who have become prisoners in their own homes as a result that they have no protection—I am saying that there is no other course I can ask for.

Mr. RANGEL. You heard the commissioner say that he believes that a police officer that sees trafficking taking place in his presence should be arrested if he doesn't make an arrest. Now, I am going to personally call upon the commissioner to walk with me, because we may have the biggest roundup of police officers in this community we have ever seen.

Mr. KENYATTA. I say again—and I am hoping also that the people in this community must understand one thing. I am not in favor of creating a Fascist climate that I know is growing in this country just for the purpose of arresting these youngsters on the street when they truly don't understand and it has become a way of survival.

You hear the average youngster say this on the street today, "This is the only way I can get over." It has been said in the past—we don't have ships, we don't have planes, we don't bring it in the country. But 5 years ago we could have said that and it could have stuck. But it don't stick no more. The youngsters are out there on the street today and have no respect for the law, they have no respect for the people in the community organizations. And what I am saying is this. Either we got to be prepared to knock some heads and bring some fear back into these youngsters to the degree that they see that the people in the community really mean business—

Mr. RODINO. Excuse me, Mr. Kenyatta. When you speak that way, aren't you afraid what you are saying—you go back to the old rhetoric of just law and order and more repressive measures? This is hardly the answer to the problem in my judgment. You just said you don't want to see a police state.

Mr. KENYATTA. No, I don't.

Mr. RODINO. When you talk about knocking heads, I hope that that isn't the answer alone.

Mr. KENYATTA. But you see I am prepared, sir—let me say this—I feel that—I know the element out there, and I know how they feel. And I know that the people of this community has got to be prepared for at least until you can break down some of this "I don't give a damn." Because I know to the extreme this has to be used—and it may have to turn a lot of our stomachs. But we have to be prepared for this, because I am sure right today there are organized units out there in that street prepared to absolutely say this is the only way we can make it, and this is the way it has got to be, and they are ready to take on the law enforcement, because they have lost respect for the police department, they have lost respect for everyone else.

When you see a little child 12 and 13 years old, some younger than that, who is saying this is the only way for survival, and they are very convinced of that—I am saying that I am hoping that if this is the only way, then I am saying so shall it be.

Mr. RANGEL. Counsel.

Mr. NELLIS. I have no questions, Mr. Chairman.

Mr. RANGEL. Well, Mr. Kenyatta, I want to thank you for your testimony, and also for your willingness to cooperate with the committee's efforts. I personally will be keeping you and the community abreast of what is or is not happening. I do think that the willingness of the committee in coming here not only allows counsel to prepare an adequate record for the full committee and the Congress but, more importantly, I think some of the answers that we got as community people mean that politically we have a lot of homework to do right at home before we make an appeal to Washington.

I am very concerned with the observations or lack of them made by the city police department. But I think this is the first time in Harlem's history that we have heard members of the police force indicating at least in the rank and file that the law is not being enforced. And I think you have been saying it for at least 20 years.

So at long last you have been vindicated where they have made the same admission.

Thank you.

The meeting will now stand adjourned based on the call of the Chair.

[Whereupon, at 5 p.m., the committee adjourned, to reconvene subject to call of the Chair.]

NEW YORK CITY NARCOTICS LAW ENFORCEMENT

FRIDAY, DECEMBER 10, 1976

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,
Washington, D.C.

The Select Committee met, pursuant to notice, at 11 a.m., House Office Building Annex 2, room 3251, Washington, D.C., Hon. Charles B. Rangel (acting chairman) presiding.

Present: Representatives Lester L. Wolff and Benjamin A. Gilman.

Staff present: Joseph L. Nellis, chief counsel; William G. Lawrence, chief of staff.

Mr. RANGEL. The meeting will now come to order.

Some time ago the mayor of the city of New York made a special request to the Attorney General to increase the subsistence or aid for the New York City narcotics law enforcement.

The problem that has existed in the city of New York has been one in which the New York City Police Department has decided as a matter of policy which criminal laws and statutes they will enforce. The result has been that in certain areas of the city of New York, narcotics pushers, some well known and some not so well known, have had the opportunity to take over certain street corners, certain blocks, certain communities, and sell their narcotic wares clearly in view of the New York City Police Department.

Members of this Select Committee, with the assistance of the New York City Police Department, were able to go into police vans that were disguised, and with staff members of the New York City Police Department were able to witness sales taking place in broad daylight, many times within the sight of New York City Police squad cars and New York City patrolmen.

As a result of this blatant violation of the law, the chairman of this committee, Congressman Lester Wolff, authorized me to chair hearings in the city of New York in order to explore the extent of the problem of open narcotics sales, as well as to review Mayor Beame's request for assistance in this area.

Prior to the hearings—and included in the testimony—borough president of Manhattan Percy Sutton, New York City Chief Narcotics Prosecutor Sterling Johnson and I, as well as two undercover policemen, went into the actual narcotics markets on the street and saw that, notwithstanding the fact that we were recognized, sales continued as usual.

As a result of the publicity attending the hearings and the testimony received, a number of us met with the mayor of the city of New York and encouraged him to travel with us in that same van, the result being that the mayor witnessed for the first time the shocking display

of arrogance of the law and the continuous sale by children, adults, and aged alike, selling drugs on the streets of the city of New York.

So we have heard from the city; we have seen the extent of the problem.

But it appears to many of us from the city and in the Congress that the cities throughout this country find themselves in limbo as relates to enforcement of narcotics laws. The cities scream out saying that opium is not grown in the United States, that certainly it cannot be considered a local problem, and that their budgets in enforcing other parts of the criminal statutes have caused them to select which areas of the law they are going to enforce.

The Federal Government seemed to say—and we will have clarification on this point today—that enforcement of the criminal statutes is basically a local problem, that the Federal Government will give assistance whenever it can, but they should not rely on the Federal Government to enforce local law.

Since it is abundantly clear that it is impossible to violate local narcotics laws without at the same time violating the Federal narcotics laws as relates to possession and sales, the purpose of the hearing this morning is to find out whether or not the Federal Government has taken the same position as local government; and that is, that they will decide which crimes they will prosecute, to what degree they will prosecute. Or do they recognize, unlike the officers of the city of New York, that when a Federal law is broken, it must be enforced.

So, I take this opportunity to thank the Federal Government, and certainly Mr. Giuliani for breaking up his schedule. We had some problems the last time. But I am certain that they would have been straightened out had I spoken with you instead of my dear friend Judge Tyler, who has his own unique way of displaying his displeasure.

You have testified before this committee before. You know the problem. I have tried to give a brief outline.

Before we get to questions and answers, I hope that in a very constructive way you might be able to guide this committee not as to how we can help Mayor Beame, but how we can focus in on what is a national problem, where the major portion of the victims find themselves in the major cities.

TESTIMONY OF RUDOLPH W. GIULIANI, ASSOCIATE DEPUTY ATTORNEY GENERAL; ACCOMPANIED BY JOHN P. COONEY, JR., ASSISTANT U.S. ATTORNEY FOR THE SOUTHERN DISTRICT, CHIEF, NARCOTICS DIVISION

Mr. RANGEL. Before we start, I will ask you to raise your right hand. Do you swear the testimony you will give before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. GIULIANI. I do.

Mr. RANGEL. Thank you very much.

May the record indicate that Chairman Lester Wolff has joined us. Mr. Chairman, whenever you want the gavel.

Mr. WOLFF. No—it's your hearing.

Mr. RANGEL. Mr. Cooney, Assistant U.S. Attorney for the southern district, chief of the narcotics division. Will you raise your right hand.

Do you swear the testimony you shall give before this committee shall be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. COONEY, I do.

Mr. RANGEL. Thank you. Mr. Cooney, I hope that since I was in that division they have given it some respectability. Do they still call it the "Junk Division?"

Mr. COONEY. There are moments in the unit when we refer to it that way, but most of the time we call it the narcotics unit now.

Mr. RANGEL. I assume that the Deputy Attorney General is familiar with the selective process that your office has as relates to narcotics cases.

Mr. COONEY. Well, the Deputy was one of my predecessors in the position.

Mr. RANGEL. Well, no one would know better. Proceed at your own convenience.

Mr. GIULIANI. Thank you, Congressman. It is a pleasure to be back before this committee.

If I may, I would like to summarize as briefly as I can the statement that I submitted, and then try to help you answer the questions that you have.

Mr. RANGEL. At this point, your full statement will be included as part of the record.

Mr. GIULIANI. Thank you.

[Mr. Giuliani's prepared statement follows:]

PREPARED STATEMENT OF RODOLPH W. GIULIANI, ASSOCIATE
DEPUTY ATTORNEY GENERAL

Our society faces no problem more difficult to solve than the problem of drug abuse. The causes that can be identified with any degree of certainty span the entire spectrum of moral, psychological, sociological, economic, and environmental problems that plague modern urban America. The problem is underscored not only by the human misery suffered by those addicted, but also by the epidemic of crime created by the drug addict who is desperately in need of money to feed the ever increasing demand for drugs.

The city of New York, being America's largest city, unfortunately suffers from the problems created by drug abuse more than any other city in the United States. Frustration with this problem and with the lack of adequate resources to combat it apparently led Mayor Beame to write to the Attorney General on October 26, 1976, and ask that the Federal Government assume responsibility for narcotics enforcement within the city of New York. As one who served for 5 years in the U.S. attorney's office in the Southern District of New York and for 1½ years Chief of that office's Narcotics Section, I am personally familiar with the law enforcement problems created by rampant drug abuse in New York. I am most sympathetic with the plight of the city. However, as Mayor Beame's letter notes, the problem of drug abuse is not limited to New York City and in varying degrees adversely affects almost every city and most communities in the United States. Almost all of these cities and communities call upon the Federal Government for assistance and, unfortunately, Federal resources, like those of State and local governments, are limited.

No one would dispute the appropriateness of the Federal Government's active and direct participation in the narcotics enforcement effort. Nor would any knowledgeable person dispute the proposition that this is so because the illegal distribution of even small amounts of narcotic drugs depends upon the coordinated efforts of many individuals performing distinct yet complementary roles in different areas within the United States and diverse nations throughout the world. In narcotics cases, as with any coordinated sophisticated criminal activity, it is most difficult to reach those at the highest level of the organization. The organizational pattern exists not only to make possible the manufacture, importation and wide-

spread distribution of narcotics, but also to insulate from detection those who finance, plan and otherwise direct from afar all the elements of the narcotics traffic. Commonsense dictates that this type of coordinated sophisticated criminal activity requires an equally coordinated and sophisticated enforcement response.

Thus, the role of the Federal Government in narcotics enforcement cannot be limited to, or even primarily directed at, providing financial assistance to State and local communities in enforcing their own narcotics laws. Rather, the Federal Government must perform certain functions that cannot be adequately handled by State and local governments—interdicting drugs being smuggled into this country, investigating those cases which penetrate the interstate and international organizations which support every narcotics transaction, and uncovering those at the highest levels of narcotics organizations who make such transactions possible. In other words, the Federal role in narcotics enforcement is and must be to perform those activities necessary to the enforcement effort which are beyond the jurisdiction, limited resources, and professional expertise usually available at the State and local level.

This does not mean that the Federal Government should direct all of its resources to these goals. Of course, the Federal Government must, to some extent, participate directly and indirectly in making so-called street cases—arrests of low level retail narcotics dealers. It simply means that the primary focus of the Federal effort must be at those organizations and violators who are beyond the reach of State and local jurisdictions, while State and local governments must assume the responsibility, with appropriate assistance from the Federal Government, for arresting the retail dealers who sell narcotics within their respective jurisdictions.

All this is by way of emphasizing that the Federal contribution toward narcotics enforcement in New York City can in no way be measured simply by looking at the percentage of Federal funds budgeted for narcotics activities which are directly received by the city. In a very real sense, it can be said that just as New York City has a large percentage of the Nation's narcotics addicts and dealers, so too it receives a large percentage of the benefits from the overall Federal narcotics enforcement effort. For example, the arrest and conviction in San Diego, Calif., of individuals engaged in a conspiracy to import heroin from Mexico through the border in southern California for eventual distribution in New York City obviously benefits New York City and relieves its police, prosecutors and courts of burdens that would otherwise be borne by them. Narcotics trafficking is by no means a local phenomenon, and Federal enforcement efforts throughout the country and indeed around the world have an impact upon the narcotics problem within New York City.

In addition to the benefits indirectly received from federal enforcement activities elsewhere, the extent of the federal enforcement effort within New York City is itself very substantial. The Drug Enforcement Administration's New York Regional Office consists of over 300 employees, including 167 Special Agents. Tentative plans call for an increase of 23 additional agents to be assigned to this office. The two United States Attorneys Offices in New York City employ a total of 18 Assistant United States Attorneys who work exclusively on major narcotics cases and another 20 to 25 Assistants who spend a large portion of their time on narcotics prosecutions. In all, approximately 25 to 30 percent of the prosecutive resources in these two districts covering New York City are devoted to narcotics enforcement. Obviously this means that a very significant portion of the federal court caseload in New York City involves narcotics prosecutions.

Of course, I am in complete sympathy with the central point of Mayor Beame's letter that local narcotics enforcement nonetheless imposes a tremendous burden on New York City's resources, a burden which he believes should be alleviated by the federal government's assuming the entire burden of funding New York City's narcotics law enforcement efforts. However, the level of federal aid to local narcotics enforcement in New York City is already quite substantial, and far exceeds that provided to any other state or city. The federal government bears almost the entire cost of the New York Drug Enforcement Task Force. DEA provides agents, funds for purchasing evidence and paying informants, rental of physical facilities and vehicle maintenance from its budget. At present 39 Special Agents are assigned to the Task Force, and 4 more should be brought in soon to bring DEA staffing up to a ceiling of 43 agents. The cost to DEA in Fiscal Year 1976 of agents' salaries and the other expenses listed above was \$2,397,623. In addition, DEA has purchased 115 vehicles for the Task Force, at an additional cost of \$443,754. During the past five years, over \$4 million in LEAA grants have been made available to New York City to defray the costs of the city policemen's participation in the Task Force.

Moreover, DEA's New York Regional Office provides intelligence assistance to the New York City Police Department. For example, over the past 13 months DEA in New York supplied approximately 12,300 names of suspected narcotics traffickers and their associates in response to requests for intelligence information, most of which involve direct requests from the New York City Police Department.

LEAA has overall provided a significant amount of money to New York City for drug abuse control. Since fiscal year 1972, well over \$25 million has been made available for drug enforcement, prevention and treatment. Perhaps the most significant indication of the level of federal aid which has been given to New York City for drug enforcement is the fact that of the total of approximately \$64 million in LEAA discretionary grants to state and local jurisdictions for drug enforcement which were made in fiscal year 1972 through fiscal year 1976, roughly \$22.6 million, or more than one-third went to New York City. The Special Narcotics Court program alone has accounted for almost \$17 million, with the remainder going for such efforts as the Unified Intelligence Division, and the Task Force program. These resource commitments far exceed drug abuse support in any other local jurisdiction. Moreover, when the totality of LEAA funds which have been provided to New York City for all purposes is considered, and not simply those funds specifically provided for drug enforcement efforts, the records reveal that New York City has received approximately \$110,000,000 since fiscal year 1972.

While it can be said that much more could be done, the level of LEAA assistance which has been provided is quite remarkable in view of the statutory constraints on LEAA's budget and the competing pressures for its limited funds. By statute, 85 percent of all action funds received by LEAA must be turned over to the states in the form of block grants, and the federal government cannot specifically direct how these funds are to be allocated by state planning agencies. It is our understanding that in recent years the New York State Planning Agency has cut back its use of LEAA block grant funds for drug abuse programs, since such programs have been financed with State funds instead. Moreover, even the 15 percent of the LEAA budget which is retained by it for distribution as discretionary grants is not subject to distribution at LEAA's unfettered discretion. Both directly, by statutory constraints, and indirectly, by expressions of intent, Congress has set certain priorities for the distribution of these funds. Since 1973, Congress has established the areas of juvenile delinquency, courts and corrections as priorities in the awarding of LEAA grants. Thus, only a very small percentage of the total LEAA action budget of \$487,057,000 in fiscal year 1977 is available for drug abuse programs.

The funding problems of the New York City Special Narcotics Courts Office of Prosecutions illustrate another of the constraints upon the use of federal funds to support local narcotics enforcement efforts. This component of the Special Narcotics Court Program has been funded by LEAA discretionary grants, which by statute may only be used to fund "demonstration" programs, not local programs *per se*. The funding of this program for five years already constitutes an exception by LEAA to its normal policy whereby such programs receive only three years of financial assistance. While LEAA discretionary funds are no longer available, block grant funds could be used to continue federal financing of this Office. This decision rests with the New York State Planning Agency.

Wholly apart from the above considerations relating to the amount of federal resources which can be made available to jurisdictions such as New York City for local drug enforcement programs, there is of course the additional broad policy question of the extent to which local enforcement efforts should be federally financed. In this connection, it should be mentioned that DEA developed an LEAA grant application for \$8 million in January 1976 for the New York City Police Department to support the salaries of some 155 policemen. This application, which received the tacit approval of the Commissioner of Criminal Justice Services for the State of New York, was subsequently not endorsed by the New York City Police Commissioner due to his concern that it would result in these policemen being too far removed from his control. Moreover, he felt that such assistance would be antithetical to the city charter, since he would be relinquishing certain city responsibilities enumerated in that charter. These views articulated by the Police Commissioner do not appear to be in concert with the Mayor's suggestion that there should be even more extensive support for the police department to augment existing operations against drug abuse and crime.

This Department's agencies will, of course, continue to provide such resources as are available to enhance the drug enforcement capabilities in the City of New York. An increase in federal assistance to New York's own enforcement efforts,

substantial as it has been in the past, certainly should be considered. However, an increase of the magnitude which Mayor Beame seems to propose in his letter is simply not feasible. It is neither realistic nor prudent to expect the federal government to assume the entire burden, financial or otherwise, for enforcing the New York State laws prohibiting possession and distribution of dangerous drugs. Indeed to do so would require the federal government to assume that responsibility in any number of other cities, and such an extensive federal assumption of local police powers is unwarranted and unwise. The emphasis in federal enforcement efforts must remain upon the interdiction of narcotics entering this country, the disruption of narcotics trafficking networks, and the investigation and prosecution of major drug violators. As mentioned earlier, this federal strategy should have an effect upon the quantity of substances entering this country and their subsequent redistribution, resulting in a decline in drug availability in the streets, and thereby alleviating narcotics related problems in New York City and other areas. At the same time, the federal government through LEAA assistance to local enforcement efforts can, and should continue to, lend financial and technical support.

Throughout this statement, I have focused on the law enforcement response to the drug abuse problem since that is my own area of expertise, and the Department of Justice does not have any direct responsibility for overseeing or financing drug treatment and prevention programs. As Mayor Beame recognized in his letter, however, law enforcement efforts cannot constitute the totality of our response to the problem of narcotics abuse. For too long those who freely comment on the drug abuse problem have tended to put most of the burden of solving the problem of drug abuse on law enforcement. The law enforcement community—police, federal agents, prosecutors, courts, corrections officials—receive such a minuscule share of the governmental budget, federal, state and local, that it is unrealistic to suggest that with such limited resources they can solve a problem as varied and as complex in its causation and effects as drug abuse. Even if law enforcement resources were quadrupled, I would doubt that law enforcement alone could solve this problem. We should stop trying to promise that more money, more police, more prosecutors, more jails will solve the problems created by drug abuse. To do so merely raises the public's expectations, only to be cruelly dashed by actual results. Law enforcement can have an effect on drug trafficking. It can reduce the level, and at times be remarkably successful. Indeed, more resources wisely used would be very helpful. But more resources for law enforcement will not "solve" the drug abuse problem.

The creation of this Select Committee and the inclusion of so many Members who have devoted a good deal of effort during their careers in Congress to addressing the problems of drug abuse has been, and will continue to be, an important contribution to educating the entire Congress and consequently the public to the necessity for devoting not only more money, but more time, thought and experimentation to all the varied aspects of this problem. As I am sure you already realize, the solutions to these problems will require the contribution of those in many disciplines, not just solely law enforcement officials.

Mr. GIULIANI. The city of New York, being the largest city in this country, obviously faces the problems created by drug abuse more acutely than any other city in the United States.

I imagine the frustration with this problem and with the lack of adequate local resources to deal with this problem led Mayor Beame to write to the Attorney General on October 26, 1976, and ask that the Federal Government assume almost complete responsibility for all narcotics enforcement within the city of New York.

However, as Mayor Beame's letter notes, the problem of drug abuse is not limited just to New York City and in varying degrees adversely affects almost every city and most communities in the United States. Almost all of these cities and communities call upon the Federal Government for assistance, and unfortunately Federal resources, like those of State and local governments, are limited.

No one would dispute the appropriateness of the Federal Government's active and direct participation in the narcotics law enforcement. Nor would any knowledgeable person dispute the proposition

that this is so because the illegal distribution of even small amounts of narcotic drugs depends upon the coordinated efforts of many individuals performing distinct yet complementary roles in different areas within the United States and diverse nations throughout the world.

In narcotics cases, as with any coordinated, sophisticated criminal activity, it is most difficult to reach those at the highest level of the organization. The organizational pattern exists, not only to make possible the manufacture, importation, and widespread distribution of narcotics, but also to insulate from detection those who finance, plan and otherwise direct from afar all the elements of narcotics traffic.

Commonsense dictates that this type of coordinated, sophisticated criminal activity requires an equally coordinated and sophisticated enforcement response.

I might add that narcotics investigations, as you know, Mr. Chairman, are unlike in some ways almost any other investigation of criminal activity, because you can always be sure of one thing in a narcotics case, and what you can be sure of is the fact that below the surface, supporting the case that you have made, is a large, large chain and network of other individuals who are involved and responsible for the crime. So that when you deal with, let's say, the arrest of a single narcotics dealer, as opposed to, let's say, a single bank robber, whereas a single bank robber may have carried out that crime by himself, independently, it is always true that in every narcotics situation there were maybe 30, 40, sometimes 100 other individuals who were in one way or another involved and made possible the single narcotics case that is the subject of the arrest.

Mr. RANGEL. Do you think under the oath which U.S. attorneys have taken they have the constitutional right to decide which part of the conspiracy they will enforce?

Mr. GIULIANI. I don't know if—I think it is a practical problem more than it is a constitutional problem. A U.S. attorney, even in a district as large as New York, with 100 assistant U.S. attorneys who work, as I know, usually until 9 or 10 o'clock every night, and most weekends, can prosecute only a certain number of cases. It would be virtually impossible for that office—it would be impossible for that office to prosecute every single violation of Federal law that is brought to its attention.

Mr. RANGEL. Isn't it impossible because the budget in the office has been set up to selectively prosecute cases?

Mr. GIULIANI. There is no doubt that prosecutorial discretion is exercised. I don't know that our society would want the U.S. attorney to prosecute every single case that comes to his attention. But in fact we would have to revolutionize the budget of the Justice Department in order to have—

Mr. RANGEL. That doesn't bother me. We have widespread crime. We have a complete breakdown in respect for the law. People don't care whether it is local, State, or Federal law. And I have been a part of this policy in just believing because it has been done this way, that it is impossible to expect the U.S. Attorney's Office to enforce every Federal statute that has been broken. The same way I would believe that it would be impossible for the Federal Government to assume

responsibility for any potential epidemic that may sweep the country. Of course, that was before President Ford decided that swine flu was such a type of epidemic that we had to do it.

I think we do have an epidemic that is sweeping the country, and it is narcotics addiction. And I want your testimony, not as a matter of policy, but as a lawyer—because I, as the other members of this committee, have to go back home and see how we reached this point, that an assistant U.S. attorney can say, "Yes, it is a violation of the Federal code, but he is just a small part of a larger conspiracy," or he did not have enough narcotics, or he is half pregnant in violating the Federal law, he didn't violate it enough to meet our high standards. Because you now have encouraged my city police to assume this very elitist attitude, and they, too, are saying "The district attorney doesn't want this type of case."

Now, I want to find out how we reached the policy and how it meshes in with the oath and, indeed, the Constitution. Who decides which Federal laws are going to be enforced?

Mr. GIULIANI. Well, Congressman, let me see—I am sure you know the history, but let me see if I can just put it on the record.

First of all, we are faced with a history of at least over the last 6 or 7 years, of budget requests made to the Congress by the Department of Justice for increased resources for U.S. attorneys that are almost invariably cut in half. So that the Justice Department, for instance, during the most recent budget process, asked for 400 additional assistant U.S. attorneys and was given 200 additional.

Mr. RANGEL. Let's follow that through, without getting into the question as to whether you double your budget to get what you want. But then the first thing we are saying is, you are restricted by the amount of dollars that is available for you to do your job.

Mr. GIULIANI. Practical reality makes it impossible for the U.S. attorney, certainly in the southern district of New York, the one I am most familiar with, to prosecute any more cases than he is presently prosecuting. He probably is not at this point efficiently prosecuting even the cases that he has. The assistants in that office are enormously overworked. By "enormously overworked" I mean it is rare to find an assistant who isn't there on Saturday, isn't there on a Sunday, isn't trying many more cases than he should be to give the Government the best service possible.

Mr. GILMAN. Will the gentleman yield?

Mr. RANGEL. Of course.

Mr. GILMAN. Mr. Giuliani, what portion of your criminal prosecution budget is devoted to narcotics prosecution in the southern district?

Mr. GIULIANI. It is very hard to break down those figures. That office, as I recall it—and Mr. Cooney can correct me if I am wrong—probably spends about anywhere from 35 to 40 percent of its resources on narcotics prosecution. Out of a total of 100 assistants, approximately 65 of whom deal with criminal matters—we also have the civil side of the docket to deal with—I think it is 14 now that devote themselves exclusively to narcotics cases and what is called the short trials unit, which is made up of—it varies anywhere from 15 to 20 assistant U.S. attorneys—spend at least half their time prosecuting narcotics cases.

Mr. GILMAN. What percentage of the criminal cases that evolve out of the southern district are narcotics cases?

Mr. GIULIANI. Thirty percent. It varies at times—33, 34, 40 percent of the criminal docket in the southern district is narcotics cases. And you must realize that you are also dealing with the district that produces a lot of other crime, and it produces a lot of other sophisticated crime. And in that way is unique.

You have the stock market in New York, and therefore you produce any number of large securities fraud cases that require manpower to be devoted to those cases. And it takes a great deal of time to try those cases.

Mr. GILMAN. Are you saying that a third of your budget and personnel are devoted to narcotics, and that about a third of the crime in the southern district is narcotics-related crime?

Mr. GIULIANI. It runs back and forth, around the 30-percent level that is right.

Mr. GILMAN. This committee has heard testimony that approximately 30 to 40 percent of the Nation's narcotics traffic is centralized in the Metropolitan New York region. Is there an inequitable proportion of the LEAA and Justice Department budgeting that goes into Metropolitan New York based on that statistic?

Mr. GIULIANI. I think that ends up being pretty close to the proportionate amount of money available to LEAA to spend at their discretion that is given to New York City for narcotics enforcement.

Mr. GILMAN. Is 30 to 40 percent of the Nation's LEAA and narcotics enforcement budget distributed to New York City?

Mr. GIULIANI. That is money which is free of statutory and other constraints. That ends up being a very, very small percentage of the amount of money that LEAA has available; 85 percent of the funds available to LEAA must be spent at the discretion of the State planning agencies, and LEAA has no real effective control over how that money is spent. So we are talking about the remaining 15 percent. And part of that money has been earmarked by Congress for other purposes.

Mr. GILMAN. What does that mean in dollars?

Mr. GIULIANI. If I could look at my statement, I could give you the exact amount.

Well, from fiscal year 1972 through fiscal year 1976 approximately \$22.6 million, or more than one-third of the money available free to be spent at LEAA's discretion for narcotics enforcement was given to New York City.

Mr. WOLFF. Would the gentleman yield at that point.

Do I understand correctly—information that I had obtained from Mr. Bensinger is the fact that the city turned down some \$10 million of \$11 million of LEAA funds for narcotics enforcement. Am I correct in this?

Mr. GIULIANI. That is my understanding also, Congressman. As I understand it, LEAA and the State planning agency put together an application for a grant of \$10 million for LEAA to grant money to the New York City Police Department to offset the cost of narcotics law enforcement officers within the New York City Police Department doing narcotics investigations. It was apparently approved by everyone who had to approve it, and the police commissioner rejected it.

on the theory that the various requirements that follow from an LEAA grant would take away control, his own personal control, over the officers in the New York City Police Department. I am not quite sure exactly which ones of those restrictions he was upset about. But one example—and this is a problem that comes up in other jurisdictions—is that if you accept an LEAA grant—and we have had this problem in Los Angeles and in Philadelphia—there are EEO standards that apply, and the grant is cut off if you don't comply with the EEO standards. I am not sure that was the reason. But there are a lot of restrictions that follow with the acceptance of Federal money, and the police commissioner, in balancing one against the other, decided that he didn't want the restrictions.

Mr. WOLFF. So funds were available but were not utilized by the city of New York.

Mr. GIULIANI. Yes, sir, that is absolutely correct.

Mr. WOLFF. The other point that I would like to just follow up with—if the gentleman would yield further—you indicated that about 30 percent of your resources are devoted to the narcotics effort in New York. Am I correct on that?

Mr. GIULIANI. I think that is about right.

Mr. WOLFF. Now, obviously it is inadequate, because you have indicated that you were not prosecuting all of the people who are trafficking. This means that you have to be selective.

One thing I think this committee would like to know is how is the process of selectivity determined. That is the first question. Second, how much would you need in order to do the full job.

What we are doing here, in being selective, is the same thing that we have been doing in the way of interdiction of drug trafficking, and claim great successes, with the 10 percent of interdiction, and 90 percent of the stuff travels freely through the world. I am talking about the narcotics end.

Now, if you are saying that 30 percent of the criminals are being called to account, that means that two-thirds are not being called to account. And it certainly doesn't look to me as if we are making a very significant effort here.

I would like to know from your office what you would consider to be necessary in the way of funding in order to do the complete job that is necessary, with the increase of narcotics trafficking and related crime. We have had a number of people come before this committee and say that 79 percent of all street crime today in the United States is drug-related crime. Now, if that is the case, and you are only prosecuting 30 percent of the people involved in the drug traffic, what about the rest of the people who are involved in street crime that the 66 percent relates to?

I think this is the crux of the problem we are talking about here.

I don't think we want numbers. This committee is not interested in numbers, in the number of arrests that are made or the number of prosecutions that are made. What we are interested in is the overall objective of reducing the amount of traffic. And you cannot do that if you are going to use a garden hose on a forest fire.

Mr. GIULIANI. I would like to ask Mr. Cooney to explain, since I have been away from it for about a year and a half, how a decision is made to take one case and decline another.

But could I just say something very general about your question. One of the problems that inheres in trying to revolutionize the practice of the Federal Government in taking all narcotics cases, not only would the Congress have to be prepared to significantly increase the budget of the Justice Department, to hire the prosecutors that would be necessary to do it, but all throughout the rest of the Federal system the same kind of change would have to take place. That would mean that we would need many more Federal narcotics agents than I think the 2,000-some-odd that we have now. We would need many more judges in that district and others to handle those cases. We would need more marshals. We would need more prisons.

Mr. WOLFF. We understand this. But if there is an invasion that takes place by an adversary of our shores, we don't call up the city police in the place that these people landed, or we don't call up the National Guard; what we do is call up the Army, and our defense forces.

This situation requires a national handling of the problem in cooperation with the local authorities, instead of the other way around. What we are having now is the cooperation of the Federal Government with the local authorities, and the local authorities are not equipped to handle this problem.

Mr. GIULIANI. I don't think that is correct, Congressman. I have to disagree with that. I don't think we have the Federal Government cooperating with the local authorities, the local authorities taking the lead in narcotics law enforcement. For better or worse—and even given the severely limited resources that Federal prosecutors have—I think the lead is being taken by the Federal Government, with some communities actively, willingly, voluntarily, and very effectively participating in that effort and others doing absolutely nothing, where the Federal Government has to take on almost the whole burden.

Mr. RANGEL. Mr. Giuliani, that response is subjective. But I think we will be able to get into that. I hope that during these hearings, if you can assume an attitude that you could just divorce yourself of your budgetary problems—which I know is very difficult for you to do—but your written testimony and that of the New York City Police Department seems to be guided by budget problems. We know what the problem is, and we don't think that we are going to throw dollars at it and it is going to go away.

But this statement of Commissioner Preiss: "We should stop trying to promise that more money, more police, more prosecutors, more jails, will solve the problems created by drug abuse." There is nobody here that can disagree with that statement. Some of us believe that that is not within Justice's jurisdiction. Some of us believe that Justice has to take care of that part of the law that deals with criminal prosecutions, and the Congress is charged with the overall responsibility to see what other things are necessary to deal with the problem.

We find more sociologists in the New York City Police Department telling us why arresting this pusher is not going to help, and who is going to take his place. And they are not hired to do social service. They are hired to arrest people that are committing crimes at present.

And as Mr. Cooney starts to explain the selective process, I hope he starts with the fact that the Drug Enforcement Administration makes the selective process even before it reaches you, and then you go on to determine among that number which part you will select.

Mr. GILMAN. Mr. Chairman, if you would yield. In explaining this process, I hope that you will also touch on the fact that Sterling Johnson has reported to us that there is a backlog of some 1,200 narcotics cases, and that they have been able to prosecute only some 200 cases last year, which indicates to us that the backlog of untried cases has reached a crisis situation in New York City. It seems to me that the Justice Department has an oversight function with regard to the manner in which these federally related crimes are prosecuted. I hope you will touch on that, especially in light of President Ford's message to Congress last April, where he declared war on drugs and said it is time that we mobilize Federal forces to try to resolve the problem.

What has Justice done during the past year to try to change this picture, and what do you recommend for the future?

That is the kind of testimony we are looking for from both of you.

Mr. COONEY. Congressman, with respect to the process, I think one of the easiest ways to answer it for your benefit and for our benefit is to describe to you some of the cases that we have brought recently, in the last 3 months, in the last year, and the last 2 years, to give you an idea of the type of crimes, the type of cases that we feel we should be prosecuting and where we feel the impact of Federal prosecution is greatest.

Mr. RANGEL. Let me interrupt, because I want to state for the record the high respect for the U.S. Attorney's Office, not only in the southern district, but throughout the United States. I have absolutely no problem with the high degree of quality of the cases that have been prosecuted with its limited manpower and limited resources. My question perhaps is an academic question, so that the Congress can really face up to the problems that you are facing.

For you to tell us the high quality of work that you are doing with the limited number of assistant U.S. attorneys—I think the record will speak for itself, and certainly the publicity attributed to those cases by the Drug Enforcement Administration speaks highly for what they have been able to do in order to make those cases.

What we are trying to say is that if the President has declared war, if the President has asked for mobilization, please don't just tell us what your problems are. Tell us what you see the problem is so you cannot do better in the area, so that we can then make another selective judgment as to what is necessary.

It could very well be, as in the case of Sterling Johnson, and as a result of our hearings arrests have been made, 483 arrests. But that doesn't solve the problem, because he hasn't got the prosecutors. If he had the prosecutors, I doubt seriously whether the courts could handle it. If they can handle it, maybe there would be a problem with the jails. With the jails, we will then have to go into reform and rehabilitation.

But I want to find out how law enforcement individuals, whether they are drug enforcement administrators, or New York City policemen, can make this judgment as to who is going to be arrested and

prosecuted. That is what I am dealing with—not the quality of your cases, but do you believe, as the head or the chief of the narcotics division, that if a New York City policeman brought in a man and said that there is evidence that this man has violated the Federal narcotics laws, and he recited to you the Federal code, and he brings him into your office, and you have taken an oath to enforce the laws of the United States—somewhere along the line you would have to in certain cases refuse jurisdiction. And that is what I am concerned with.

Mr. COONEY. Well, Congressman, let me just clarify for the record that when we refuse, when we decline, as we do decline to prosecute in certain cases in the narcotics area, that does not mean those cases go unprosecuted. They are, as I am sure you are aware, then referred to the State for their prosecution. The State has their own particular problems. They are pragmatic, economic problems, which they suffer, and we are entirely sympathetic to.

Mr. RANGEL. They are dismissing cases in New York State, not only because of the statute of limitations, but because after 2 or 3 years, they have no cases. I know their problem. We have created some of their problems.

Now, we don't want you putting in a budget about what you would like to do when you already told the U.S. Congress that you don't believe arrests are going to resolve the problem. We don't want you asking for more money when as a matter of fact many of the assistant U.S. attorneys don't want to prosecute these "garbage" cases.

Mr. GIULIANI. Congressman—I'm sorry if the statement dealt with the budget. But I think the problem comes down to budget in the long run.

Mr. RANGEL. I don't think so.

Mr. GIULIANI. I beg to differ with you.

Mr. RANGEL. I think it is a very elitist attitude that prosecutors, I having been one, take, that there is some degree of pride in the type of criminal that you have taken off the street. And if I had the right to determine whether I wanted a local street pusher or someone that was on top of the criminal conspiracy, our egos and prestige dictate which cases we will take.

Now, I am asking the real question. There is no question that the man violated the law. And you are declining jurisdiction under the assumption that it is being transferred to local jurisdiction. What authority in the Constitution will you have as a U.S. attorney to turn down that case? And suppose local government said they refused to take it, too?

Mr. COONEY. Congressman, my responsibility as the chief of the narcotics unit is to make sure that the Federal resources are spent and used in the best way possible to stop the narcotics traffic in New York.

Mr. RANGEL. Could you make a public statement about any cases that would come to your office that, given existing resources, these are the type of cases that the Federal Government declines jurisdiction? Are you prepared to say that? I know it happens.

Mr. COONEY. If it were a choice between using an assistant U.S. attorney to prosecute Matty Madonna, who was just convicted in our courts, who has a record of criminal violation since he was 19 years old, when he committed a murder, murdered one of his custom-

ers for an \$800 narcotics debt, when he supplied multikilogram quantities of heroin to Harlem right now—he is documented and believed to be the source of heroin for the Nicky Barnes organization—if I have to decide between prosecuting him, using my resources to prosecute him, or prosecute some 16-year-old kid selling nickel bags, I will go for Matty Madonna, because he won't be replaced tomorrow, Congressman.

Mr. RANGEL. I know the decision you have made given your analogy. Now I am testing your authority to do that. I am asking under what policy, if in fact cases were brought to you for violation under Federal law, and admitted that you cannot prosecute all of these cases—under what authority do you decline to prosecute, because you cannot decline jurisdiction if it is laid out that it is a violation of Federal criminal law. You just cannot say it is not a violation.

I want to know the authority—and I have done the same thing you have—and you can feel free to interrupt—as to how can the Justice Department of the United States of America say that in view of a restricted budget, certain crimes will not be prosecuted by you.

Mr. GIULIANI. It is a very well accepted legal doctrine—and I don't have the cases with me to support it, but I would be more than willing to supply them—that a prosecutor exercises discretion on any number of grounds. One of those grounds recognized by cases and by the standards of the American Bar Association—and I venture to guess by every prosecutor who exercises discretion—is the simple, practical decision that has to be made as to how he is going to use his resources most effectively, the kind of decision that Mr. Cooney gave us an example of just a moment ago.

If you have a number of assistant U.S. attorneys, that is all you have, that is all the Congress will give you, even though you have asked for more, you have to use them in the way you think is the most effective. They cannot prosecute every single case that comes into the office. Maybe in some instances—and I am sure there are instances where we make the wrong judgment in the allocation of resources—but I think it is a useless exercise to suggest that the U.S. Attorney's Office could conceivably prosecute every single crime that was brought into its office with anything like the level of resources that has historically become the number that has been assigned to the Justice Department.

Mr. RANGEL. First of all—

Mr. GIULIANI. For instance, a marihuana case. If an agent comes into the office—and I have seen plenty of them—and says:

We have reason to believe, because we have arrested two people already, that there is a marihuana ring operating in a place; we would like to put in a title III wiretap, and we have good, solid probable cause to establish that we can catch 20 or 30 people dealing in marihuana.

Well, that is a violation of Federal law that as the assistant U.S. attorney I have taken the oath to enforce and prosecute. but I also know to man a title III wiretap will take up the time of 12, 13 enforcement agents for 1 week, 2 weeks. I know that if that case is made, the way it is litigated through the courts, it will take up almost the full time of two assistant U.S. attorneys, because litigating the problems created by a wiretap are enormous. I think I would

not be doing my job effectively if I authorized that kind of an arrest and that kind of activity.

Mr. RANGEL. You would probably be fired. But you are being subjective, and you are talking about what is realistic. I don't recall recently the U.S. Attorney's Office fighting for jurisdiction over these types of cases. Indeed your statement refers to local problems throughout. You have declined without requesting—"It is neither realistic nor prudent" and "prudent" is the word I am concerned with, "to expect the Federal Government to assume the entire burden, financial or otherwise, for enforcing the New York State laws prohibiting possession and distribution of dangerous drugs." If you substitute "United States Criminal Code" for "New York State laws," it would say that it is neither realistic nor prudent to expect the Federal Government to assume the entire burden, financial or otherwise, for enforcing the Federal laws prohibiting the possession and distribution of dangerous drugs.

Now, what right do you have to say that it is the New York State law, when in fact—we don't have you here to talk about the New York State laws. We have the New York City police to talk about that. They say I have no right to expect them to enforce the Federal laws.

Mr. COONEY. May I just clarify one thing, Congressman. One of the factors in the decision of whether the State or the Federal Government should prosecute a particular type of case is the difference in the laws. The State laws, you are no doubt aware, have very, very stringent penalties for the sale of heroin and other drugs over a certain level, more stringent than the Federal law, for instance. The Federal law, on the other hand, has a very, very liberal view of the concept of conspiracy in its criminality.

Mr. RANGEL. The last time I examined the question of the penalty, the sanction was not within the discretion of the prosecutor.

Mr. COONEY. I am not suggesting that.

Mr. RANGEL. But you take this into consideration.

Mr. COONEY. I am saying that there are cases which we can prosecute, Federal narcotics conspiracy cases, entirely historical cases, perhaps, which are not prosecutable in the State. There are cases—and therefore we assume the major burden in prosecuting those type cases.

Mr. RANGEL. I can understand how you can get together and decide which one could more successfully prosecute a case. I am not concerned with where you agree. I am concerned where both of you are declining jurisdiction. I am very concerned that it is not that question of a narcotics murder or kingpin. You have now been so selective and the New York City Police Department has been selective, for budgetary reasons, that now you are going into a class of citizenry that can no longer expect enforcement of the law on a local or State level. I am saying that on the streets of New York, documented by testimony under oath, witnessed by the chief executive of the city of New York, the chief of the police department, videotapes which Justice has seen, that we are now caught in the major cities in jurisdictional limbo, as people are declining jurisdiction based on budget. Nowhere in the testimony has anyone screamed out for more assistance to enforce the law right down the line. But everyone is talking about this really doesn't solve the problem, to enforce the law, and even if it did, "I don't have the resources."

Now, your testimony is that it is a local problem.

Mr. GIULIANI. I don't think that is my testimony.

Mr. COONEY. It is not my testimony, either.

Mr. RANGEL. You say it is neither realistic nor prudent. I say it is realistic and prudent for American citizens to expect that somewhere in these United States that is somebody, a drug enforcement agent, Federal Bureau of Investigation, a U.S. marshal, Wyatt Earp, the U.S. Attorney's Office—somewhere where there are constant, consistent hundreds of violations of the Federal Criminal Code publicly, in front of law enforcement officers—that somewhere I have to find out an answer as to why my Government says that it is neither realistic nor prudent to expect them to prosecute.

Mr. COONEY. Congressman, I would like to be able to read what the Federal Government has done in the area of narcotics in the southern district of New York.

Mr. RANGEL. You know there is not a member of this committee that has not taken the leadership in getting more for Justice, more for DEA. We have done this. We have taken our time to go to the origin of this, we understand the complexity. I don't know how to reiterate the pride and admiration that I have for having been associated with your office. I am saying, however, that I live on 132d Street and Lenox Avenue. It does not do us well to read in the Daily News about the fine work of the U.S. Attorney's Office when what you may consider minor—and we would consider major—violations of the Federal law exist.

So please, let me state for the record that the U.S. Attorney's Office, as far as I am concerned, stands second to no Federal law firm in doing the best they can with what they have. I do have a problem as to whether or not you want jurisdiction. I do have a problem as to whether or not there are some other factors as to why it has been declined. But please try to stick with the fact that the Federal law is being violated. I wish I could hear something more affirmative and positive as to if you were in charge, making the decision, what you would like to do. I'm afraid that your office would say that "We would like for local to handle that type of crime and we would like to handle the other." I don't think you have that right.

Mr. GIULIANI. I don't think that has been the policy of the southern district of New York during the 5 years that I was associated with it, a policy of only dealing with conspiracy cases and only dealing with major cases. I think more than any other prosecutor's office, with maybe the single exception of San Diego, the southern district of New York prosecutes a large, large number of street cases, and it does it for a couple of reasons. In fact, the balance between street cases and major cases is in favor of street cases, if you look at the numbers of narcotics cases in the southern district of New York.

Mr. RANGEL. Why should the local government be involved in this at all?

Mr. GIULIANI. Because they have elected to make it a violation of State law, and they have a responsibility. I think it is absolutely tragic for the city of New York to be coming to the Federal Government and wanting to give away what is and should be an important and guarded prerogative, local law enforcement of a city. A city should not cede away to the National Government the prerogative of enforcing certain laws.

Mr. RANGEL. All right; but assuming that the situation is such that we are prepared to do it—and whether you and I agree or not, it has happened. Now, this is a very serious question of home rule. But it is not the first time the city of New York has yielded to the economic pressures. We have no home rule. It is the New York State Emergency Control Board. That is a terrible blow to our prestige, but it is real.

Are you saying that if we didn't have that law on the books, to make it a State crime, that you would have no choice except to assume jurisdiction?

Mr. GIULIANI. No; we do assume jurisdiction. I don't think the U.S. Attorney's Office in the Southern District of New York, whether there was a State law or not, could prosecute any more narcotics cases than it presently prosecutes unless it had more assistant U.S. attorneys.

Mr. RANGEL. I agree; but you have not screamed out for more in this area. Are you prepared to testify today that if cases were brought in by the New York City Police Department, citing violation of the Federal law—and whether you call them citizens arrests or whether you say you deputize them, since you probably don't have that many DEA agents—suppose they were to come into the U.S. Attorney's Office and the case was presented to you, as a lawyer for the U.S. Government, that these people have violated the Federal law. What would you do with them?

Mr. COONEY. Congressman, if the question is today, given our limited resources, whether or not we use our discretion to determine which cases we can and should prosecute, in all areas—narcotics, bank robbery, whatever else, mail fraud, mail theft—we use that type of discretion, and frankly I think it is the proper thing to do, given limited resources.

Mr. RANGEL. How would you word your declination of prosecution?

Mr. COONEY. It would depend on the case.

Mr. RANGEL. No; Mr. Giuliani was talking about some case law. I assume you would like to have this case law, because I am assuming further that the New York City policeman will already have a statement in his hand that it is impossible for the New York State criminal justice system to prosecute this man—"We now rely on our Federal Government to use its law enforcement system to prosecute this man for violating the Federal narcotics laws." And here they are—100 of them.

I want to hear what cases are going to be cited when there is no alternate jurisdiction.

Mr. GIULIANI. Well, the simple fact is if you don't have the people to prosecute the case, you cannot prosecute the case.

Mr. RANGEL. That doesn't mean you cannot indict. You arrest under Federal authority.

Mr. GIULIANI. And the effective result of all that is the same kind of breakdown in the criminal justice system, the Federal system, that you have in the local system.

Mr. RANGEL. You are talking about criminal justice 101. I am talking about the U.S. Constitution. You can't say because there are three murder cases that you are going to decide whether prosecution is a deterrent to murder. You can't determine how many other cases are there. I am asking whether you are going to arrest the person for the crime charged. Then you are going to come back and say, "Now that you have had me enforce the law under the Constitution, now what

are you going to do about it?" I agree. But I don't see these constitutional decisions being made in the first instance, where you are going to refuse to arrest this man when probable cause has been laid out for you under existing case law that he violated our Federal law.

If you want to get into the question as to what happens when you indict, who is going to take it to the grand jury, who is going to handle the hearing, who is going to try the case, and where does he go from there, these are questions that you should be asking and demanding of us.

I am asking how do you refuse to arrest this man when he is brought in with the smoking gun?

Mr. GIULIANI. The simple fact is that we never refuse to arrest a man who is brought in with a smoking gun.

Mr. RANGEL. Well, now, let's find out whether that is a realistic statement. There is where we interrupted Mr. Cooney. If we can get to that point, then perhaps we have cleared up a lot. Because first of all I understand a lot of smoking guns are rejected by the Drug Enforcement Administration so that your office will not embarrass them. I can understand that.

Now, among the smoking guns being brought in, and assuming, using this term, that we mean that there is no question that there is probable cause to believe a crime has been committed, a person committed a crime—many of these people you don't arrest federally when brought in by local officials.

Mr. COONEY. Once they are brought in, they are arrested. If a police officer has brought him in, he doesn't give him a subpoena, Congressman. He has been arrested, brought in to us—

Mr. RANGEL. Who has jurisdiction when the New York City police officer brings him to your office?

Mr. COONEY. As far as I know, a New York City police officer, unless he is working with the joint task force, arrests for the State.

Mr. RANGEL. He has jurisdiction. Listen carefully to my question. This New York City police officer just happens to be a citizen who in addition to that is a police officer, and he has laid out the case, conspiracy or single sale. And he brings him to your office, with six witnesses. And I am one, a Member of Congress, saying this man sold drugs at 132d Street and Lenox Avenue—we saw it. And here is the taped conversation of the transaction—less than an ounce.

Mr. COONEY. What is the question? Would we take it?

Mr. RANGEL. The question is will you arrest him? He would have to be rearrested for jurisdiction.

Mr. COONEY. Would we arrest him and arraign him—we probably would, yes.

Mr. RANGEL. Because I was there?

Mr. COONEY. In any case where someone is brought in; when we intend, for instance, to decline in favor of State prosecution, we normally arraign him, have bail set, and make arrangements for the State to take him.

Mr. RANGEL. When you say "decline," that is the area where Mr. Giuliani and I have a problem.

Mr. COONEY. I said decline in favor of State prosecution.

Mr. RANGEL. OK; but that is not realistic. You said that you never refuse to arrest. He is saying we do arrest when the State has jurisdiction.

Mr. COONEY. No; I am not saying that. I think we are having a terminology problem.

Mr. GIULIANI. You said do we ever refuse to arrest in a smoking gun situation, and I said we do not. In other words, if the arrest is already made, and the New York City police officer comes into our office with an arrested individual, we don't send him and that individual away and put him through the process of having to wait 12 or 15 hours, wasting his time in a State court. We have the arraignment process take place in the Federal court so that he spends an hour arraigning this individual and not spending 12, 15 hours doing it. The fact that we arraign doesn't necessarily mean that we can prosecute. The decision is then made as to whether this is the kind of case that we should keep and prosecute. There is no numbers standard. It could be a half ounce case, if the case looks like it has potential for developing other people—if he looks like a character who is going to flip up and give up other people—

Mr. RANGEL. You are talking about your budget restraints. I don't see how you can—

Mr. GIULIANI. I don't see how I can be anything else than realistic. I can't dream. I don't know what else I can be but realistic.

Mr. RANGEL. Are you violating the Constitution by determining which cases you are going to prosecute and which cases you are not?

Mr. GIULIANI. Absolutely not.

Mr. RANGEL. What case law allows you to determine which Federal laws are going to be prosecuted? I am talking now not about an individual case. I am talking about communities, now.

Here you are, the voice of our Government, saying "We will make discretionary determination based on resources as to which Federal violators we can and are prepared to prosecute realistically." And I am saying there is nothing in that Constitution that says if I am attacked by somebody under Federal law, that my Government realistically can determine, assuming that there is evidence of guilt, that they decline prosecution because that person comes from a community which may be politically powerless.

Mr. COONEY. Congressman, I think that is a great disservice to the office that you praised, frankly. If you think that our office declines prosecution because the victims, or the sales take place in a certain community, I think that is an issue that should be aired openly. Frankly, you know, there is a great effort at the moment—some of the cases that I would like to tell you about have been directed specifically at that community. It was not more than a month ago that Frank Moten was convicted in our court, a man who is known as the black godfather—

Mr. RANGEL. That case has kicked around for 12 years.

Mr. COONEY. No, it has not. It was developed in the last year by Daniel J. Beller, an assistant in our office, with the assistance of the New York City police, the FBI, DEA, and a good number of other people, who spent a year making that case. There were 22 people on trial, 17 were convicted, among them the largest cocaine supplier who we have ever identified. And Frank Moten, known in the black community as the black godfather, who runs numbers, who runs narcotics, he is supposed to be the head of the Council of Twelve, he was convicted.

Mr. RANGEL. I think it has a deterrent effect. A fantastic arrest, prosecution—I agree. But I am saying that if they had these same people at 118th Street and 8th Avenue, selling their narcotics on the street, if they were to be transferred by bus to Foley Square to sell their drugs on the street, that New York City policemen who say “There are constitutional rights, we are not going to just swoop upon them”—they would not be in a hurry to give the same excuses. And I am saying if the Chief Justice had to go through these drug pushers in front of Foley Square, that somehow I believe the Drug Enforcement Administration would be alerted. I can get arrests made whenever I want.

Mr. COONEY. Let me put your mind at ease on that. Whatever factors we use in exercising our discretion as to which cases we can, with our given resources, prosecute, whatever factors we do use, where the man is selling drugs is not a factor, unless it affects our venue, our jurisdiction.

Mr. RANGEL. No matter what factors you use, the end results mean in these very same communities, where you have the highest density of addiction, notwithstanding that you have used color-blind and economic-blind factors—that the results are the same, no different than if you had used the factors that I made a strong inference to in my question, fairly or unfairly. It is the same result.

Mr. COONEY. I am not sure I follow.

Mr. RANGEL. I will make it clearer. You know and I know, the mayor knows, members of this committee know, that 30, 40 drug sellers, operating out of shopping bags, are violating the Federal law. They know the corners, they know it is during the day, they know that police appearance on the scene does not deter the sales—you know it, I know it. And yet, because of budgetary reasons these sales are now going on and increased in the last few years.

Now, I don't mean to infer that this has been a conscious goal of law enforcement, local or Federal. But I am asking you what do you want us to do—to accept the fact that it just happens to fall that way? It is happening in the border States. DEA is not assuming jurisdiction. Customs are throwing away cases. Local law enforcement can't even spell “narcotics prosecution.” It is happening all over. It is not just a New York City problem.

Now, these are realistic questions—and I don't want you to dream. I want you to say what you would want to do under situations where you have taken an oath to not just enforce laws which you can. I want you to say that if any jurisdiction—and forget it is the city of New York. If it was Phoenix, if it was some city where local law enforcement has broken down completely—you just are not going to say it is a local problem if there are violations of Federal laws. And you are going to make a special plea to this Congress “For God's sake, give us the tools to work with, to bring back some semblance of law and order to this community, who happen to be American citizens, notwithstanding the fact that they are citizens of local and State government.” That is what I am talking about. I don't want to be critical of your performance; but I am severely critical of not hearing what you would want to do. And to be fair with you, this committee was severely critical of the chief of the narcotics division, where the extent of his plea to this committee was to substitute Federal funds

for city funds to do exactly what they are doing, which is near to nothing.

So I am asking—if you refuse to admit there are Federal violations going unprosecuted, I cannot get to the real question.

Mr. GIULIANI. I don't refuse to admit that there are Federal violations in the narcotics area and in just about any other area of crime that go unprosecuted on grounds of prosecutorial discretion. There is no doubt about that.

Mr. RANGEL. Let's try to narrow in on that, and then you and I will have no differences at all. Let's narrow in on why this occurs, why the State government is going to decline prosecution and they will hold them until they have to just dismiss the case. And what are we going to do as partners in seeing that State and Federal laws are prosecuted.

Mr. GIULIANI. I don't think there is any doubt—I would agree with you and any other member of the committee that would attempt to try and reverse what has been a trend in the last three or four Congresses, of cutting our budget for resources for U.S. attorneys.

Mr. RANGEL. Do you have any budget request to assume jurisdiction of all violations of Federal narcotics laws?

Mr. GIULIANI. Absolutely not. But we have had budget requests for increased resources to deal specifically in prosecutors' offices with the narcotics problem, and those requests have been cut each and every time we have made them by this Congress and Congresses before this. That is why I find it difficult to sit here and accept the kind of criticism that comes from the fact that we have been severely limited in the number of prosecutors that we have available to deal with the narcotics problem in New York and all throughout the United States.

A program was developed 3 years ago to earmark a certain number of assistant U.S. attorneys in offices outside of New York—New York always had this program for narcotics prosecutions. These assistants would spend full time on narcotics prosecutions. And we went to the Congress with a supplemental budget request for 100 additional assistant U.S. attorneys to deal just with narcotics cases in cities that had problems similar to New York. The Congress cut that to something like 30. If you get us down to 30, 30 can only handle so many cases. It is impossible to take a man and push him beyond working 7 days a week. And a good many assistant U.S. attorneys work like that.

Mr. RANGEL. It took a long time, but this is the direction that I hoped the testimony would take. I am only critical of the fact that the response has been negative—positive on what you have been able to do with resources, but negative as to what you believe you need in order to do the job you would want to do.

For God's sake, let's not get involved as to whether or not this is going to eradicate the narcotics menace we are facing. I am only talking about that aspect of the case that deals with violation of Federal narcotics laws. If we can deal with that, that ends my questions.

Mr. GILMAN. Will the gentleman yield?

This year did you request a specific number of narcotics special prosecutors in the Department?

Mr. GIULIANI. Yes, sir.

Mr. GILMAN. How many were requested?

Mr. GIULIANI. To increase the number of assistants.

Mr. GILMAN. How many were requested?

Mr. GIULIANI. I would have to get the exact numbers. I am not certain.

Mr. GILMAN. Was the request granted?

Mr. GIULIANI. It was granted, but cut.

Mr. GILMAN. Granted to what extent?

Mr. GIULIANI. To about half the number requested.

Mr. GILMAN. Mr. Chairman, with your permission, at this point in the record I would like Mr. Giuliani to place in the record the number of assistant U.S. attorneys that he requested, the function which they would perform, and the extent to which the request was granted.

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. GILMAN. Mr. Giuliani, I assume that you are now in the budget preparation process. How many special prosecutors have you recommended for the coming year.

Mr. GIULIANI. I think the request is for 500 additional U.S. attorneys. I don't know offhand the breakdown for the request for additional assistant U.S. attorneys for narcotics matters. But I could find that out for you.

Mr. GILMAN. Would you supply that information at this point in the record.

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. GILMAN. You are requesting 500 additional assistant U.S. attorneys, and a portion of those will be assigned specifically to narcotics, is that correct?

Mr. GIULIANI. That is correct.

Mr. GILMAN. Now, what policy decisions have been made since the President made his statement to the Congress in April 1976, declaring war on narcotics to have a high priority? What policy changes have been made in your department since that statement was issued?

Mr. GIULIANI. That was essentially what I was just describing, the major change within the Criminal Division of the Justice Department, to established controlled substances units, narcotics units, or junk units, in 19 other U.S. attorneys' offices.

Mr. GILMAN. You mentioned you recommended that 3 years ago. I am asking what changes have been made this year. What policy changes have been made this year, since April 1976, when the President issued the white paper on drugs?

Mr. GIULIANI. Within the Justice Department, as opposed to DEA?

Mr. GILMAN. Yes; I am talking about Justice.

Mr. GIULIANI. The emphasis has been to try to build up that program, to try to reallocate the numbers. For instance, within the criminal division there are 400 lawyers, and 175 of those 400 lawyers have consistently been used for general organized crime work. That left very, very few for other kinds of prosecutions, including narcotics prosecutions. The narcotics section has been upped from 15 to somewhere over 30 lawyers.

Mr. GILMAN. Throughout the country?

Mr. GIULIANI. No; those are just in Washington—to coordinate national prosecutions.

Mr. GILMAN. Was that done since April 1976?

Mr. GIULIANI. Yes, sir, and there have been additional numbers of assistant U.S. attorneys assigned to controlled substances units, but I don't have the exact number.

Mr. GILMAN. Can you supply for us the number, that would be since April of 1976?

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. GILMAN. Has any policy statement been issued within the Department with regard to the change in attitude, policy and prosecutions since the issuance of the President's white paper in April 1976?

Mr. GIULIANI. I don't think there has been any major change in policy as a result of the white paper. The white paper more or less states—the Justice Department obviously participated in the drafting and the writing and the formulation of the white paper, and it as much states our policy as the other several departments of Government that participated in it.

Mr. GILMAN. It was my impression that the white paper called for mobilization of forces and unified action. I would assume that would call for some change in attitude and direction by your Department.

Mr. GIULIANI. I think it has, in the sense that—

Mr. GILMAN. What policy change has been made, or what policy statement has been issued in the Department to reflect that change?

Mr. GIULIANI. I don't think there really had to be a policy change. It had to be a change in orientation, in any number of U.S. attorneys' offices that did not make in the past narcotics prosecutions a major priority.

Mr. GILMAN. Fine. Do you have those statements that show that change in direction in the U.S. attorneys' offices? Is that information available to our committee?

Mr. GIULIANI. I don't think I have statements. Basically that was done through the Assistant Attorney General in the Criminal Division, the Deputy Assistant Attorney in the Criminal Division, and the Chief of the Narcotics Section in the Criminal Division, visiting with various U.S. attorneys, bringing in the Regional Director of DEA, bringing in the local police department, and trying to get them to make narcotics a major priority in those areas.

Mr. GILMAN. I assume that he would have issued some directive to them stating that this is a high priority policy and that we are now going to change our attitude and take a different approach to the problem—is that correct?

Mr. GIULIANI. I don't quite know if we have what you are asking. I guess the closest thing that we would have to policy directives, to change the attitudes of various U.S. attorneys and people in the Department on narcotics enforcement would be a group of seminars that were held in the last—I guess two of them have been held since the period of time you talk about, for U.S. attorneys, assistant U.S. attorneys, and drug enforcement personnel. And during the course of those seminars, policy level officials of the Justice Department gave speeches, participated in panel discussions, all with an effort to try to encourage—

Mr. GILMAN. If I may interrupt you. Did the Attorney General issue any policy directive following issuance of the President's white paper?

Mr. GIULIANI. Not a formal policy directive.

Mr. GILMAN. Was any policy direction issued by the Attorney General subsequent to April 1976?

Mr. GIULIANI. No; but management changes have taken place since that time to conform to the white paper. The Justice Department is not a highly bureaucratized kind of organization. You don't get policy statements from the Attorney General.

Mr. GILMAN. Can you spell out for our record the management changes that have taken place since April 1976 so that we will know what direction, if any, the Department has taken to implement the white paper?

Mr. GIULIANI. The major changes, I would say, are, one, that the Criminal Division, namely, the section chief in the Criminal Division that deals with narcotics, the Deputy Assistant Attorney General and the Assistant Attorney General in the Criminal Division, have spent a great deal of time visiting anywhere from 15 to 20 U.S. attorneys' offices, spending a good deal of their time trying to coordinate the U.S. attorneys' efforts with DEA, with the local police, with the local prosecutor, to try to work out the kinds of problems that we are talking about. I can't say exactly how many cities, but I am very confident that it is well over 15 or 16 cities that were involved in that effort.

The Deputy Attorney General has testified before Congress, he has spoken before assembled groups of narcotics enforcement officers and the U.S. attorneys on the necessity for reorienting their priorities to deal more effectively with narcotics prosecutions. On at least two or three separate occasions I can recall I have done that—on four or five occasions.

So that although we don't have a policy statement in the sense of a 2-sentence or 3-sentence note from the Attorney General saying "Implement the white paper"—and I am just now thinking of the ones off the top of my head that I can remember—there were at least 10 or 12 major statements by the Deputy Attorney General, the Assistant Attorney General in the Criminal Division, myself, the Deputy Assistant Attorney General of the Criminal Division, to the effect that narcotics should be a major priority.

Mr. RANGEL. Were these written statements?

Mr. GIULIANI. These are generally speeches that have been made before groups interested in the narcotics problem, mostly internal groups, but sometimes external groups.

Mr. GILMAN. Mr. Chairman, with your permission, I would like to request that Mr. Giuliani file with the committee a formal statement of the changes in policy recommended by the Department, and the manner in which they were implemented since the white paper was issued.

Mr. RANGEL. Certainly.

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. RANGEL. Mr. Cooney, how long have you been appointed as chief prosecutor there?

Mr. COONEY. I have been in the office 4 years. I have been head of the Narcotics Unit for about 1 year.

Mr. RANGEL. During the course of that year, what impact has the executive proclamation had within your unit?

Mr. COONEY. You mean the changes in directive from the narcotics unit and the Justice Department?

Mr. RANGEL. In the second circuit.

Mr. COONEY. A good deal of the directives, the new directives, that we received from the narcotics unit are really directives issued to units throughout the country, to model their narcotics unit after our own, frankly. A good deal of what is being done in San Diego, New Orleans, and other parts of the country is modeled after the southern district's approach to narcotics enforcement.

Mr. RANGEL. What assistance has it been to the southern district?

Mr. COONEY. I think it has been of assistance to narcotics enforcement generally. There has been a substantial amount of monitoring and recording concerning the development of major cases against major violators, which I believe is a fairly new practice. There has been a good deal of centralized information. They have set up what are known as CENTAC groups, which in effect is a centralized conspiracy investigation group, which operates both in New York and in other areas. I think those are all relatively new changes and very beneficial changes.

Mr. RANGEL. But you have not been able to enlarge the scope of the narcotics cases you prosecute, because there has been no substantial change in staff. You still have the budgetary restrictions that the Congress put on you.

Mr. COONEY. Congressman, there are 14 assistants in the unit now. It is the largest in the country, of any U.S. attorney's office. Mr. Giuliani can probably recall how many there were in the unit when he was Chief of the Unit. I know when I first came to the unit, which was about 3 years ago, I think there were no more than eight or nine. The unit has grown continually and will continue to grow as long as we get new assistant U.S. attorneys, budgeting for new attorneys.

Mr. GILMAN. How effective have your CENTAC units been throughout the country?

Mr. COONEY. I cannot answer for throughout the country. Let me tell you that the case I made reference to, the case in which this man Frank Moten, the black godfather, was convicted, was a CENTAC case. That was a case where we used New York City police, FBI agents, DEA agents, working together, with a contact in Washington, in Miami, I believe in Chicago, in New York, and developed what I consider to be a classic narcotics prosecution. There were 33 people indicted. They were responsible for importing approximately 1,000 kilos of cocaine and almost the same amount of heroin. All the major defendants in that case have been convicted, were convicted last month. I consider the case to be a very, very fine achievement. And I think CENTAC has assisted.

Now, frankly, that type of case is being developed in other parts of the country, where the same type of coordination of developing conspiracy cases is a relatively new development. I think it is probably beneficial, because it spreads knowledge and intelligence information throughout the country.

Mr. GILMAN. I understand the CENTAC division in San Diego was in the process of being disbanded because of dissension, is that correct?

Mr. COONEY. I have no idea what is going on in San Diego. I do know there was one case that touched our own. We in the last year, in the *Magnano* case, I believe, had a case involving Frank Lucas. Frank Lucas is a major black violator in Harlem, quite a well-known man. His case, that we prosecuted, involved his purchase of 100 pounds of pure heroin and distribution over a relatively short period. Frank Lucas originally purchased his narcotics from an organized crime group. Later he developed his own contact. That contact was for oriental heroin that came in through the armed forces, and the network, and was filtered really through North Carolina. Now, I know that there is a CENTAC created to take care of that particular connection, the Atkinson connection in North Carolina. The result of that is that Leslie Atkinson, head of that organization, is now in Atlanta Penitentiary for 27 years.

As an aside, Frank Lucas, from our case, is presently in a New Jersey jail, but he owes the Government 40 years.

Those two, at least I think, have been very substantial successes.

Mr. GILMAN. Is there someone in your Department who could give us a written report on the CENTAC situation in San Diego?

Mr. GIULIANI. I can ask DEA to do that.

Mr. GILMAN. All right; would you make that request? And, Mr. Chairman, can the report of the CENTAC unit in San Diego be included in the record?

Mr. RANGEL. So ordered.

Mr. COONEY. Congressman, would you like a report on all their successes?

Mr. GILMAN. Yes; the effectiveness of CENTAC and any recommendations you may have.

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. GILMAN. As part of this new unified approach—and we understand it has a great deal of effectiveness—I assume you sit with local prosecutors and try to develop a strategy for the type of case you would like to prosecute, is that correct?

Mr. GIULIANI. That is exactly right. That is the goal. You have to realize in some communities that works and in other communities it is attempted and does not work, and in some communities local prosecutors might not even meet with you.

Mr. GILMAN. Is that the point where you select the cases you are going to prosecute, as Mr. Rangel was pursuing?

Mr. GIULIANI. It is the point at which you at least agree to some general guidelines as to what the Federal prosecutor will take initially.

Mr. GILMAN. Are those written guidelines?

Mr. GIULIANI. No; they are not written, and I don't think they should be, for a couple of reasons.

I remember at one time when I was first chief of the narcotics unit in the southern district of New York, the adjoining district, the eastern district, had written guidelines as to the kinds of narcotics cases they took and the kinds they declined by numbers.

Mr. RANGEL. What years were those?

Mr. GIULIANI. 1973, 1974.

Mr. RANGEL. Aren't you really amazed at the degree of cooperation and high successes and prosecutions that they have had in recent years, when some 10 or 15 years before that cases were made that involved conspirators in France and Canada and Mexico and all over, with the Federal Bureau of Narcotics and the Customs and local police. And now it just seems as though we have a new era of cooperation where local police are talking with the DEA. You are getting cooperation from other Federal officials, from California. I just don't see. Now I believe that we always did and should receive that type of cooperation.

Now, giving lectures to local officials and so on seems to be a breakthrough.

We were dealing with heads of countries to extradite narcotics violators. Not only did we have local cooperation, we had international cooperation. And now we seem to be so satisfied here if DEA and Customs are talking to each other. After bringing the heads of the departments together, they are talking. I don't want to take anything away from it. Do you feel particularly pleased with the high degree of success since you have left the office that Mr. Cooney now enjoys? Do you have problems in the area that have been eliminated as a result of the Executive order?

Mr. GIULIANI. I don't think I understand the question, Congressman. The areas that have been eliminated by the Executive order?

Mr. RANGEL. Well, you certainly wanted to do the best job for your country that you could when you were the chief.

Mr. GIULIANI. Right.

Mr. RANGEL. The same applies to Mr. Cooney. Congressman Gilman has been trying to find out what has happened since we have had this Executive order, where we are going to work together as a team. I want to find out just how much you had suffered when you were chief because that order was not issued.

Mr. GIULIANI. I think only in the area that I indicated about not having the numbers of prosecutors and agents even available to make the cases that I wanted to make. That is the way I suffered.

Mr. RANGEL. But he is still suffering from that.

Mr. GIULIANI. He is. I don't think you are going to see a material change in the southern district of New York over the last 5 or 6 years as a result of an Executive order.

Mr. RANGEL. Just declaring war against narcotics, really that doesn't help too much, except for morale purposes.

Mr. COONEY. We have always had a war in the southern district of New York against narcotics.

Mr. GILMAN. Mr. Chairman, if I might interrupt a moment. Your Department had an input in the President's white paper. Was there any place in the white paper where you said just what you have told us now, that you have never had a problem of unified action or coordinated effort, but that it all boiled down to dollars and manpower?

Mr. COONEY. No—I am not sure that is what we said.

Mr. GILMAN. Then I am not listening properly. It is my impression you are telling us that the problem boils down to manpower and dollars, and that it doesn't boil down to the need for cutting through this bureaucratic maze of getting better unity and coordination.

Mr. GIULIANI. In the southern district of New York there was a long history and tradition of cooperative investigations. There was a good

relationship between the U.S. attorney and the Bureau of Narcotics, Bureau of Narcotics and Dangerous Drugs, the Drug Enforcement Administration. That relationship was a long, old relationship.

Mr. NELLIS. Would you include the New York police in that?

Mr. GIULIANI. That began late.

Mr. NELLIS. Let me ask Mr. Cooney a question. How many cases have you made since you have been chief of the unit in the southern district that were brought to you or came as a result of intelligence gathered by the New York City Police Department?

Mr. COONEY. How many cases have we made?

Mr. NELLIS. How many cases have you prosecuted since you have been in office that were the result of intelligence brought to you by the New York City police?

Mr. COONEY. The CENTAC case that I have just described.

Mr. NELLIS. Lucas?

Mr. COONEY. The *Frank Moten* case.

Mr. NELLIS. Was that a New York City police case originally?

Mr. COONEY. No; it was a case we developed with the assistance of the New York City police.

Mr. NELLIS. I am not asking about that. I want to know what the initiative has been, if any, on the part of intelligence transmittal to you from the New York City police.

Mr. Giuliani made a point in his statement of saying that DEA has been very cooperative with the New York police, giving them some 12,000 bits of intelligence—right? I want to reverse that process. I want to ask you how many cases you have made, brought to you by the police department of New York City.

Mr. COONEY. I don't know how many cases we have made because of cooperation or information provided to DEA or to us by New York City police. All I can tell you is that in the southern district, in the period when I have been there, there has always been—one of the strengths of the district and one of the reasons we have been able to try the cases and bring the cases we have, is because of the cooperation that we have had between the New York City police and our office and DEA, and especially between the State special prosecutor's office and our own. I referred to the *Frank Lucas* case, the *Magnano* case. A portion of that case came to us through the New York City Police Department, I believe, with the special prosecutor's office.

Mr. NELLIS. You have found one case in which that has occurred.

Mr. COONEY. No, no—there are many. The *Herbert Sperling* case.

Mr. NELLIS. Was that originally a New York City police case?

Mr. COONEY. It was an investigation in which DEA—the New York City police—let me just explain when it appears that there is a major investigation over a network of narcotics, and the police feel that perhaps Federal authorities, because of the law, because of the resources, for whatever reason, for the benefit of narcotics enforcement, should be called in, they contact us and they contact DEA at a fairly early stage. And that is to their credit.

Mr. NELLIS. That is what I am trying to find out. How many such contacts have you had resulting in Federal cases brought by you?

Mr. COONEY. I cannot isolate that. I could tell you there have been many major cases in the last 4 years, and while I have been there, I would say at least Frank Moten—of the major cases, the *Frank Moten* case, the CENTAC case I have described is one of them.

Mr. NELLIS. You can see why I am asking this question. Think for a minute. The chairman has asked time and time again what would the U.S. attorney in the southern district do if the New York City police and Sterling Johnson were to come to your office with a large folder of cases ready for you to take on. And the reason I asked you that question is that it seems to me quite clear, from your earlier answer, that the New York City police have not brought any major violators into your office.

Mr. COONEY. That is not the case. They have not brought violators in to the extent that they did not go out and arrest Frank Moten. But they have come in with information and witnesses who then we, with the New York City police, with Sterling Johnson's office, with DEA, develop and put into the grand jury, and developed a case. And in that sense, they bring those violators in because they are responsible for giving us information that contributes to their conviction.

Mr. NELLIS. What percentage of your cases, Mr. Cooney, are self-generated through DEA or other Justice Department information?

Mr. COONEY. Well, let me just explain one thing that I don't think we have really talked about.

Congressman Rangel is probably aware of this.

There is in the New York City Police Department—there is DEA working on narcotics. There is also a joint enterprise in New York called the task force. That is composed of three groups—DEA agents, State troopers, and local police. That was created for the specific purpose of using a cooperative effort to bring in middle and lower range narcotics violators.

Mr. NELLIS. How many of such have been brought in and how many have you prosecuted?

Mr. COONEY. I could not guess.

Mr. NELLIS. Could we get that for the record, Mr. Chairman, with your approval? How many have come in through the task force and through the New York City police, which have been picked up by the U.S. Attorney's Office and prosecuted as a result of that intelligence?

Mr. COONEY. The only way I could possibly provide a meaningful number is to tell you how many significant cases we have had where we have had police cooperation in investigation and—

Mr. NELLIS. That is too nebulous for me. My question is, can you tell me how many cases you have prosecuted since you have been there that have been self-generated by Justice Department intelligence without any input from the New York City police until after you have gotten the case in your office?

Mr. GIULIANI. I think I know what you mean. You mean you want to know who originated the case, who first brought the case into the office.

Mr. NELLIS. Precisely.

Mr. GIULIANI. Whether it is DEA or the police department. But there is one thing that inheres in that that might be slightly unfair to the police department. DEA might bring the case to your attention, but the police department might have brought the case to DEA's attention. That is impossible for us to know. And the reason for that is the working relationship between DEA and the New York City Police Department is about as good as a working relationship can be between two law enforcement agencies.

Mr. NELLIS. Gentlemen, I just want to make this one point. The chairman, Congressman Rangel, has asked over and over again what would the U.S. attorney do if the New York City police came in with 1,000 of Sterling Johnson's backlog. The response has been nebulous. For that reason I am asking what your past experience has been with respect to local law enforcement personnel, bringing cases to your attention. I am not worried about prosecutorial discretion after that. I am sure you understand what I am talking about.

Mr. GIULIANI. I now understand what you mean.

Mr. NELLIS. Thank you, Mr. Chairman.

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. RANGEL. I want to thank you for your cooperation here. I am sorry that there were times that you as witnesses and good public servants thought we were being critical. We all share in the responsibility and we need your assistance in order to do a better job.

I would just like to clear something for the record.

You were asked by Chairman Wolff as to whether or not the city of New York turned down \$10 million because of some restrictions on the use of the money, even though it was directed to narcotics law enforcement. Mr. Giuliani, I think you said that was your understanding. Then in your statement you talk about \$8 million again that was turned down by the city of New York.

Mr. GIULIANI. It is the same thing. I guess I was wrong about the amount.

Mr. RANGEL. Now, all of this rejection of the money—is all of this verbal? Was there an application, was there approval, was there subsequent rejection? Because my police chief and mayor said they haven't the slightest idea what Judge Tyler is talking about.

Mr. GIULIANI. No, it is a subject of record. I may even have some of them here.

Mr. RANGEL. It would assist us. Because certainly this would have impact on Mayor Beame's request, if in fact he rejected \$8 or \$10 million.

Mr. GILMAN. Mr. Giuliani, are those funds still available? Have they been dissipated?

Mr. GIULIANI. I would doubt they are still available. The LEAA budget has also been cut substantially.

Mr. GILMAN. Would some of the funds be available?

Mr. GIULIANI. I don't know.

Mr. RANGEL. Mr. Giuliani, did you assist the Deputy Attorney General in preparing his response of December 1 to the mayor of the city of New York?

Mr. GIULIANI. Yes, sir, I did.

Mr. RANGEL. Do you recall anywhere in this letter that either you or the Deputy Attorney General mentioned rejection of \$8 million or \$10 million.

Mr. GIULIANI. Yes, sir.

Mr. RANGEL. What page is that?

Mr. GIULIANI. Page 6 of the letter. It really begins on page 5 and carries over to page 6.

Mr. RANGEL. Did you assist LEAA in this request, understanding what those restrictions were? Did Justice have input?

Mr. GIULIANI. I am not certain of that. I don't think—I guess I was aware of it at the time the application was made.

Mr. RANGEL. I am assuming this is not now a standing offer.

Mr. GIULIANI. No; Congressman Gilman asked me the same thing. I just don't know if that money would still be available. The budget situation at LEAA was different then than it is now. I do know that LEAA, when we went through the process of drafting this letter, is more than willing to consider—LEAA in Washington I am talking about—programs and other money for New York City, with regard to narcotics enforcement. I don't mean this to be unduly critical, but there are just not an awful lot of proposals that come out of New York City for narcotics enforcement. This was a DEA-generated proposal, not a New York City-generated proposal.

Mr. GILMAN. The police chief stated that he was concerned about relinquishing his authority over those officers. You indicated to your knowledge that it would only mean the implementation of such regulations, such as the Equal Employment Opportunity Office, and those guidelines and regulations, but that he actually would not be relinquishing authority, is that correct?

Mr. GIULIANI. No, I didn't say that. Maybe I shouldn't have—I was speculating on what his reasons may have been for not wanting to accept the Federal grant.

Mr. GILMAN. He stated, I think, to this committee that he was concerned about relinquishing authority over the officers.

Mr. GIULIANI. I have a hard time understanding that. He does that already with the task force.

Mr. GILMAN. I have a hard time understanding that also. Is there any necessity for him to relinquish his authority to any other agency?

Mr. GIULIANI. Not more than he does with the New York City joint task force.

Mr. GILMAN. Is he doing that now?

Mr. GIULIANI. Yes, sir, I know he is.

Mr. GILMAN. It is a cooperative effort, not merely relinquishment of authority.

Mr. GIULIANI. That is right.

Mr. GILMAN. Then, actually there is no substance to the statement that by joining in this effort he would be abrogating his authority over these officers.

Mr. GIULIANI. I don't see any. The only qualification I would like to put on it is I have not heard the police commissioner's explanation of it. He may have a reason I cannot fathom.

Mr. RANGEL. Let's do this. I will get an answer for you if you can firm up the offer.

Mr. GIULIANI. Sure—it is here.

Mr. RANGEL. That is in the letter. But we have discussed this with Judge Tyler as well as New York City officials, and they said no offer was made. All the documentation I have seen has been from our office indicating the rejection. So I promise to get you an answer, if you could get to me in and outside of the record where the city of New York, for whatever reasons, said that they could not use that \$8 million or \$10 million because of "restrictions." And we will handle that part of the contract.

We do have some offer here from the city of New York.

I assume that it would be your testimony that you would like to see the resources expanded for both State and local government as related to enforcement of narcotics laws.

Mr. GIULIANI. Absolutely, no doubt about it.

Mr. RANGEL. And I assume that if for some reason we don't find an expansion of resources at the local level, then that additional strain to be put on Justice would require you to demand more personnel and resources to deal with a national problem.

Mr. GIULIANI. There is absolutely no doubt about that—just to maintain the present level of effectiveness, whatever the views of this committee are of that level of effectiveness, no less to move to further levels of effectiveness, there would have to be increases.

Mr. RANGEL. And if local violations of the Federal law were brought to your office, you have no way now of determining how that would be handled.

Mr. GIULIANI. It would be a crisis situation, basically.

Mr. RANGEL. It would be a transfer from the crisis on the street to a crisis at Justice, right?

Mr. GIULIANI. That is right. It would be a transfer, in some ways, of the problems that inhere in the New York City judicial system into the Federal judicial system.

Mr. RANGEL. I think the matter is serious enough not to be dramatic about this and to use people as pawns to show there is no jurisdiction. However, I can assure you that Nixon Potter, from the city's criminal justice system, and some of the local law officials, are going to be contacting your office to see how collective we can fill that gap between this jurisdictional dispute. And so we may have to have a lot of lawyers doing a lot of research. But I assure you it is not going to be done for the newspapers. But we are going to have to find out what it is going to take somebody to get the pushers off the street.

Mr. COONEY. Congressman, may I make a request to the committee. I had prepared in fairly much outline form a presentation just to give you an idea of what the business and success of our unit has been. I would like to submit to the committee a written report of the cases, the type of cases we have brought, say, in the last 3 or 4 years, so the committee has an idea of what exactly the Federal office in the southern district is doing.

Mr. RANGEL. Yes; I was derelict in not doing that.

[The information referred to appears in the appendix of the Second Interim Report.]

Mr. RANGEL. Once again, without getting into a sweetheart contract, I think that your office could be set as a goal and guideline for the entire Nation in terms of what you have been able to do with such a small crew, and the reputation gained by those in the southern district is one to be admired.

Mr. GILMAN. Just one more question, Mr. Chairman.

Mr. Giuliani, could you inform this committee whether any of those LEAA funds would still be available under the current budget obligations for the city of New York—and I understand that there is some \$10 million allocated for the Democratic National Convention out of LEAA funds. This was not the same \$8 million to \$10 million we are talking about.

Mr. GIULIANI. No; that figure was wrong. It was \$2.2 million allocated for the Democratic Convention and \$2.2 million for the Republican Convention from LEAA.

Mr. GILMAN. It has nothing to do with the \$8 million to \$10 million we are talking about.

Mr. GIULIANI. Absolutely nothing.

Mr. GILMAN. Was some of the \$10 million earmarked for reconstruction of the Tombs?

Mr. GIULIANI. I think it related mostly to intelligence type activity. I can find out.

Mr. RANGEL. If there is anything that either of you gentlemen would like to add to your testimony, you can feel free to do it now or to send it in at a subsequent time.

Mr. GIULIANI. I would just like to say—in some ways it is a difficult thing to do, because this is sort of the end of one administration and the beginning of another in the Justice Department. It has been a major priority of the U.S. attorney in the southern district of New York, both of them that I was honored to work for, and Deputy Attorney General Tyler, to do everything we possibly could do within the realistic limits that we faced to make narcotics enforcement a very major priority of the Justice Department and of the U.S. attorney's office. I hope that continues in the next administration. I assume it will. And I think this committee will serve a very, very useful function. There is a sort of a war that goes on even within the law enforcement community, and there are a lot of other priorities—white-collar crime, organized crime, corruption, et cetera.

Mr. RANGEL. Congressional investigations.

Mr. GIULIANI. Exactly—for a piece of the budget dollar. And the Justice Department has ended up in the budget process being considered a \$2.2 billion department. And Congress might go a little above that, a little below that. Now, I am not saying that out of self-interest because I am going to get the resources. I am not going to be there to get it. We cannot realistically have any substantial impact on this problem with the amount of resources, manpower, money resources, that the Department of Justice is given for the criminal justice system in general and narcotics enforcement in particular. Part of that is the problem of the executive branch. Some of our requests for more money that I think are very realistic are cut substantially by the executive branch.

But then when we get to Congress, they are cut again. So that we are dealing with about a quarter of what we realistically think we need. And maybe as a department Justice has not been as effective in making unrealistic demands. It is a department made up of lawyers. They tend to want to defend every position they take. So when we make a request for x number more drug agents or x number more assistant U.S. attorneys for narcotics enforcement, that is somewhere pretty close to what we actually need. And then we go through the process in the executive branch and then in Congress of being cut to one-quarter of where we started. It has a measurable effect on the quality and quantity of work that we can do.

I guess what I would ask of this committee is that in the future, as it develops and institutionalizes itself—and I think it is a terrific idea to have a committee like this, that it try to act as the vested interest

for narcotics law enforcement, because it doesn't have a constituency the way a lot of other things do, and to try and grab off as much of the law enforcement budget and the budget in general that it can for this use. The money has not been wasted. What we have had I think the Federal Government has used wisely. There have been some mistakes and some areas that have not been as effective as others. But by and large I think we have done about as effective a job as we could with the amount of the money we have available, which is something like 0.002 percent of the Federal budget.

Mr. RANGEL. Well, your recommendations certainly are well received. That is one of the major roles of this committee. This problem is far too serious to be dealing with partisanship as to change of administration. I do hope in an official or unofficial way perhaps you and members of the committee and staff could get together to see how, with a powerless constituency, we might be able to get some priorities in the new administration.

Any criticism here was only meant to try to get to that white paper where fortunately or unfortunately you raised the expectations of the country in law enforcement, local and Federal.

I think the entire thrust of Congressman Gilman's questions has been that both you and I have been disappointed in the adoption of the white paper and its lack of enforcement except by proclamation.

So we will be continuously working closely together.

At this time, Mr. Reporter, I would like to have as part of the official record the response to Mayor Beame's letter of October 26 from the Deputy Attorney General's Office, dated December 1, 1976. I would like to make that part of the record.

[The letter referred to follows:]

THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., December 1, 1976.

HON. ABRAHAM D. BEAME,
Mayor, The City of New York,
New York, N.Y.

DEAR MAYOR BEAME: This is in response to your letter of October 26, 1976 to Attorney General Levi concerning the problems of narcotics law enforcement, prevention, and treatment in the City of New York. The Department of Justice and other departments involved in the federal effort to combat drug abuse share in your grave concern over the drug abuse problem. Although none can dispute the gravity of the situation in New York City, drug abuse is a pervasive problem throughout the United States and has prompted other state and local governmental officials to turn to the federal government for assistance.

Unfortunately, federal resources, like those of state and local governments, are limited and cannot possibly satisfy all the competing requests. As you know, the Department of Justice does not have any direct responsibility for overseeing or financing drug treatment and prevention programs. Such programs would fall within the jurisdiction of the Department of Health, Education, and Welfare. Justice does, however, have substantial responsibility for enforcing the federal narcotics statutes and for assisting through the Law Enforcement Assistance Administration state and local governments in enforcing their narcotics laws. I trust that the following discussion of federal efforts in the area of narcotics law enforcement will be of assistance to you in understanding the competing considerations which we face in making resource allocations, as well as providing information on the substantial federal efforts which have been and continue to be made to assist New York City in drug enforcement.

No one would dispute the appropriateness of the federal government's active and direct participation in the narcotics enforcement effort. This is so because the illegal distribution of even small amounts of narcotic drugs depends upon the coordinated efforts of many individuals performing distinct yet complementary roles in different areas within the United States and diverse nations throughout

the world. In narcotics cases, as with any coordinated sophisticated criminal activity, it is most difficult to reach those at the highest level of the organization. The organizational pattern exists not only to make possible the manufacture, importation and widespread distribution of narcotics, but also to insulate from detection those who finance, plan and otherwise direct from afar all the elements of the narcotics traffic. Common sense dictates that this type of coordinated sophisticated criminal activity requires an equally coordinated and sophisticated enforcement response.

Thus, the role of the federal government in narcotics enforcement cannot be limited to, or even primarily directed at, providing financial assistance to state and local communities in enforcing their own narcotics laws. The federal government must perform certain functions that cannot be adequately handled by state and local governments—interdicting drugs being smuggled into this country, investigating those cases which penetrate the interstate and international organizations which support every narcotics transaction, and uncovering those at the highest levels of narcotics organizations who make such transactions possible. In other words, the federal role in narcotics enforcement is and must be to perform those activities necessary to the enforcement effort which are beyond the jurisdiction, limited resources, and professional expertise usually available at the state and local level.

This does not mean that the federal government should direct all of its resources to these goals. Of course, the federal government must, to some extent, participate directly and indirectly in making so-called street cases—arrests of low level retail narcotics dealers. It simply means that the primary focus of the federal effort must be at those organizations and violators who are beyond the reach of state and local jurisdictions, while state and local governments must assume the primary responsibility, with appropriate assistance from the federal government, for arresting the retail dealers who sell narcotics within their respective jurisdictions.

All this is by way of emphasizing that the federal contribution towards narcotics enforcement in New York City cannot be measured simply by looking at the percentage of federal funds budgeted for narcotics activities which are directly received by the City. In a very real sense it can be said that just as New York City has a large percentage of the nation's narcotics addicts and dealers, so too it receives a large percentage of the benefits from the overall federal narcotics enforcement effort. For example, the arrest and conviction in San Diego, California of individuals engaged in a narcotics conspiracy to import heroin from Mexico through the border in Southern California for eventual distribution in New York City obviously benefits New York City and relieves its police, prosecutors and courts of burdens that would otherwise be borne by them. Narcotics trafficking is by no means a local phenomenon, and federal enforcement efforts throughout the country and indeed around the world have an impact upon the narcotics problem within New York City.

The extent of the federal enforcement effort within New York City is itself very substantial. The Drug Enforcement Administration's New York Regional Office consists of over 300 employees, including 167 Special Agents. DEA plans to assign 23 additional agents to this office. The two United States Attorneys Offices in New York City employ a total of 18 Assistant United States Attorneys who work exclusively on major narcotics cases. In addition, approximately 25 or more Assistants in both offices spend a large portion of their time on narcotics prosecutions. In all, approximately 25-30% of the resources in these two districts covering New York City are devoted to narcotics enforcement. Obviously, this means that a very significant portion of the federal court caseload in New York City also involves narcotics prosecutions.

Of course, I am in complete sympathy with the central point of your letter that local narcotics enforcement nonetheless imposes a tremendous burden on New York City's resources, a burden which you believe should be alleviated by the federal government assuming the entire burden of funding New York City's narcotics law enforcement efforts. However, the level of federal aid to local narcotics enforcement in New York City is already quite substantial, and far exceeds that provided to any other state or city. The federal government bears almost the entire cost of the New York Drug Enforcement Task Force. DEA provides agents, funds for purchasing evidence and paying informants, rental of physical facilities, and vehicle maintenance from its budget. At present 39 Special Agents are assigned to the Task Force, and 4 more should be brought in soon to bring DEA staffing up to a ceiling of 43 agents. The cost to DEA in Fiscal Year 1976 of agents' salaries and the other expenses listed above was \$2,397,623. DEA has also purchased the 115 vehicles for the Task Force, at an additional cost of

\$443,754. During the past five years, over \$4 million LEAA grants have been made available to New York City to defray the costs of the city policemen's participation in the Task Force.

Moreover, DEA's New York Regional Office provides intelligence assistance to the New York City Police Department. For example, over the past 13 months DEA in New York supplied approximately 12,300 names of suspected narcotics traffickers and their associates in response to requests for intelligence information, most of which involved direct requests from your Police Department.

Indeed, LEAA has overall provided a significant amount of money to New York City for drug abuse control. Since FY 1972, well over \$25 million has been made available for drug enforcement, prevention, and treatment. Perhaps the most significant indication of federal aid which has been given to New York City for drug enforcement is the fact that of the total of approximately \$64 million in LEAA discretionary grants to state and local jurisdictions for drug enforcement which were made in FY 72 through FY 76, roughly \$22.6 million, or more than $\frac{1}{3}$, went to New York City. The Special Narcotics Court program alone has accounted for almost \$17 million, with the remainder going to such efforts as the Unified Intelligence Division and the Task Force program. These resource commitments far exceed drug abuse support in any other local jurisdictions. Moreover, when the totality of LEAA funds which have been provided to New York City for all purposes is considered, and not simply those funds specifically provided for drug enforcement efforts, the records reveal that New York City has received approximately \$110,000,000 since FY 1972.

While it can be said that much more could be done, the level of LEAA assistance which has been provided is quite remarkable in view of the statutory constraints on LEAA's budget and the competing pressures for its limited funds. By statute, 85% of all action funds received by LEAA must be turned over to the states in the form of block grants, and the federal government cannot direct how these funds are to be allocated by state planning agencies. It is our understanding that in recent years the New York State Planning Agency has cut back its use of LEAA block grant funds for drug abuse programs, since such programs have been financed with State funds instead. Moreover, even the 15% of the LEAA budget which is retained by it for distribution as discretionary grants is not subject to distribution at LEAA's unfettered discretion. Both directly by statute and indirectly by expressions of intent, Congress has set certain priorities for the distribution of these funds. Since 1973, Congress has established the areas of juvenile delinquency, courts, and corrections as priorities in the awarding of LEAA grants. Thus, only a very small percentage of the total LEAA action budget of \$487,057,000 in FY 77 is available for distribution for drug abuse programs.

The funding problems of the New York City Special Office for Narcotics Prosecutions illustrate another of the constraints upon the use of federal funds to support local narcotics enforcement efforts. This component of the Special Narcotics Court Program has been funded by LEAA discretionary grants, which by statute may only be used to fund "demonstration" programs, not local programs *per se*. The funding of this program for five years already constitutes an exception by LEAA to its normal policy whereby such programs receive only three years of financial assistance. While LEAA discretionary funds are no longer available, block grant funds could be used to continue federal financing of this Office. This decision rests with the New York State Planning Agency.

Wholly apart from the above considerations relating to the amount of federal resources which can be made available to jurisdictions such as New York City for local drug enforcement programs, there is of course the additional broad policy question of the extent to which local enforcement efforts should be federally financed. In this connection, it should be mentioned that DEA developed an LEAA grant application for \$8 million in January 1976 for the New York City Police Department to support the salaries of some 155 policemen. This application was subsequently rejected by the Police Commissioner due to his concern that it would result in these policemen being too far removed from his control. Moreover, he felt that such assistance would be antithetical to the city charter, since he would be relinquishing certain city responsibilities enumerated in that charter.

Enforcing the federal laws prohibiting the distribution of dangerous drugs is, and I am sure will remain, a major priority of the Justice Department. An increase in those efforts in New York City, substantial as they have been in the past, certainly should be considered. However, I do not believe it is at all realistic or prudent to expect the federal government to assume the entire burden, financial

or otherwise, for enforcing the New York State laws prohibiting possession and distribution of dangerous drugs. Indeed, to do so would require the federal government to assume that responsibility in any number of other cities throughout the United States and such an extensive federal assumption of local police powers is unwarranted and unwise. I believe that the best answer to this problem is to be found in close and effective coordination among the three levels of government—federal, state and local—responsible for containing the drug abuse problem. The emphasis in federal enforcement efforts must remain upon the interdiction of narcotics entering this country, the disruption of narcotics trafficking networks, and the investigation and prosecution of major drug violators. As mentioned earlier, this federal strategy should have an effect upon the quantity of substances entering this country and their subsequent redistribution, resulting in a decline in drug availability in the streets, and thereby alleviating narcotics related problems in New York City and other areas. At the same time, the federal government through LEAA assistance to local law enforcement efforts and HEW assistance to local prevention and treatment programs can, and should continue, to lend financial and technical support.

I am at your disposal to discuss with you or any of your representatives any reasonable increases in financial or technical support within the legal and practical constraints placed upon the federal government and in particular upon the Justice Department.

Sincerely,

HAROLD R. TYLER, Jr.

Mr. RANGEL. Again, I thank the witnesses for their patience, understanding and the fine work they have been doing.

Mr. COONEY. Thank you.

Mr. GIULIANI. Thank you.

Mr. RANGEL. The committee stands adjourned subject to call of the Chair.

[Whereupon, at 1:05 p.m., the committee was adjourned, subject to call of the Chair.]

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